

HOUSE BILL 248

**54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

INTRODUCED BY

Susan K. Herrera and Gail Armstrong

This document incorporates amendments that have been adopted during the current legislative session. The document is a tool to show the amendments in context and is not to be used for the purpose of amendments.

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.

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".

.216101.1AIC February 5, 2020 (5:05pm)

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SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the

Water Association Infrastructure Act:

- A. "authority" means the New Mexico finance authority;
- B. "board" means the water association infrastructure board;
- C. "financial assistance" means providing grants or loans on terms and conditions approved by the authority;
- D. "project fund" means the water association infrastructure project fund;
- E. "qualified project" means a capital outlay project selected by the board for financial assistance that is primarily intended to develop water association infrastructure. A "qualified project" may include a water system or a wastewater system; but "qualified project" does not include general operation and maintenance or equipment;
- F. "trust fund" means the water association infrastructure trust fund; and
- G. "water association" means a mutual domestic water consumers association or other association organized pursuant to the Sanitary Projects Act.

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

- A. The "water association infrastructure board" is created.

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

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

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

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

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

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

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

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

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

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other compensation, perquisite or allowance.

D. The board shall choose a chair and vice chair from among its members and such other officers as it deems necessary. A majority of members constitutes a quorum for the transaction of business. The affirmative vote of at least a majority of a quorum shall be necessary for an action to be taken by the board. The board shall meet whenever a voting member submits a request in writing to the chair, but not less than quarterly.

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

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

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

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

C. upon such terms and conditions as are established by the authority, recommend the prioritized projects to the authority for financial assistance for:

(1) planning, designing, constructing,

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improving or expanding a qualified project;

(2) developing engineering feasibility reports for qualified projects;

(3) inspecting construction of qualified projects;

(4) providing professional services;

(5) completing environmental assessments or archaeological clearances and other surveys for qualified projects;

(6) completing an asset management plan or a master plan for a qualified project;

(7) acquiring land, water rights, easements or rights of way; or

(8) paying legal costs and fiscal agent fees associated with development of qualified projects.

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

A. provide staff support to the board;

B. administer the project fund;

C. at the direction of the board, process, review and evaluate applications for financial assistance from water associations; and

D. at the direction of the board, administer qualified projects that receive financial assistance.

**SECTION 6. [NEW MATERIAL] WATER ASSOCIATION**

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HAWC→**INFRASTRUCTURE**←HAWC TRUST FUND--CREATED--INVESTMENT--  
DISTRIBUTION.--

A. The "water association HAWC→**infrastructure**←HAWC trust fund" is created in the state treasury. The trust fund consists of money that is appropriated, donated or otherwise allocated to it. Money in the trust fund shall be invested by the state investment officer in the manner that land grant permanent funds are invested pursuant to Chapter 6, Article 8 NMSA 1978. Income from investment of the trust fund shall be credited to the fund. Money in the trust fund shall not be expended for any purpose, but an annual distribution from the trust fund shall be made to the project fund pursuant to this section.

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

SECTION 7. [NEW MATERIAL] WATER ASSOCIATION

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HAWC→**INFRASTRUCTURE**←HAWC PROJECT FUND--CREATED--PURPOSE--  
APPROPRIATIONS.--

A. The "water association HAWC→**infrastructure**←HAWC project fund" is created in the authority and shall be administered by the authority.

B. The project fund shall consist of:

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

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

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

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

- (1) administer the project fund;

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(2) originate grants or loans for qualified projects recommended by the board;

(3) recover from the project fund the costs of administering the fund and originating the grants and loans; and

(4) govern the process through which qualified entities may apply for financial assistance from the project fund.

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

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

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

B. The legislature authorizes the state board of finance to issue severance tax bonds in the amount allocated pursuant to this section for use by the water association infrastructure board to fund the projects. The water association infrastructure board shall certify to the state board of finance the need for issuance of bonds for water association infrastructure projects. The state board of

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finance may issue and sell the bonds in the same manner as other severance tax bonds in an amount not to exceed the authorized amount provided for in this section. If necessary, the state board of finance shall take the appropriate steps to comply with the federal Internal Revenue Code of 1986, as that code may be amended or renumbered. Proceeds from the sale of the bonds are appropriated to the water association infrastructure project fund for the purposes certified by the water association infrastructure board to the state board of finance.

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

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

**SECTION 9. APPLICABILITY.**--The allocation of severance tax bonding capacity and the authorization of severance tax bonds for water association infrastructure projects pursuant to Section 8 of this act shall commence with the severance tax

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bonding capacity estimated by January 15, 2021.

**SECTION 10. EFFECTIVE DATE.**--The effective date of the provisions of this act is July 1, 2020.

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