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SENATE BILL 252

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

INTRODUCED BY

Ben D. Altamirano

AN ACT

AUTHORIZING THE ISSUANCE AND SALE OF CAPITAL PROJECTS GENERAL OBLIGATION BONDS TO FUND THE WATER TRUST 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; 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 Trust Fund General Obligation Bond Act".

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

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1 funding the water trust fund.

2 Section 3. BOND TERMS. --

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

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

9 (2) principal amounts;

10 (3) rate or rates of interest; and

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

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

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

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

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

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

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

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

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

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

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

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

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

16 Section 9. IRREPEALABLE CONTRACT--AUTHORITY FOR
17 ISSUANCE.--An owner of bonds issued pursuant to the provisions
18 of the 2002 Water Trust Fund General Obligation Bond Act may,
19 either at law or in equity, by suit, action or mandamus,
20 enforce and compel the performance of the duties required by
21 that act of any officer or entity mentioned in that act. The
22 provisions of that act constitute an irrevocable contract
23 with the owners of any of the bonds issued pursuant to that
24 act for the faithful performance of which the full faith and
25 credit of the state is pledged. Without reference to any

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1 other act of the legislature of the state, the 2002 Water
2 Trust Fund General Obligation Bond Act is full authority for
3 the issuance and sale of the bonds authorized in that act, and
4 such bonds shall have all the qualities of investment
5 securities under the Uniform Commercial Code of the state,
6 shall not be invalid for any irregularity or defect in the
7 proceedings for the issuance and sale of the bonds and shall
8 be incontestable in the hands of bona fide purchasers or
9 holders thereof for value. All bonds issued under the
10 provisions of that act, and the interest thereon, are exempt
11 from taxation by the state and any subdivision or public body
12 thereof.

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

18 Section 11. ELECTION. --

19 A. Bonds issued pursuant to the 2002 Water Trust
20 Fund General Obligation Bond Act shall be submitted to the
21 registered voters of the state at the general election to be
22 held in November 2002, and, if they receive a majority of all
23 the votes cast thereon at such election, shall take effect
24 upon certification of the state canvassing board announcing
25 the results of such election. No bonds shall be issued or

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1 sold under the 2002 Water Trust Fund General Obligation Bond
2 Act until the registered voters of this state have voted upon
3 and approved the bonds and property tax as provided in this
4 section. Any bonds issued under that act shall be issued
5 within thirty months from the date of such election.

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

8 "The 2002 Water Trust Fund General Obligation Bond
9 Act authorizes the issuance and sale of water trust fund
10 bonds. Shall the state be authorized to issue general
11 obligation bonds in an amount not to exceed twenty million
12 dollars (\$20,000,000) to fund the water trust fund and provide
13 for a general property tax imposition and levy for the payment
14 of principal of, interest on and expenses incurred in
15 connection with the issuance of the bonds and the collection
16 of the tax as permitted by law?

17 For _____ Against _____".

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

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1 successive weeks next preceding the general election as
2 required by the constitution of New Mexico.

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

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