

AN ACT

RELATING TO RURAL INFRASTRUCTURE; AMENDING THE RURAL INFRASTRUCTURE ACT; TRANSFERRING DUTIES OF THE ENVIRONMENTAL IMPROVEMENT BOARD TO THE SECRETARY OF ENVIRONMENT; EXPANDING THE PURPOSE OF THE ACT TO INCLUDE FINANCING OF WASTEWATER FACILITIES; PROVIDING FOR FLEXIBLE INTEREST RATES.

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

Section 1. Section 75-1-2 NMSA 1978 (being Laws 1973, Chapter 333, Section 2, as amended) is amended to read:

"75-1-2. DEFINITIONS. -- As used in the Rural Infrastructure Act:

A. "department" means the department of environment;

B. "fund" means the rural infrastructure revolving loan fund;

C. "local authority" means any incorporated city, town or village, county, mutual domestic association, public water cooperative association or sanitation district whose water supply facility serves a population of less than ten thousand;

D. "operate and maintain" means all necessary activities, including but not limited to replacement of equipment or appurtenances to assure the dependable and economical function of a water supply facility in accordance

with its intended purpose;

E. "secretary" means the secretary of environment;

F. "wastewater facility" includes but is not limited to collection lines, pumping equipment, treatment works and disposal piping or process units; and

G. "water supply facility" includes but is not limited to the source of supply of water, pumping equipment, storage facilities, transmission lines, treatment works and distribution systems. "

Section 2. Section 75-1-2.1 NMSA 1978 (being Laws 1983, Chapter 173, Section 3, as amended) is amended to read:

"75-1-2.1. PURPOSE OF ACT.--The purpose of the Rural Infrastructure Act is to provide financial assistance to local authorities for the construction or modification of water supply and wastewater facilities to correct demonstrably hazardous or inadequate conditions. "

Section 3. Section 75-1-3 NMSA 1978 (being Laws 1973, Chapter 333, Section 3, as amended) is amended to read:

"75-1-3. FUND CREATED--ADMINISTRATION--EMERGENCY FUND.--

A. A special fund is created to be known as the "rural infrastructure revolving loan fund". Money appropriated to the fund or to the department to carry out the provisions of the Rural Infrastructure Act may be used to

make loans and grants to local authorities, individually or jointly, for water supply or wastewater facilities.

Appropriations made to the fund but not expended at the end of the fiscal year for which appropriated shall not revert to the general fund but shall accrue to the credit of the fund. Earnings on the balance in the fund shall be credited to the fund. In addition, when the proceeds from the issuance of severance tax bonds appropriated to the fund are deposited in the state treasury, interest earned on that money during the period from deposit in the state treasury until the actual transfer of the money to the fund shall be credited to the fund.

B. Ten percent of any appropriation to the fund or to the department to carry out the provisions of the Rural Infrastructure Act shall be set aside for emergency grants and loans pursuant to Section 75-1-5 NMSA 1978.

C. All water supply and wastewater facilities shall be designed in compliance with the engineering requirements established by the secretary after consulting with and considering the recommendations of the professional engineering societies operating in New Mexico. The secretary shall also establish, by regulations, guidelines for the ranking of projects for top priority based on public health needs.

D. The department shall administer the fund and

shall make grant and loan disbursements in accordance with the Rural Infrastructure Act. The secretary shall adopt regulations to govern the application procedure and requirements for disbursing grants and loans under the Rural Infrastructure Act, including requirements consistent with the purpose of the act for determining the eligibility and priority of local authorities for such grants and loans.

E. Receipts from the repayment of loans, including loans approved by the state board of finance pursuant to Section 75-1-5 NMSA 1978, shall be deposited in the fund by the department, including receipts from the repayment of loans made pursuant to appropriations to carry out the purposes of the Water Supply Construction Act made prior to the effective date of the Rural Infrastructure Act.

F. Loans and grants made pursuant to the provisions of the Rural Infrastructure Act shall not be used by the local authority on any project constructed in fulfillment or partial fulfillment of requirements made of a subdivider by the provisions of the Land Subdivision Act or the New Mexico Subdivision Act."

Section 4. Section 75-1-4 NMSA 1978 (being Laws 1973, Chapter 333, Section 4, as amended) is amended to read:

"75-1-4. CONDITIONS FOR GRANTS AND LOANS. - -

A. Grants and loans shall be made only to local authorities that:

(1) agree to operate and maintain the water supply facilities so that the facilities will function properly over the structural and material design life, which shall not be less than twenty years;

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

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

(4) meet the requirements of the financial capability set by the department to assure sufficient revenues to operate and maintain the facility for its useful life and to repay the loan;

(5) pledge sufficient revenues for repayment of the loan, provided that such revenues may by law be pledged for that purpose; and

(6) agree to properly maintain financial records and to conduct an audit of the project's financial records.

