

HOUSE ENERGY, ENVIRONMENT AND NATURAL RESOURCES
COMMITTEE SUBSTITUTE FOR
HOUSE BILL 38

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

AN ACT

RELATING TO NATURAL RESOURCES; ENACTING THE FOREST AND
WATERSHED RESTORATION ACT; PROVIDING FOR FOREST AND WATERSHED
RESTORATION AND WILDLIFE HABITAT CONSERVATION; CREATING A FUND;
ESTABLISHING A BOARD; PROVIDING CRITERIA FOR THE EVALUATION AND
FUNDING OF PROJECTS.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
cited as the "Forest and Watershed Restoration Act".

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

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

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

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1 C. "project" means a forest and watershed
2 restoration project to increase the adaptability and resilience
3 to recurring drought and extreme weather events of the state's
4 forests and watersheds; protect water sources; reduce the risk
5 of wildfire, including plans for watershed conservation;
6 restore burned areas; or thin forests; or a related economic or
7 work force development project; and "project" also means a
8 wildlife conservation or habitat improvement project; and

9 D. "sponsor" means a federal, state or local
10 government agency, tribal entity, corporation or organization
11 that applies for a project or is conducting a project in
12 conjunction with the division.

13 SECTION 3. [NEW MATERIAL] FOREST AND WATERSHED
14 RESTORATION BOARD CREATED--MEMBERSHIP--APPOINTMENTS--TERMS--
15 VACANCIES--COMPENSATION.--

16 A. The "forest and watershed restoration board" is
17 created, which is administratively attached to the energy,
18 minerals and natural resources department. The board consists
19 of the following members:

- 20 (1) the New Mexico state forester;
21 (2) the commissioner of public lands or the
22 commissioner's designee;
23 (3) the director of the New Mexico forest and
24 watershed restoration institute at New Mexico highlands
25 university or the director's designee;

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1 (4) the secretary of economic development or
2 the secretary's designee;

3 (5) the secretary of environment or the
4 secretary's designee;

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

7 (7) the director of the interstate stream
8 commission or the director's designee;

9 (8) a member of the soil and water
10 conservation commission or the commission's designee;

11 (9) two nonvoting advisory members:

12 (a) one of whom is a representative from
13 the United States forest service; and

14 (b) one of whom is a representative from
15 the federal bureau of land management; and

16 (10) five public members appointed by the
17 governor from a list of nominees submitted to the governor jointly
18 by the majority and minority leaders of the senate and the house
19 of representatives:

20 (a) one of whom shall be a representative of
21 a statewide association of counties;

22 (b) one of whom shall be a member of the
23 acequia commission or the commission's designee; and

24 (c) three of whom are practitioners, with
25 diverse expertise in the ecology and economics, of treatment and

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1 restoration of forests and watersheds.

2 B. Of the public members of the board, two shall be
3 appointed for initial two-year terms and three shall be appointed
4 for four-year terms, and all subsequent appointments shall be made
5 for four-year terms.

6 C. The public members of the board shall not be
7 removed during their terms, except for misconduct, incompetence,
8 neglect of duty or malfeasance in office. No removal shall be
9 made without prior approval of the senate. Vacancies on the board
10 shall be filled by appointment by the governor for the unexpired
11 term within sixty days of the vacancy. Board members shall serve
12 until their successors have been appointed.

13 D. A majority of the members of the board constitutes
14 a quorum for transaction of business. The board shall elect a
15 chair from among its members.

16 E. Members of the board shall be eligible for
17 compensation as provided in the Per Diem and Mileage Act and shall
18 receive no other compensation, perquisite or allowance.

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

20 A. The board shall:

21 (1) adopt guidelines, protocols and best
22 management practices for projects;

23 (2) foster partnerships and cooperation among
24 federal, state and county agencies, tribal entities, political
25 subdivisions of the state, soil and water conservation districts,

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1 the forest products industry and other public or private
2 organizations dedicated to forest and watershed conservation and
3 restoration programs or projects or wildlife conservation or
4 habitat improvement programs or projects;

5 (3) evaluate and prioritize projects for funding;
6 and

7 (4) adopt rules necessary for the proper
8 administration of the Forest and Watershed Restoration Act.

9 B. The board may:

10 (1) seek and accept all public and private funds
11 and gifts, devises, grants and donations from others to carry out
12 the provisions of the Forest and Watershed Restoration Act;

13 (2) request assistance and staff support from the
14 state agencies represented on the board;

15 (3) employ such personnel as necessary to carry
16 out the provisions of the Forest and Watershed Restoration Act;

17 (4) delegate responsibility for the
18 administration and implementation of projects, project
19 supervision, project coordination and other program matters;

20 (5) employ or contract with experts to plan and
21 evaluate forest and watershed restoration projects and wildlife
22 conservation and habitat improvement projects and update state
23 forest and watershed restoration plans;

24 (6) beginning July 1, 2015, provide partial or
25 full funding for approved projects and facilitate and coordinate

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1 funding from multiple sources for projects, when appropriate;

2 (7) develop or approve projects, activities,
3 agreements and contracts with project sponsors; and

4 (8) monitor, evaluate and revise plans and
5 projects using adaptive management practices to ensure the long-
6 term effectiveness of projects funded by the board.

