

HOUSE BILL 266

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

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Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO NATURAL RESOURCES; ENACTING THE FOREST AND WATERSHED RESTORATION ACT; ESTABLISHING A BOARD; PROVIDING POWERS AND DUTIES; PROVIDING CRITERIA FOR THE EVALUATION AND FUNDING OF PROJECTS; MAKING A DISTRIBUTION FROM THE NEW MEXICO IRRIGATION WORKS CONSTRUCTION FUND AND THE IMPROVEMENT OF RIO GRANDE INCOME FUND.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1 through 6 of this act may be cited as the "Forest and Watershed

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Restoration Act".

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

A. "board" means the forest and watershed advisory board;

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

C. "project" means a large-scale forest and watershed restoration project on any lands in the state that increases the adaptability and resilience to recurring drought and extreme weather events of the state's forests and watersheds; protects water sources; reduces the risk of wildfire, including plans for watershed conservation; restores burned areas or thins forests; and includes a related economic or workforce development project or a wildlife conservation or habitat improvement 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 a project in conjunction with the division.

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

A. The "forest and watershed advisory board" is created and is administratively attached to the energy, minerals and natural resources department. The board consists

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of the following members:

(1) the New Mexico state forester;

H AFC →(2) the state engineer or the state engineer's designee; ←H AFC

H AFC →(2) (3) ←H AFC the commissioner of public lands or the commissioner's designee;

H AFC →(3) (4) ←H AFC the secretary of economic development or the secretary's designee;

H AFC →(4) (5) ←H AFC the secretary of environment or the secretary's designee;

H AFC →(5) (6) ←H AFC the director of the department of game and fish or the director's designee;

H AFC →(6) (7) ←H AFC the state fire marshal or the fire marshal's designee; and

H AFC →(7) (8) ←H AFC three public members appointed by the governor from a list of nominees submitted to the governor jointly by the president pro tempore of the senate and the speaker of the house of representatives:

(a) one of whom shall be a representative of the forest products industry;

(b) one of whom shall be a representative of local government interests, such as a member of New Mexico counties or the soil and water conservation commission; and

(c) one of whom shall be a

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representative of an academic or nonprofit conservation organization with a focus on ecological restoration science.

B. Public members of the board shall serve until their successors have been appointed.

C. 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.

D. Members of the board are entitled to receive per diem and mileage pursuant to the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance.

**SECTION 4. [NEW MATERIAL] BOARD--DIVISION--POWERS AND DUTIES.--**

A. The board shall:

(1) recommend guidelines, protocols and best management practices for 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 conservation and restoration programs or projects or wildlife conservation or habitat improvement programs or projects HAFC→for the purpose of co-funding or leveraging funding for priority projects←HAFC; and

(3) evaluate and recommend projects to the

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division for funding.

B. The division may:

(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) beginning July 1, 2019, provide partial or full funding for approved projects and facilitate and coordinate funding from multiple sources for projects, when appropriate; and

(3) adopt rules to carry out the purposes of the Forest and Watershed Restoration Act.

**SECTION 5. [NEW MATERIAL] USE OF FOREST AND WATERSHED RESTORATION FUND--PROJECT EVALUATION AND PRIORITIZATION.--**

A. Money in the forest land protection revolving fund may be used to administer and carry out the purposes of the Forest and Watershed Restoration Act and to fund projects authorized by the division on any lands in the state for:

(1) on-the-ground restoration treatments;  
(2) project planning;  
(3) economic development programs to advance the use of small-diameter trees and wood biomass removed for hazardous fuel reduction and forest and watershed restoration;

or

(4) workforce development for wood utilization

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projects.

B. A project is eligible for funding if the project is for a public benefit and:

(1) is part of a current state forest and watershed health plan or forest action plan, a community wildfire protection plan, other comprehensive forest and watershed treatment plan or wildlife conservation or habitat improvement 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) protects watersheds that are the source of drinking or irrigation water;

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

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

C. A project that is eligible for funding in accordance with Subsection B of this section shall be given priority for funding by the division if the project:

(1) leverages federal, state, local, tribal or private sources and, if available, support from other public or private water, forest, fire, wildlife habitat or economic

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development programs;

(2) 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

(c) where traditional forest products may be produced;

(3) is clustered around priority areas that are able to supply a useful amount of wood products for industry; or

(4) 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.

D. Beginning July 1, 2019, sponsors may apply to the division for project funding.

**SECTION 6.** [NEW MATERIAL] REPORT BY DIVISION.--At least forty-five days prior to each legislative session, the division shall submit a report concerning its activities, the projects implemented and any recommended legislation to the governor and the legislature.

