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SENATE BILL 267

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

INTRODUCED BY

Timothy Z. Jennings

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; DECLARING AN EMERGENCY.

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

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1 well-being of the state and the area comprising the lower
2 Pecos river basin and is causing undue hardship for all
3 residents in the basin; and

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

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

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1 unencumbered balance remaining at the end of fiscal year 2006
2 shall revert to the severance tax bonding fund. If the
3 interstate stream commission has not certified the need for
4 the issuance of the bonds by the end of fiscal year 2004, the
5 authorization provided in this section shall expire.

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

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

- 25 (1) protect water rights, retire water rights

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1 or include other measures designed to correct the imbalances
2 between water right holders, New Mexico obligations under the
3 Pecos River Compact and water supply of the lower Pecos river
4 basin; or

5 (2) are designed for water conservation,
6 including restoration of native vegetation and other water
7 supply enhancement measures.

8 E. If, at any time, the interstate stream
9 commission determines that the total water rights purchased
10 with bond revenues pursuant to this section are in excess of
11 those water rights permanently needed for compliance with New
12 Mexico's obligations under the Pecos River Compact, then the
13 commission shall offer the excess water rights for sale to the
14 private sector. By rule, the commission shall establish
15 procedures for the sale, and any revenue received as a result
16 of the sale shall be deposited in the New Mexico irrigation
17 works construction fund.

18 Section 2. EMERGENCY.--It is necessary for the public
19 peace, health and safety that this act take effect
20 immediately.