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HOUSE BILL 418

45TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2002

INTRODUCED BY

Joe M Stell

AN ACT

RELATING TO WATER; AUTHORIZING THE ISSUANCE OF SEVERANCE TAX BONDS OVER THREE YEARS FOR PROJECTS THAT WILL PROTECT WATER RIGHTS, RETIRE WATER RIGHTS AND CONSERVE WATER IN THE LOWER PECOS RIVER BASIN; MAKING AN APPROPRIATION.

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

Section 1. FINDINGS-- AUTHORIZATION FOR SEVERANCE TAX BONDS-- APPROPRIATION OF PROCEEDS FOR PROJECTS. --

A. The legislature finds that:

(1) a severe imbalance exists between water right holders, New Mexico obligations under the Pecos River Compact and water supply in the lower Pecos river basin of New Mexico;

(2) the imbalance is threatening the economic well-being of the state and the area comprising the lower

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1 Pecos river basin and is causing undue hardship for all
2 residents in the basin; and

3 (3) a mechanism needs to be in place to
4 protect water rights, retire water rights and conserve water
5 so that a balance will be restored between water uses and
6 water supply in the lower Pecos river basin.

7 B. The state board of finance may issue and sell
8 severance tax bonds in fiscal years 2002 through 2004 in
9 compliance with the Severance Tax Bonding Act in an amount not
10 exceeding a total of forty-eight million dollars (\$48,000,000)
11 when the interstate stream commission certifies the need for
12 the issuance of the bonds; provided that no more than sixteen
13 million dollars (\$16,000,000) may be issued in any one fiscal
14 year. The state board of finance shall schedule the issuance
15 and sale of the bonds in the most expeditious and economical
16 manner possible upon a finding by the board that the projects
17 have been sufficiently developed to justify the issuance and
18 that the projects can proceed to contract within a reasonable
19 time. The state board of finance shall further take the
20 appropriate steps necessary to comply with the federal
21 Internal Revenue Code of 1986, as amended. The proceeds from
22 the sale of the bonds are appropriated to the interstate
23 stream commission for the purpose of financing projects
24 pursuant to the provisions of this section. Any unexpended or
25 unencumbered balance remaining at the end of fiscal year 2006

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1 shall revert to the severance tax bonding fund. If the
2 interstate stream commission has not certified the need for
3 the issuance of the bonds by the end of fiscal year 2004, the
4 authorization provided in this section shall expire.

5 C. No certification shall be made by the
6 interstate stream commission pursuant to Subsection B of this
7 section unless the commission has entered into contracts with
8 the governing body of the Carlsbad irrigation district and
9 with the governing body of the Pecos valley artesian
10 conservancy district that specify the actions to be taken or
11 avoided by each party to ensure that the expenditure of the
12 bond proceeds by the interstate stream commission will be
13 effective toward compliance with New Mexico's obligations
14 under the Pecos River Compact.

15 D. The interstate stream commission, after
16 consultation with the governing board of each irrigation
17 district, conservancy district and artesian conservancy
18 district in the lower Pecos river basin, shall determine the
19 need for projects to be funded with proceeds from the bonds
20 and make the certifications pursuant to Subsection B of this
21 section that revenue from the bonds is needed. Expenditure of
22 the proceeds shall be made only within the Pecos river basin
23 for projects that:

24 (1) purchase water rights with the
25 appurtenant land from willing sellers in an equal percentage,

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1 within a two-point range, of the total irrigated acreage in
2 each of the following areas of the river:

3 (a) from Santa Rosa to Macho draw;

4 (b) from Macho draw to McMillan delta;

5 and

6 (c) from McMillan delta to the Texas

7 line;

8 (2) protect water rights, retire water rights
9 or include other measures designed to correct the imbalances
10 between water right holders, New Mexico obligations under the
11 Pecos River Compact and water supply of the lower Pecos river
12 basin; or

13 (3) are designed for water conservation,
14 including restoration of native vegetation and other water
15 supply enhancement measures.

16 E. The appropriations in this section are
17 contingent on the state's offer for settlement of the Carlsbad
18 irrigation district water rights adjudication being based upon
19 the full project water or assessment rolls of twenty-five
20 thousand fifty-five acres.

21 F. If, at any time, the interstate stream
22 commission determines that the total water rights purchased
23 with bond revenues pursuant to this section are in excess of
24 those water rights permanently needed for compliance with New
25 Mexico's obligations under the Pecos River Compact, then the

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1 commission shall offer the excess water rights for sale to the
2 private sector. By rule, the commission shall establish
3 procedures for the sale, and any revenue received as a result
4 of the sale shall be deposited in the New Mexico irrigation
5 works construction fund.