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HOUSE BILL

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC FINANCE; ENACTING THE WATER ASSOCIATION
INFRASTRUCTURE ACT; CREATING A BOARD; PRESCRIBING POWERS AND
DUTIES; CREATING A TRUST FUND; CREATING A PROJECT FUND;
ALLOCATING SEVERANCE TAX BONDING CAPACITY FOR WATER ASSOCIATION
INFRASTRUCTURE PROJECTS; AUTHORIZING SEVERANCE TAX BONDS;
MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1
through 7 of this act may be cited as the "Water Association
Infrastructure Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
Water Association Infrastructure Act:

A. "authority" means the New Mexico finance
authority;

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1 B. "board" means the water association
2 infrastructure board;

3 C. "financial assistance" means providing grants or
4 loans on terms and conditions approved by the authority;

5 D. "project fund" means the water association
6 infrastructure project fund;

7 E. "qualified project" means a capital outlay
8 project selected by the board to receive financial assistance
9 that is primarily intended to develop water association
10 infrastructure. A "qualified project" may include a water
11 system or a wastewater system; but "qualified project" does not
12 include general operation and maintenance or equipment;

13 F. "trust fund" means the water association
14 infrastructure trust fund; and

15 G. "water association" means a mutual domestic
16 water consumers association or other association organized
17 pursuant to the Sanitary Projects Act.

18 SECTION 3. [NEW MATERIAL] WATER ASSOCIATION
19 INFRASTRUCTURE BOARD CREATED.--

20 A. The "water association infrastructure board" is
21 created.

22 B. The board consists of seven voting members as
23 follows:

24 (1) the secretary of finance and
25 administration or the secretary's designee from the department

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1 of finance and administration;

2 (2) the secretary of environment or the
3 secretary's designee from the department of environment;

4 (3) the chief executive officer of the
5 authority or the chief executive officer's designee from the
6 authority;

7 (4) one member appointed by the president pro
8 tempore of the senate;

9 (5) one member appointed by the minority floor
10 leader of the senate;

11 (6) one member appointed by the speaker of the
12 house of representatives; and

13 (7) one member appointed by the minority floor
14 leader of the house of representatives.

15 C. The members appointed pursuant to Paragraphs (4)
16 through (7) of Subsection B of this section shall be appointed
17 with the advice and consent of the senate, serve at the
18 pleasure of the appointing authority and have experience in
19 capital project development or administration, and they may
20 receive per diem and mileage as provided for nonsalaried public
21 officers in the Per Diem and Mileage Act but shall receive no
22 other compensation, perquisite or allowance.

23 D. The board shall choose a chair and vice chair
24 from among its members and such other officers as it deems
25 necessary. A majority of members constitutes a quorum for the

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1 transaction of business. The affirmative vote of at least a
2 majority of a quorum shall be necessary for an action to be
3 taken by the board. The board shall meet whenever a voting
4 member submits a request in writing to the chair, but not less
5 than quarterly.

6 E. All meetings of the board shall be open to the
7 public and subject to the Open Meetings Act and, at each
8 meeting, the board shall provide an opportunity for public
9 comment.

10 SECTION 4. [NEW MATERIAL] BOARD--DUTIES.--The board
11 shall:

12 A. promulgate such rules as are necessary to govern
13 the acceptance, evaluation and prioritization of applications
14 submitted by water associations for financial assistance;

15 B. after applications have been processed and
16 evaluated by the authority, select and prioritize the qualified
17 projects for financial assistance; and

18 C. upon such terms and conditions as are
19 established by the authority, certify the selected and
20 prioritized qualified projects to the authority for financial
21 assistance for:

22 (1) planning, designing, constructing,
23 improving or expanding a qualified project;

24 (2) developing engineering feasibility reports
25 for qualified projects;

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- 1 (3) inspecting construction of qualified
- 2 projects;
- 3 (4) providing professional services;
- 4 (5) completing environmental assessments or
- 5 archaeological clearances and other surveys for qualified
- 6 projects;
- 7 (6) completing an asset management plan or a
- 8 master plan for a qualified project;
- 9 (7) acquiring land, water rights, easements or
- 10 rights of way; or
- 11 (8) paying legal costs and fiscal agent fees
- 12 associated with development of qualified projects.

13 SECTION 5. [NEW MATERIAL] AUTHORITY--DUTIES.--The
14 authority shall:

- 15 A. provide staff support to the board;
- 16 B. administer the project fund;
- 17 C. at the direction of the board, process, review
- 18 and evaluate applications for financial assistance from water
- 19 associations; and
- 20 D. at the direction of the board, administer
- 21 qualified projects that receive financial assistance.