**SECTION 7.** Section 68-2-28 NMSA 1978 (being Laws 1987, Chapter 143, Section 6, as amended) is amended to read:

"68-2-28. FOREST LAND PROTECTION REVOLVING FUND

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CREATED.--

A. There is created in the state treasury a revolving fund to be known as the "forest land protection revolving fund". The forest land protection revolving fund shall consist of all receipts as provided by Section 68-2-26 NMSA 1978, appropriations, gifts, grants, donations and ~~[from]~~ revenue received by the forestry division of the energy, minerals and natural resources department from the federal government or other state agencies and other sources for conducting forest and watershed management projects. Subject to legislative appropriation, expenditures may be made from the forest land protection revolving fund upon vouchers signed by the state forester and warrants issued by the secretary of finance and administration:

(1) for the administration and enforcement of the Forest Conservation Act; ~~[and]~~

(2) to administer forest and watershed management projects, including acquisition of tools and equipment and expenses incurred by the forestry division in planning and supervising forest and watershed management projects; and

(3) to fund approved projects pursuant to the Forest and Watershed Restoration Act.

B. Money in the forest land protection revolving fund shall not revert to the general fund."

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SECTION 8. Section 72-14-6 NMSA 1978 (being Laws 1935, Chapter 24, Section 3, as amended by Laws 1997, Chapter 241, Section 3 and also by Laws 1997, Chapter 246, Section 3) is amended to read:

"72-14-6. APPROPRIATION--HOW DISBURSEMENTS ARE TO BE MADE.--

A. Annually, one million dollars (\$1,000,000) shall be distributed from the improvement of Rio Grande income fund to the forest land protection revolving fund.

B. There is appropriated annually all money remaining in the improvement of the Rio Grande income fund after the distribution pursuant to Subsection A of this section or as much thereof as may be necessary for the purpose of complying with Sections 72-14-4 through 72-14-6 and 72-14-9 through 72-14-28 NMSA 1978 and to fulfill and carry out their purposes and intentions. The appropriations authorized shall be paid, from time to time as may be necessary, upon vouchers approved by the interstate stream commission."

SECTION 9. Section 72-14-23 NMSA 1978 (being Laws 1955, Chapter 266, Section 15, as amended) is amended to read:

"72-14-23. NEW MEXICO IRRIGATION WORKS CONSTRUCTION FUND CREATED--LIMITATION OF LIABILITY UNDER ACT--REPARATION OF DAMAGES CAUSED IN CARRYING OUT POWERS GRANTED--AUTHORITY OF COMMISSION TO RECEIVE CONTRIBUTIONS.--

A. There is [~~hereby~~] created a fund to be known .211393.1

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as the "New Mexico irrigation works construction fund", which shall consist of the income creditable to the permanent reservoirs for irrigation purposes income fund not otherwise pledged under Section [~~75-34-19 New Mexico Statutes Annotated, 1953 Compilation, (being Laws 1955, Chapter 266, Section 11)~~] 72-14-19 NMSA 1978 and all other [~~moneys which~~] money that may be appropriated by the [~~state~~] legislature to [~~said~~] the construction fund. [~~Such~~] The fund shall be a continuing fund and shall not revert to the general fund [~~of the state~~] or to any other fund [~~of the state at the end of any biennium~~].

B. Annually, one million dollars (\$1,000,000) shall be distributed from the New Mexico irrigation works construction fund to the forest land protection revolving fund.

C. The cost of investigations and construction as authorized in Section [~~75-34-11 New Mexico Statutes Annotated, 1953 Compilation (being Laws 1955, Chapter 266, Section 3)~~] 72-14-11 NMSA 1978 shall be paid from [~~said~~] the New Mexico irrigation works construction fund and also the cost of all preliminary work on any project, and all expenses directly chargeable to such project, prior to the receipt of the proceeds of bonds, shall be paid from the construction fund. The amount of all such expenses on account of any project [~~or projects~~] and such part of the general administrative expenses of the commission and the cost of investigation [~~or investigations~~] as shall be properly chargeable, in the opinion

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of the commission, to such project [~~or projects~~] shall be reimbursed to the construction fund upon the receipt of the proceeds of bonds issued for such project [~~or projects~~]. No liability or obligation shall be incurred under the provisions of Sections [~~75-34-9 to 75-34-27 New Mexico Statutes, 1953 Compilation (being Laws 1955, Chapter 266, Sections 1 to 19)~~] 72-14-9 through 72-14-28 NMSA 1978 beyond the extent to which the money [~~shall have~~] has been provided under the authority of [~~this act~~] those sections. All public and private property damaged or destroyed in carrying out the powers granted under [~~this act~~] those sections shall be restored or repaired and placed in [~~their~~] its original condition, as nearly as practicable, or adequate compensation made therefor out of funds provided by [~~this act~~] those sections.

D. The commission shall also have authority to pay the cost of such investigations and construction on any project from [~~said~~] the New Mexico irrigation works construction fund when contracts in form satisfactory to it [~~shall~~] have been entered into whereby title to works [~~shall~~] have been mortgaged, deeded, assigned or transferred by the owner [~~thereof~~] to the commission, and a program for reimbursement of all amounts expended, together with operation and maintenance charges, [~~shall~~] have been agreed upon; provided that no construction contract shall be entered into without the prior approval of the state board of finance. The commission shall

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also have authority to receive and accept appropriations and contributions from any source of either money or property or other things of value to be held, used and applied for the purposes [~~in this act~~] provided in Sections 72-14-9 through 72-14-28 NMSA 1978."

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