

1 AN ACT

2 RELATING TO FINANCE; PRIORITIZING WATER PROJECT FUND PROJECTS
3 THAT ARE URGENT TO ADDRESS PUBLIC HEALTH AND SAFETY; ALLOWING
4 THE WATER TRUST BOARD TO AUTHORIZE WATER PROJECTS FOR
5 WASTEWATER CONVEYANCE AND TREATMENT; PROVIDING THAT THE NEW
6 MEXICO FINANCE AUTHORITY SET REQUIREMENTS OF FINANCIAL
7 CAPABILITY OF QUALIFYING ENTITIES AND DETERMINE COSTS OF
8 ORIGINATING GRANTS AND LOANS; REMOVING THE REQUIREMENT THAT
9 ELIGIBLE ENTITIES CONDUCT AN AUDIT; REMOVING FISCAL AGENT
10 FEES FROM ITEMS THAT ARE ELIGIBLE FOR GRANTS AND LOANS;
11 REDUCING THE AMOUNT OF WATER PROJECT FUNDS DISTRIBUTED TO THE
12 STATE ENGINEER FOR THE NEXT FIVE YEARS; PROVIDING THAT MONEY
13 IN THE WATER PROJECT FUND MAY BE USED TO HIRE CONTRACTORS TO
14 PROVIDE TECHNICAL ASSISTANCE; CHANGING THE DATE THAT THE
15 WATER TRUST BOARD IS REQUIRED TO REPORT TO THE LEGISLATURE.

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

18 SECTION 1. Section 72-4A-5 NMSA 1978 (being Laws 2001,
19 Chapter 164, Section 5, as amended) is amended to read:

20 "72-4A-5. BOARD--DUTIES.--The board shall:

21 A. adopt rules governing terms and conditions of
22 grants or loans recommended by the board for appropriation by
23 the legislature from the water project fund, giving priority
24 to projects that have been identified by the board as being
25 urgent to address public health and safety issues; that have

1 matching contributions from federal or local funding sources
2 available; and that have obtained all requisite state and
3 federal permits and authorizations necessary to initiate the
4 project;

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

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

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

11 (3) wastewater conveyance and treatment;

12 (4) restoration and management of
13 watersheds;

14 (5) flood prevention; or

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

17 C. evaluate projects, including their
18 environmental impacts, and recommend projects to the
19 interstate stream commission pursuant to the provisions of
20 Section 72-14-45 NMSA 1978."

21 **SECTION 2.** Section 72-4A-7 NMSA 1978 (being Laws 2001,
22 Chapter 164, Section 7, as amended) is amended to read:

23 "72-4A-7. CONDITIONS FOR GRANTS AND LOANS.--

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

1 (1) agree to operate and maintain a water
2 project so that it will function properly over the structural
3 and material design life;

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

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

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

16 (5) agree to properly maintain financial
17 records in accordance with all applicable laws; and

18 (6) agree to pay costs of originating grants
19 and loans as determined by rules adopted by the authority.

20 B. Plans and specifications for a water project
21 shall be approved by the authority after review and upon the
22 recommendation of the state engineer and the department of
23 environment before grant or loan disbursements to pay for
24 construction costs are made to a qualifying entity. Plans
25 and specifications for a water project shall incorporate

1 available technologies and operational design for water use
2 efficiency.

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

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

15 SECTION 3. Section 72-4A-9 NMSA 1978 (being Laws 2001,
16 Chapter 164, Section 9, as amended) is amended to read:

17 "72-4A-9. WATER PROJECT FUND--CREATED--PURPOSE.--

18 A. The "water project fund" is created in the
19 authority and shall consist of distributions made to the fund
20 from the water trust fund and payments of principal of and
21 interest on loans for approved water projects. The fund
22 shall also consist of any other money appropriated,
23 distributed or otherwise allocated to the fund for the
24 purpose of supporting water projects pursuant to provisions
25 of the Water Project Finance Act. The fund shall be

1 administered by the authority. Income from investment of the
2 water project fund shall be credited to the fund. Balances
3 in the fund at the end of any fiscal year shall not revert to
4 the general fund. The water project fund may consist of such
5 subaccounts as the authority deems necessary to carry out the
6 purposes of the fund. The authority may establish procedures
7 and adopt rules as required to administer the fund and to
8 recover from the fund costs of administering the fund and
9 originating grants and loans. Ten percent of all water
10 project funds shall be dedicated to the state engineer for
11 water rights adjudications, and twenty percent of the money
12 dedicated for water rights adjudications shall be allocated
13 to the administrative office of the courts for the courts'
14 costs associated with water rights adjudications; provided
15 that from July 1, 2024 through June 30, 2029, the lesser of
16 four million dollars (\$4,000,000) or eight percent of all
17 water project funds shall be dedicated to the state engineer
18 for water rights adjudications and two percent of all water
19 project funds shall be dedicated to the administrative office
20 of the courts for the courts' costs associated with water
21 rights adjudications.

22 B. Money in the water project fund may be used by
23 the authority to:

24 (1) make loans or grants to qualified
25 entities for projects and water rights adjudications;

1 provided that projects shall require legislative approval;
2 and

3 (2) hire contractors to provide financial
4 and administrative capacity development and direct technical
5 assistance on water projects.

6 C. The authority is authorized to issue revenue
7 bonds payable from the proceeds of loan repayments made into
8 the water project fund upon a determination by the authority
9 that issuance of the bonds is necessary to replenish the
10 principal balance of the fund. The net proceeds from the
11 sale of the bonds shall be deposited in the water project
12 fund. The bonds shall be authorized and issued by the
13 authority in accordance with the provisions of the New Mexico
14 Finance Authority Act."

15 SECTION 4. Section 72-4A-10 NMSA 1978 (being Laws 2001,
16 Chapter 164, Section 10) is amended to read:

17 "72-4A-10. REPORT TO LEGISLATURE.--The board shall
18 report to the legislature no later than December 1 of each
19 calendar year the total expenditures from the water project
20 fund, their purposes, an analysis of the accomplishments of
21 the expenditures and recommendations for legislative action." =

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