22 SECTION 6. [NEW MATERIAL] WATER ASSOCIATION
23 INFRASTRUCTURE TRUST FUND--CREATED--INVESTMENT--DISTRIBUTION.--

- 24 A. The "water association infrastructure trust
- 25 fund" is created in the state treasury. The trust fund

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1 consists of money that is appropriated, donated or otherwise
2 allocated to it. Money in the trust fund shall be invested by
3 the state investment officer in the manner that land grant
4 permanent funds are invested pursuant to Chapter 6, Article 8
5 NMSA 1978. Income from investment of the trust fund shall be
6 credited to the fund. Money in the trust fund shall not be
7 expended for any purpose, but an annual distribution from the
8 trust fund shall be made to the project fund pursuant to this
9 section.

10 B. On July 1 of each year in which adequate money
11 is available in the trust fund, an annual distribution shall be
12 made from the trust fund to the project fund in the amount of
13 ten million dollars (\$10,000,000) until the distribution is
14 less than an amount equal to four and seven-tenths percent of
15 the average of the year-end market values of the trust fund for
16 the immediately preceding five calendar years. Thereafter, the
17 amount of the annual distribution shall be four and seven-
18 tenths percent of the average of the year-end market values of
19 the trust fund for the immediately preceding five calendar
20 years.

21 SECTION 7. [NEW MATERIAL] WATER ASSOCIATION
22 INFRASTRUCTURE PROJECT FUND--CREATED--PURPOSE.--

23 A. The "water association infrastructure project
24 fund" is created in the authority and shall be administered by
25 the authority. Money in the project fund is appropriated to

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1 the authority to provide financial assistance to qualified
2 projects certified by the board.

3 B. The project fund shall consist of:

4 (1) distributions from the trust fund;
5 (2) payments of principal and interest on
6 loans for qualified projects;
7 (3) other money appropriated by the
8 legislature or distributed or otherwise allocated to the
9 project fund for the purpose of supporting qualified projects;
10 (4) the proceeds of severance tax bonds
11 distributed to the project fund for qualified projects; and
12 (5) income from investment of the project fund
13 that shall be credited to the project fund.

14 C. Except for severance tax bond proceeds required
15 to revert to the severance tax bonding fund, balances in the
16 project fund at the end of a fiscal year shall not revert to
17 any other fund.

18 D. The project fund may consist of subaccounts as
19 determined to be necessary by the authority.

20 E. The authority may establish procedures and adopt
21 rules as required to:

22 (1) administer the project fund;
23 (2) originate grants or loans for qualified
24 projects certified by the board;
25 (3) recover from the project fund the costs of

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1 administering the fund and originating the grants and loans;
2 and

3 (4) govern the process through which water
4 associations may apply for financial assistance from the
5 project fund.

6 SECTION 8. A new section of the Severance Tax Bonding Act
7 is enacted to read:

8 "[NEW MATERIAL] AUTHORIZATION FOR SEVERANCE TAX BONDS--
9 PRIORITY FOR INFRASTRUCTURE PROJECTS FOR WATER ASSOCIATIONS.--

10 A. After the annual estimate of severance tax
11 bonding capacity is made pursuant to Subsection B of Section
12 7-27-10.1 NMSA 1978, the board of finance division of the
13 department of finance and administration shall allocate four
14 and one-half percent of the estimated bonding capacity for
15 water association infrastructure projects.

16 B. The legislature authorizes the state board of
17 finance to issue severance tax bonds in the amount allocated
18 pursuant to this section to fund water association
19 infrastructure projects certified by the water association
20 infrastructure board. The water association infrastructure
21 board shall certify to the state board of finance the need for
22 issuance of bonds for water association infrastructure projects
23 certified by the water association infrastructure board. The
24 state board of finance may issue and sell the bonds in the same
25 manner as other severance tax bonds in an amount not to exceed

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1 the authorized amount provided for in this section. If
2 necessary, the state board of finance shall take the
3 appropriate steps to comply with the federal Internal Revenue
4 Code of 1986, as that code may be amended or renumbered.
5 Proceeds from the sale of the bonds are distributed to the
6 water association infrastructure project fund for the purposes
7 certified by the water association infrastructure board to the
8 state board of finance.

9 C. Money from the severance tax bonds provided for
10 in this section shall not be used to pay indirect costs. Any
11 unexpended balance from proceeds of severance tax bonds issued
12 for a water association infrastructure project shall revert to
13 the severance tax bonding fund within six months of completion
14 of the project. The New Mexico finance authority shall monitor
15 and ensure proper reversions of the bond proceeds appropriated
16 for water association infrastructure projects.

17 D. As used in this section, "water association
18 infrastructure project" means a qualified project pursuant to
19 the Water Association Infrastructure Act."

20 SECTION 9. APPLICABILITY.--The allocation of severance
21 tax bonding capacity and the authorization of severance tax
22 bonds for water association infrastructure projects pursuant to
23 Section 8 of this act shall commence with the severance tax
24 bonding capacity estimated by January 15, 2022.

25 SECTION 10. EFFECTIVE DATE.--The effective date of the

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1 provisions of this act is July 1, 2021.

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