

AN ACT

RELATING TO WATER PROJECT FINANCE; AMENDING DEFINITIONS IN THE WATER PROJECT FINANCE ACT TO INCREASE ELIGIBILITY FOR FUNDING; RECONCILING MULTIPLE AMENDMENTS TO SECTIONS OF LAW IN LAWS 2003.

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

SECTION 1. Section 72-4A-1 NMSA 1978 (being Laws 2001, Chapter 164, Section 1) is amended to read:

"72-4A-1. SHORT TITLE.--Chapter 72, Article 4A NMSA 1978 may be cited as the "Water Project Finance Act"."

SECTION 2. Section 72-4A-3 NMSA 1978 (being Laws 2001, Chapter 164, Section 3, as amended) is amended to read:

"72-4A-3. DEFINITIONS.--As used in the Water Project Finance Act:

A. "authority" means the New Mexico finance authority;

B. "board" means the water trust board;

C. "political subdivision" means a municipality, county, land grant-merced controlled and governed pursuant to Sections 49-1-1 through 49-1-18 or 49-4-1 through 49-4-21 NMSA 1978, regional or local public water utility authority created by statute, irrigation district, conservancy district, special district, acequia, soil and water conservation district, water and sanitation district or an association organized and

existing pursuant to the Sanitary Projects Act;

D. "qualifying water project" means a water project recommended by the board for funding by the legislature; and

E. "qualifying entity" means a state agency, a political subdivision of the state, an intercommunity water or natural gas supply association or corporation organized under Chapter 3, Article 28 NMSA 1978, a recognized Indian nation, tribe or pueblo, the boundaries of which are located wholly or partially in New Mexico or an association of such entities created pursuant to the Joint Powers Agreements Act or other authorizing legislation for the exercise of their common powers."

SECTION 3. 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 projects that have been identified as being urgent to meet the needs of a regional water planning area that has a completed regional water plan that has been accepted by the interstate stream commission; that have matching contributions

from federal or local funding sources available; and that have obtained all requisite state and federal permits and authorizations necessary to initiate the project;

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

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

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

(3) restoration and management of watersheds;

(4) flood prevention; or

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

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

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

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

A. Grants and loans shall be made only to qualifying entities that:

(1) agree to operate and maintain a water

project so that it will function properly over the structural and material design life, which shall not be less than twenty years;

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

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

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

(5) agree to properly maintain financial records and to conduct an audit of a project's financial records;

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

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

B. Plans and specifications for a water project

shall be approved by the authority, after review and upon the recommendation of the state engineer and the department of environment, before grant or loan disbursements to pay for construction costs are made to a qualifying entity. Plans and specifications for a water project shall incorporate available technologies and operational design for water use efficiency.

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

- (1) to match federal and local cost shares;
- (2) engineering feasibility reports;
- (3) contracted engineering design;
- (4) inspection of construction;
- (5) special engineering services;
- (6) environmental or archaeological surveys;
- (7) construction;
- (8) land acquisition;
- (9) easements and rights of way; and
- (10) legal costs and fiscal agent fees."