

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR  
SENATE BILL 252

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

INTRODUCED BY

AN ACT

AUTHORIZING THE ISSUANCE AND SALE OF CAPITAL PROJECTS GENERAL  
OBLIGATION BONDS TO FUND THE WATER PROJECT FUND FOR WATER  
MANAGEMENT IMPROVEMENTS AND ACQUISITIONS; PROVIDING FOR A TAX  
LEVY FOR PAYMENT OF PRINCIPAL OF, INTEREST ON AND CERTAIN  
COSTS RELATED TO THE BONDS; REQUIRING APPROVAL OF THE  
REGISTERED VOTERS AT THE 2002 GENERAL ELECTION OF THE STATE;  
MAKING AN APPROPRIATION TO THE WATER TRUST FUND; DECLARING AN  
EMERGENCY.

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

Section 1. SHORT TITLE. -- This act may be cited as the  
"2002 Water Project Fund General Obligation Bond Act".

Section 2. PURPOSE. -- For the purpose of providing funds  
for capital expenditures as authorized in the 2002 Water  
Project Fund General Obligation Bond Act, general obligation

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1 indebtedness of the state is authorized for the purpose of  
2 funding the water project fund.

3 Section 3. BOND TERMS. --

4 A. The state board of finance, except as limited  
5 by the 2002 Water Project Fund General Obligation Bond Act,  
6 shall determine the terms, covenants and conditions of bonds  
7 issued pursuant to that act, including but not limited to:

8 (1) date or dates of issue, denominations and  
9 maturities;

10 (2) principal amounts;

11 (3) rate or rates of interest; and

12 (4) provisions for redemption, including  
13 premiums, registration and refundability, whether the bonds  
14 are issued in one or more series, and other covenants relating  
15 to the bonds and the issuance thereof.

16 B. The bonds shall be in such form as the state  
17 board of finance determines with an appropriate series  
18 designation and shall bear interest payable as set forth in  
19 the resolution of the state board of finance.

20 C. Payment of the principal of the bonds shall  
21 begin not more than two years after the date of their  
22 issuance, and the bonds shall mature not later than ten years  
23 after the date of their issuance. Both principal and interest  
24 shall be payable in lawful money of the United States at the  
25 office of the paying agent within or without the state as the

1 state board of finance may direct.

2 D. The bonds shall be executed with the manual or  
3 facsimile signature of the governor or the state treasurer,  
4 and the seal of the state or a facsimile of the seal shall be  
5 placed on each bond, except for any series of bonds issued in  
6 book entry or similar form without the delivery of physical  
7 securities.

8 E. The bonds shall be issued in accordance with  
9 the provisions of the 2002 Water Project Fund General  
10 Obligation Bond Act, the Supplemental Public Securities Act  
11 and the Uniform Facsimile Signature of Public Officials Act  
12 and may be issued in accordance with the Public Securities  
13 Short-Term Interest Rate Act.

14 F. The full faith and credit of the state is  
15 pledged for the prompt payment, when due, of the principal of  
16 and interest on all bonds issued and sold pursuant to the 2002  
17 Water Project Fund General Obligation Bond Act.

18 Section 4. EXPENDITURES. --The proceeds from the sale of  
19 the bonds shall be expended solely for providing money to be  
20 distributed for the purpose of funding the water project fund  
21 in an amount not to exceed fifty million dollars (\$50,000,000)  
22 and to pay expenses incurred under Section 6 of the 2002 Water  
23 Project Fund General Obligation Bond Act. Any proceeds from  
24 the sale of the bonds that are not required for this purpose  
25 shall be used for the purpose of paying the principal of and

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1 interest on the bonds.

2 Section 5. SALE. --The bonds authorized under the 2002  
3 Water Project Fund General Obligation Bond Act shall be sold  
4 by the state board of finance at such time and in such manner  
5 and amounts as the board may elect. The bonds may be sold at  
6 private sale or at public sale, in either case at not less  
7 than par plus accrued interest to the date of delivery. If  
8 sold at public sale, the state board of finance shall publish  
9 a notice of the time and place of sale in a newspaper of  
10 general circulation in the state and may also publish the  
11 notice in a recognized financial journal outside the state.  
12 The required publications shall be made once each week for two  
13 consecutive weeks prior to the date fixed for the sale, the  
14 last publication thereof to be at least five days prior to the  
15 date of the sale. The notice shall specify the amount,  
16 denomination, maturity and description of the bonds to be  
17 offered for sale and the place, date and hour at which the  
18 sealed bids shall be received. At the time and place  
19 specified in the notice, the state board of finance shall open  
20 the bids in public and shall award the bonds to the bidder or  
21 bidders offering the best price for the bonds. The state  
22 board of finance may reject any or all bids and readvertise  
23 and may waive any irregularity in a bid. All bids, except  
24 that of the state, shall be accompanied by a deposit of two  
25 percent of the principal amount of the bonds in a form

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1 acceptable to the state board of finance. The deposit of an  
 2 unsuccessful bidder shall be returned upon rejection of the  
 3 bid. The state board of finance may also sell the bonds or  
 4 any part of the bonds to the state treasurer or state  
 5 investment officer. The state treasurer or state investment  
 6 officer is authorized to purchase any of the bonds for  
 7 investment. The bonds are legal investments for any person or  
 8 board charged with the investment of any public funds and may  
 9 be accepted as security for any deposit of public money.