7 SECTION 5. [NEW MATERIAL] FOREST AND WATERSHED RESTORATION
8 FUND CREATED--ADMINISTRATION.--The "forest and watershed
9 restoration fund" is created in the state treasury. The fund
10 consists of appropriations, distributions, gifts, grants,
11 donations, income from investment of the fund and any other money
12 credited to the fund. The fund shall be administered by the
13 energy, minerals and natural resources department, and money in
14 the fund is subject to appropriation by the legislature to the
15 board to administer and fund projects approved by the board
16 pursuant to the Forest and Watershed Restoration Act.

17 Expenditures from the fund shall be by warrants of the secretary
18 of finance and administration upon vouchers signed by the state
19 forester. Money in the fund shall not revert to the general fund.

20 SECTION 6. [NEW MATERIAL] USE OF FOREST AND WATERSHED
21 RESTORATION FUND--PROJECT EVALUATION AND PRIORITIZATION.--

22 A. Money in the forest and watershed restoration fund
23 may be used to administer and carry out the purposes of the Forest
24 and Watershed Restoration Act and to fund projects authorized by
25 the board for:

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1 (1) on-the-ground restoration treatments, in an
2 amount equal to not less than seventy percent of expenditures from
3 the fund in any one year;

4 (2) project planning; provided that not more than
5 fifty percent of the costs of a project may be expended on
6 planning for that project;

7 (3) economic development programs to advance the
8 use of small-diameter trees and wood biomass removed for hazardous
9 fuel reduction and forest and watershed restoration; and

10 (4) work force development for wood utilization
11 projects.

12 B. A project shall be given priority for funding if
13 the project:

14 (1) is part of a current state forest and
15 watershed health plan or forest action plan, a community wildfire
16 protection plan or any other comprehensive forest and watershed
17 treatment plan or wildlife conservation or habitat improvement
18 plan approved by the board;

19 (2) incorporates actions recommended by current
20 plans or, where new plans are developed, seeks to integrate
21 forest, fire and water management plans with community and
22 economic development plans;

23 (3) will protect watersheds that are the source
24 of drinking water;

25 (4) targets an area at high risk of catastrophic

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1 wildfire;

2 (5) has matching contributions from federal,
3 state, local, tribal or private sources and, if available, support
4 from other public or private water, forest, fire, wildlife habitat
5 or economic development programs;

6 (6) has obtained all requisite state and federal
7 permits and authorizations necessary to initiate the project if
8 the project is other than a planning project;

9 (7) is in an area:

10 (a) with a wood supply that can be used as
11 biomass for energy production;

12 (b) where small-diameter trees may be put to
13 commercial use; or

14 (c) where traditional forest products may be
15 produced;

16 (8) is clustered around priority areas that can
17 supply a useful amount of wood products for industry; and

18 (9) creates incentives to increase investment by
19 federal, state, local, tribal or private entities, including
20 investment by downstream water users to manage forested headwaters
21 and water sources.

22 SECTION 7. [NEW MATERIAL] APPLICATION FOR PROJECT APPROVAL--
23 CONSIDERATIONS FOR APPROVAL.--

24 A. Beginning July 1, 2015, sponsors may apply to the
25 board for project approval.

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1 B. A sponsor's application shall include:

2 (1) a comprehensive work plan;

3 (2) a complete project cost estimate;

4 (3) how the plan meets the board's best

5 management practices and project protocols and standards;

6 (4) funding sources for the project;

7 (5) other partners and cooperating entities

8 involved in the project; and

9 (6) the estimated time necessary to complete the
10 project.

11 C. The board shall examine the following in
12 considering a project for approval:

13 (1) the project's compliance with the board's
14 protocols and standards for projects;

15 (2) the sponsor's ability to contribute the
16 necessary financial and human resources to the project;

17 (3) the project's conformance with the
18 requirements of Section 6 of the Forest and Watershed Restoration
19 Act; and

20 (4) the project's compatibility with concurrent
21 forest and watershed restoration projects or wildlife conservation
22 or habitat improvement projects.

23 SECTION 8. [NEW MATERIAL] REPORT BY BOARD.--At least
24 forty-five days prior to each legislative session, the board shall
25 submit a report concerning its activities, the projects

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1 implemented and any recommended legislation to the governor and
2 the legislature.

3 SECTION 9. EFFECTIVE DATE.--The effective date of the
4 provisions of this act is June 19, 2015.

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