B. Except as otherwise provided in the Rural Infrastructure Act, a loan shall be for a period of time not

to exceed twenty years. Loans may be interest free or bear an annual interest rate set by the secretary that is at or below market interest rates. The repayment of loans shall be in annual installments beginning one year after completion of the project. The repayment of the interest on the loan accumulated during the design and construction of a project may be included in the final loan amount, but it shall not be counted in determining the maximum loan amount.

C. No loan recipient eligible to receive a grant under the Rural Infrastructure Act shall receive grants in any one year totaling more than two hundred thousand dollars (\$200,000).

D. The maximum assistance, including both loans and grants, which a local authority may receive under the Rural Infrastructure Act in any one year is five hundred thousand dollars (\$500,000).

E. Plans and specifications for a water supply or wastewater facility construction project shall be approved by the department before grant or loan disbursements to pay for construction costs are made to a local authority. Interim loan disbursements to pay for engineering and other professional services may be made by the department prior to the approval of the plans and specifications.

F. Privately owned water supply or wastewater facilities are not eligible for assistance under the Rural

Infrastructure Act.

G. Grants and loans shall be made only for eligible items. Eligible items include but are not limited to the costs of engineering feasibility reports, contracted engineering design, inspection of construction, special engineering services, archaeological surveys and contracted construction. The costs of water rights, land, system acquisition, easements and rights of way, refinancing of program loans, legal costs and fiscal agents' fees are eligible items only for loan funds. Local authority administrative costs shall not be included as eligible items.

H. In the event the local authority fails to make the prescribed loan repayment, the department is authorized to set water or wastewater user rates in the area of the local authority's jurisdiction in order to provide sufficient money for repayment of this loan and proper operation and maintenance. "

Section 5. Section 75-1-5 NMSA 1978 (being Laws 1987, Chapter 175, Section 4, as amended) is amended to read:

"75-1-5. EMERGENCY LOANS AND GRANTS. --Ten percent of the proceeds of each severance tax bond issuance or other appropriation for the purpose of carrying out the provisions of the Rural Infrastructure Act shall be reserved for emergencies and shall be allocated by the department only upon approval of the state board of finance. This amount

shall not be deposited in the fund and shall be allocated only for emergency loans and grants. Emergency loans and grants shall be made in accordance with the applicable provisions for loans pursuant to the Rural Infrastructure Act; provided that a grant shall not exceed two hundred thousand dollars (\$200,000). At the end of the third quarter of each fiscal year, the unexpended balance of the reserved amount may be transferred by the department to the fund for use in accordance with the Rural Infrastructure Act."

Section 6. Section 75-1-6 NMSA 1978 (being Laws 1988, Chapter 28, Section 7, as amended) is amended to read:

"75-1-6. AVERAGE RESIDENTIAL USER COST REDUCTION GRANTS AND ZERO PERCENT LOANS.--

A. No more than twenty-five percent of the proceeds of each severance tax bond issuance or other appropriation for the purpose of carrying out the provisions of the Rural Infrastructure Act shall be reserved for average residential user cost reduction grants or zero percent loans to reduce average residential user cost to a reasonable level for eligible financially needy loan recipients whose water supply or wastewater facilities serve less than three thousand persons.

B. Average residential user cost reduction grants and zero percent loans shall be allocated by the department in accordance with the provisions for grants and loans

pursuant to the Rural Infrastructure Act, provided that an average residential user cost reduction grant or zero percent loan shall not exceed two hundred thousand dollars (\$200,000). Such grants and loans shall reduce only the principal and interest portion of the average residential user cost to a reasonable cost as determined by the department.

C. A zero percent loan or average residential user cost reduction grant shall be approved by the department when, after construction bids have been received, the following conditions have been met by the local authority whose average residential user costs are in need of reduction:

(1) the construction project is designed using the most cost-effective and dependable option;

(2) the system is designed with adequate built-in expansion capacity;

(3) other sources of grant funds have been sought and are not available in a timely manner;

(4) the project cannot feasibly be reduced in scope or phased so as to bring it within available loan funds and within reasonable user cost; and

(5) the local authority's median household income is less than ninety percent of the statewide non-metropolitan median household income based on the most