10 Section 6. EXPENSES.--The expenses incurred by the state  
 11 board of finance in or relating to the preparation and sale of  
 12 the bonds shall be paid out of the proceeds from the sale of  
 13 the bonds, and all rebate, penalty, interest and other  
 14 obligations of the state relating to the bonds and bond  
 15 proceeds under the Internal Revenue Code of 1986, as amended,  
 16 shall be paid from earnings on bond proceeds or other money of  
 17 the state, legally available for such payments.

18 Section 7. TAX LEVY.--To provide for the payment of the  
 19 principal of and interest on the bonds issued and sold  
 20 pursuant to the provisions of the 2002 Water Project Fund  
 21 General Obligation Bond Act, there shall be and there is  
 22 hereby imposed and levied during each year in which any of the  
 23 bonds are outstanding an ad valorem tax on all property in the  
 24 state subject to property taxation for state purposes  
 25 sufficient to pay the interest as it becomes due on the bonds,

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1 together with an amount sufficient to provide a sinking fund  
2 to pay the principal of the bonds as it becomes due and, if  
3 permitted by law, ad valorem taxes may be collected to pay  
4 administrative costs incident to the collection of such taxes.  
5 The taxes shall be imposed, levied, assessed and collected at  
6 the times and in the manner that other property taxes for  
7 state purposes are imposed, levied, assessed and collected.  
8 It is the duty of all tax officials and authorities to cause  
9 these taxes to be imposed, levied, assessed and collected.

10 Section 8. STATE TREASURER--DUTIES.--The state treasurer  
11 shall keep separate accounts of all money collected pursuant  
12 to the taxes imposed and levied pursuant to the provisions of  
13 the 2002 Water Project Fund General Obligation Bond Act and  
14 shall use this money only for the purposes of paying the  
15 principal of and interest on the bonds as they become due and  
16 any expenses relating thereto.

17 Section 9. IRREPEALABLE CONTRACT--AUTHORITY FOR  
18 ISSUANCE.--An owner of bonds issued pursuant to the provisions  
19 of the 2002 Water Project Fund General Obligation Bond Act  
20 may, either at law or in equity, by suit, action or mandamus,  
21 enforce and compel the performance of the duties required by  
22 that act of any officer or entity mentioned in that act. The  
23 provisions of that act constitute an irrepealable contract  
24 with the owners of any of the bonds issued pursuant to that  
25 act for the faithful performance of which the full faith and

1 credit of the state is pledged. Without reference to any  
 2 other act of the legislature of the state, the 2002 Water  
 3 Project Fund General Obligation Bond Act is full authority for  
 4 the issuance and sale of the bonds authorized in that act, and  
 5 such bonds shall have all the qualities of investment  
 6 securities under the Uniform Commercial Code of the state,  
 7 shall not be invalid for any irregularity or defect in the  
 8 proceedings for the issuance and sale of the bonds and shall  
 9 be incontestable in the hands of bona fide purchasers or  
 10 holders thereof for value. All bonds issued under the  
 11 provisions of that act, and the interest thereon, are exempt  
 12 from taxation by the state and any subdivision or public body  
 13 thereof.

14 Section 10. PROJECTS. --The proceeds from the sale of  
 15 bonds issued under the provisions of the 2002 Water Project  
 16 Fund General Obligation Bond Act shall be distributed to the  
 17 water project fund for the purposes of carrying out the  
 18 provisions of the Water Project Finance Act.

19 Section 11. ELECTION. --

20 A. Bonds issued pursuant to the 2002 Water Project  
 21 Fund General Obligation Bond Act shall be submitted to the  
 22 registered voters of the state at the general election to be  
 23 held in November 2002, and, if they receive a majority of all  
 24 the votes cast thereon at such election, shall take effect  
 25 upon certification of the state canvassing board announcing

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1 the results of such election. No bonds shall be issued or  
2 sold under the 2002 Water Project Fund General Obligation Bond  
3 Act until the registered voters of this state have voted upon  
4 and approved the bonds and property tax as provided in this  
5 section. Any bonds issued under that act shall be issued  
6 within thirty months from the date of such election.

7 B. The ballots used at the 2002 general election  
8 shall contain substantially the following language:

9 "The 2002 Water Project Fund General Obligation  
10 Bond Act authorizes the issuance and sale of water project  
11 fund bonds. Shall the state be authorized to issue general  
12 obligation bonds in an amount not to exceed fifty million  
13 dollars (\$50,000,000) to fund the water project fund and  
14 provide for a general property tax imposition and levy for the  
15 payment of principal of, interest on and expenses incurred in  
16 connection with the issuance of the bonds and the collection  
17 of the tax as permitted by law?

18 For \_\_\_\_\_ Against \_\_\_\_\_".

19 C. The secretary of state shall include the  
20 submission of the water project fund general obligation bond  
21 to the people at the 2002 general election, and it shall be  
22 included in the general election proclamation of each of the  
23 county clerks. The secretary of state shall cause the 2002  
24 Water Project Fund General Obligation Bond Act to be published  
25 in full in at least one newspaper in each county of the state,



1 if one is published therein, once each week, for four  
2 successive weeks next preceding the general election as  
3 required by the constitution of New Mexico.

4 Section 12. APPROPRIATION.--Fifty million dollars  
5 (\$50,000,000) is appropriated from the general fund to the  
6 water trust fund for expenditure in fiscal year 2003 and  
7 subsequent fiscal years to carry out purposes of the Water  
8 Project Finance Act. Any unexpended or unencumbered balance  
9 remaining at the end of a fiscal year shall not revert to the  
10 general fund.

11 Section 13. EMERGENCY.--It is necessary for the public  
12 peace, health and safety that this act take effect  
13 immediately.

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