BILL

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO NATURAL RESOURCES; ENACTING THE FOREST AND WATERSHED RESTORATION ACT; PROVIDING LONG-TERM FUNDING FOR FOREST AND WATERSHED RESTORATION; CREATING THE FOREST AND WATERSHED RESTORATION BOARD; CREATING THE FOREST AND WATERSHED RESTORATION FUND; PROVIDING FOR A DISTRIBUTION FROM THE INSURANCE DEPARTMENT SUSPENSE FUND TO THE FOREST AND WATERSHED RESTORATION FUND; MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 8 of this act may be cited as the "Forest and Watershed Restoration Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Forest and Watershed Restoration Act:

A. "board" means the forest and watershed

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restoration board;

B. "division" means the forestry division of the energy, minerals and natural resources department;

C. "project" means a forest and watershed restoration project to increase the adaptability and resilience to recurring drought and extreme weather events of the state's forests and watersheds; protect water sources; reduce the risk of wildfire, including plans for watershed preservation; restore burned areas; thin forests; or a related economic or work force development project; and

D. "sponsor" means a federal, state or local government agency, tribal entity, corporation or organization that applies for a project or is conducting such a project in conjunction with the division.

SECTION 3. [NEW MATERIAL] FOREST AND WATERSHED RESTORATION BOARD CREATED--MEMBERSHIP--APPOINTMENTS--TERMS--VACANCIES--COMPENSATION.--

A. A ten-member "forest and watershed restoration board" is created, which is administratively attached to the energy, minerals and natural resources department. The board consists of the following members:

(1) the state forester;

(2) the commissioner of public lands or the commissioner's designee;

(3) the director of the New Mexico forest and

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watershed restoration institute at New Mexico highlands university or the director's designee;

(4) the secretary of economic development or the secretary's designee;

(5) the secretary of environment or the secretary's designee; and

(6) five public members appointed by the governor from a list of nominees submitted to the governor jointly by the senate and house majority and minority leaders of the legislature:

(a) one of whom shall be a representative of a statewide association of counties;

(b) one of whom shall be a member of the soil and water conservation commission; and

(c) three of whom shall be practitioners, with diverse expertise in the ecology and economics, of treatment and restoration of forests and forest watersheds.

B. Of the public members of the board, two shall be appointed for initial two-year terms and three shall be appointed for four-year terms, and all subsequent appointments shall be made for four-year terms.

C. The public members of the board shall not be removed during their terms except for misconduct, incompetence, neglect of duty or malfeasance in office. No removal shall be made without prior approval of the senate. Vacancies on the board shall be filled by appointment by the governor for the unexpired

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term within sixty days of the vacancy. Board members shall serve until their successors have been appointed.

D. A majority of the members of the board constitutes a quorum for transaction of business. The board shall elect a chair from among its members.

E. Members of the board shall be eligible for compensation as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

SECTION 4. [NEW MATERIAL] FOREST AND WATERSHED RESTORATION BOARD--POWERS AND DUTIES.--

A. The board shall:

(1) adopt guidelines, protocols and best management practices for forest and watershed preservation projects;

(2) foster partnerships and cooperation among federal, state and county agencies, tribal entities, political subdivisions of the state, soil and water conservation districts, the forest products industry and other public or private organizations dedicated to forest and watershed preservation and restoration programs or projects;

(3) evaluate and prioritize projects for funding; and

(4) adopt rules necessary for the proper administration of the Forest and Watershed Restoration Act.

B. The board may:

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(1) seek and accept all public and private funds and gifts, devises, grants and donations from others to carry out the provisions of the Forest and Watershed Restoration Act;

(2) request assistance and staff support from the state agencies represented on the board;

(3) employ such personnel as necessary to carry out the provisions of the Forest and Watershed Restoration Act;

(4) delegate responsibility for the administration and implementation of projects, project supervision, project coordination and other program matters;

(5) employ or contract with experts to plan and evaluate projects and update state forest and watershed restoration plans;

(6) beginning July 1, 2015, provide partial or full funding for approved projects and facilitate and coordinate funding from multiple sources for projects, when appropriate;

(7) develop or approve projects, activities, agreements and contracts with project sponsors; and

(8) monitor, evaluate and revise plans and projects using adaptive management practices to ensure the long-term effectiveness of projects funded by the board.

SECTION 5. [NEW MATERIAL] FOREST AND WATERSHED RESTORATION FUND CREATED--ADMINISTRATION.--The "forest and watershed restoration fund" is created in the state treasury. The fund consists of appropriations, distributions, gifts, grants,

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donations, income from investment of the fund and any other money credited to the fund. The fund shall be administered by the energy, minerals and natural resources department, and money in the fund is appropriated to the board to administer and to fund projects approved by the board pursuant to the Forest and Watershed Restoration Act. Expenditures from the fund shall be by warrants of the secretary of finance and administration upon vouchers signed by the state forester. Money in the fund shall not revert to the general fund.

