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SENATE BILL 573

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

INTRODUCED BY

Manny M. Aragon

AN ACT

RELATING TO WATER; DEFINING THE TYPES OF PROJECTS THAT MAY BE FUNDED BY THE WATER TRUST BOARD; REQUIRING THAT TOTAL GRANT FUNDS FROM ALL STATE SOURCES BE LIMITED TO A MAXIMUM OF FORTY PERCENT OF PROJECT COST; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTIONS OF LAW IN LAWS 2003.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 72-4A-5 NMSA 1978 (being Laws 2001, Chapter 164, Section 5, as amended by Laws 2003, Chapter 139, Section 3 and by Laws 2003, Chapter 365, Section 1) is amended to read:

"72-4A-5. BOARD--DUTIES.--The board shall:

A. adopt rules governing terms and conditions of grants or loans recommended by the board for appropriation by the legislature from the water project fund, giving priority to .150592.3

underscored material = new
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1 projects [~~that have urgent needs, that have been~~] identified
2 [~~for implementation of~~] as being urgent to meet the needs of a
3 regional water planning area that has had a completed regional
4 water plan [~~that is~~] accepted by the interstate stream
5 commission and that have matching contributions from federal or
6 local funding sources available, and that have obtained all
7 requisite state and federal permits and authorizations
8 necessary to initiate the project;

9 B. authorize qualifying water projects to the
10 authority that are for:

11 (1) regional storage, conveyance or delivery
12 of water to end users;

13 (2) implementation of federal Endangered
14 Species Act of 1973 collaborative programs;

15 (3) restoration and management of watersheds;

16 (4) flood prevention; or

17 (5) water conservation, including recycling,
18 treatment or reuse of water as provided by law; and

19 C. create a drought strike team to coordinate
20 responses to emergency water shortages caused by drought
21 conditions."

22 Section 2. Section 72-4A-7 NMSA 1978 (being Laws 2001,
23 Chapter 164, Section 7, as amended by Laws 2003, Chapter 138,
24 Section 5 and by Laws 2003, Chapter 139, Section 5 and also by
25 Laws 2003, Chapter 365, Section 2) is amended to read:

.150592.3

1 "72-4A-7. CONDITIONS FOR GRANTS AND LOANS.--

2 A. Grants and loans shall be made only to [~~state~~
3 ~~agencies or to political subdivisions~~] qualifying entities
4 that:

5 (1) agree to operate and maintain the water
6 project so that it will function properly over the structural
7 and material design life, which shall not be less than twenty
8 years;

9 (2) require the contractor of the construction
10 project to post a performance and payment bond in accordance
11 with the requirements of Section 13-4-18 NMSA 1978;

12 (3) provide written assurance signed by an
13 attorney or provide a title insurance policy that the political
14 subdivision has proper title, easements and rights of way to
15 the property upon or through which the water project proposed
16 for funding is to be constructed or extended;

17 (4) meet the requirements of the financial
18 capability set by the board to ensure sufficient revenues to
19 operate and maintain the water project for its useful life and
20 to repay the loan;

21 (5) agree to properly maintain financial
22 records and to conduct an audit of the project's financial
23 records; [~~and~~]

24 (6) agree to pay costs of originating grants
25 and loans as determined by rules adopted by the board;

.150592.3

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1 (7) except in the case of an emergency, submit
2 a water conservation plan with its application if required to
3 do so pursuant to Section 72-14-3.2 NMSA 1978 and one is not on
4 file with the state engineer; and

5 (8) will receive no more in grant funds from
6 all state sources, including direct or indirect appropriations,
7 than five million dollars (\$5,000,000) or an amount equal to
8 forty percent of the total cost of the project, whichever is
9 greater.

10 B. Plans and specifications for a water project
11 shall be approved by the authority, after review and upon the
12 recommendation of the state engineer and department of
13 environment, before grant or loan disbursements to pay for
14 construction costs are made to a [~~state agency or political~~
15 ~~subdivision~~] qualifying entity. Plans and specifications for a
16 water project shall incorporate available technologies and
17 operational design for water use efficiency.

18 C. Grants and loans shall be made only for eligible
19 items, which include:

- 20 (1) to match federal and local cost shares;
- 21 (2) engineering feasibility reports;
- 22 (3) contracted engineering design;
- 23 (4) inspection of construction;
- 24 (5) special engineering services;
- 25 (6) environmental or archaeological surveys;

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- (7) construction;
- (8) land acquisition;
- (9) easements and rights of way; and
- (10) legal costs and fiscal agent fees."

Section 3. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2004.