SECTION 6. [NEW MATERIAL] USE OF FOREST AND WATERSHED RESTORATION FUND--PROJECT EVALUATION AND PRIORITIZATION.--

A. Money in the forest and watershed restoration fund may be used to carry out the purposes of the Forest and Watershed Restoration Act and to fund projects authorized by the board for:

(1) on-the-ground restoration treatments, in an amount equal to not less than seventy percent of expenditures from the fund in any one year;

(2) project planning, provided that not more than fifty percent of the costs of a project may be expended on planning for that project;

(3) economic development programs to promote the state's forest products industry; and

(4) work force development for wood utilization projects.

B. A project shall be given priority for funding if

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the project:

(1) is part of a current state forest and watershed health plan or forest action plan, community wildfire protection plan or other comprehensive forest and watershed treatment plan approved by the board;

(2) incorporates actions recommended by current plans or, where new plans are developed, seeks to integrate forest, fire and water management with community and economic development plans;

(3) will protect watersheds that are the source of drinking water;

(4) targets an area at high risk of catastrophic wildfire;

(5) has matching contributions from federal, state, local, tribal or private sources and, if available, support from other public or private water, forest, fire, wildlife habitat or economic development programs;

(6) has obtained all requisite state and federal permits and authorizations necessary to initiate the project, if the project is other than a planning project;

(7) is in an area:

(a) with a wood supply that can be used as biomass for energy production;

(b) where small-diameter trees may be put to commercial use; or

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(c) where traditional forest products may be produced;

(8) is clustered around priority areas that can supply a useful amount of wood products for industry; and

(9) creates incentives to increase investment by federal, state, local, tribal or private entities, including investment by downstream water users to manage forested headwaters and water sources.

SECTION 7. [NEW MATERIAL] APPLICATION FOR PROJECT APPROVAL--CONSIDERATIONS FOR APPROVAL.--

A. Beginning July 1, 2015, sponsors may apply to the board for project approval.

B. A sponsor's application shall include:

(1) a comprehensive work plan;

(2) a complete project cost estimate;

(3) how the plan meets board best management practices and project protocols;

(4) funding sources for the project;

(5) other partners and cooperating entities involved in the project; and

(6) the estimated time necessary to complete the project.

C. The board shall examine the following in considering a project for approval:

(1) the project's compliance with the board's

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protocols and standards for projects;

(2) the sponsor's ability to contribute the necessary financial and human resources to the project;

(3) the project's conformance with the requirements of Section 6 of the Forest and Watershed Restoration Act; and

(4) the project's compatibility with concurrent forest and watershed restoration projects.

SECTION 8. [NEW MATERIAL] REPORT BY BOARD.--At least forty-five days prior to each legislative session, the board shall submit a report concerning its activities, the projects implemented and any recommended legislation to the governor and the legislature.

SECTION 9. Section 59A-6-5 NMSA 1978 (being Laws 1984, Chapter 127, Section 105, as amended) is amended to read:

"59A-6-5. DISTRIBUTION OF DIVISION COLLECTIONS.--

A. All money received by the division for fees, licenses, penalties and taxes shall be paid daily by the superintendent to the state treasurer and credited to the "insurance department suspense fund" except as provided by:

(1) the Law Enforcement Protection Fund Act; and

(2) Section 59A-6-1.1 NMSA 1978.

B. The superintendent may authorize refund of money erroneously paid as fees, licenses, penalties or taxes from the insurance department suspense fund under request for refund made

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within three years after the erroneous payment. In the case of premium taxes erroneously paid or overpaid in accordance with law, refund may also be requested as a credit against premium taxes due in any annual or quarterly premium tax return filed within three years of the erroneous or excess payment.

C. If required by a compact to which New Mexico has joined pursuant to law, the superintendent shall authorize the allocation of premiums collected pursuant to Section 59A-14-12 NMSA 1978 to other states that have joined the compact pursuant to an allocation formula agreed upon by the compacting states.

D. The "insurance operations fund" is created in the state treasury. The fund shall consist of the distributions made to it pursuant to Subsection [~~E~~] F of this section. The legislature shall annually appropriate from the fund to the division those amounts necessary for the division to carry out its responsibilities pursuant to the Insurance Code and other laws. Any balance in the fund at the end of a fiscal year greater than one-half of that fiscal year's appropriation shall revert to the general fund.

E. At the end of every month, after applicable refunds are made pursuant to Subsection B of this section and after any allocations have been made pursuant to Subsection C of this section, the state treasurer shall transfer one million two hundred fifty thousand dollars ($1,250,000) to the forest and watershed restoration fund from that part of the balance remaining

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in the insurance department suspense fund derived from the premium tax.

[~~E.~~] F. At the end of every month, after applicable refunds are made pursuant to Subsection B of this section and after any allocations have been made pursuant to [~~Subsection~~] Subsections C and E of this section, the treasurer shall make the following transfers from the balance remaining in the insurance department suspense fund:

(1) to the "fire protection fund", that part of the balance derived from property and vehicle insurance business;

(2) to the insurance operations fund, that part of the balance derived from the fees imposed pursuant to Subsections A and E of Section 59A-6-1 NMSA 1978 other than fees derived from property and vehicle insurance business; and

(3) to the general fund, the balance remaining in the insurance department suspense fund derived from all other kinds of insurance business."

SECTION 10. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2015.

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