

LFC Requester:**J. Rodriguez**

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

Analysis.nmlegis.gov

{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original **Amendment** _____
Correction _____ **Substitute** _____

Date 1/19/2024

Bill No: HB 125

Sponsor: Patricia Roybal Caballero
Short Title: Public Banking Act

**Agency Name
and Code**

NMFA (385)

Number:

Person Writing

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	None	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
-0-	-0-	-0-	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	-0-	-0-	-0-	-0-	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

Duplicates SB 110

Duplicates/Relates to Appropriation in the General Appropriation Act:

SECTION III: NARRATIVE

BILL SUMMARY

HB 125 creates the Public Banking Act (“Act”) and the Public Bank of New Mexico (“bank”) as a governmental instrumentality to be chartered pursuant to United States law. The bill establishes an 11 member Board of Directors (“Board”) which meets at least quarterly to govern the bank and vests powers with the bank to carry out the provisions of the Act. A chief executive officer (“CEO”) will be hired by the Board, and the CEO will hire a chief risk officer to assist on strategic planning and to achieve regulatory objectives. The CEO will annually prepare a budget that must be reviewed and approved by the Board. The operating budget is to be provided from bank income and equity.

HB 125 creates a state banking fund (“Fund”) at the State Treasurer which is exempt from reversion to the general fund at year’s end. The Act appropriates twenty million dollars (\$20,000,000) from the general fund in FY2025 and subsequent fiscal years to the Fund. In addition, the Act appropriates one million five hundred thousand dollars (\$1,500,000) from the general fund in FY2025 and subsequent fiscal years to the New Mexico Economic Development Department (“NMEDD”) to support the development of the bank’s lending programs.

SIGNIFICANT ISSUES

Under Section 5(A)(2)(c) the bank may make or guarantee loans to instrumentalities or political subdivisions of the state. The Public Project Revolving Fund (“PPRF”) was created by the New Mexico Legislature in 1992 at NMFA and assists a wide range of public entities in accessing capital at low or below-market rates. Since PPRF inception, the program has financed over 2,000 projects throughout the state totaling over \$4.5 billion. The PPRF finances public projects such as infrastructure improvements, road projects, water system upgrades, fire and law enforcement equipment, public buildings, hospitals and healthcare facilities, electric and broadband utilities and quality of life projects. The PPRF provides both market-rate loans and loans to disadvantaged communities at subsidized rates and is able to offer its borrowers the PPRF’s ‘AAA’ interest rates. With the PPRF, New Mexico communities are able to maximize limited public dollars to use in public projects due to lower interest rates. At this time, it is unclear how the bank could offer financing for public projects on more favorable terms than those offered by the PPRF.

Under Section 5(B), the bank shall not make loans to a private individuals or private legal entities. The bank may work with local financial institutions or public agencies to finance private projects with public benefit. As drafted, the bank may be seen as competing with local depository institutions for public or private customers, which may create little incentive for local lending institutions to work with the bank on private projects. It is unclear how the bank would enhance rather than duplicate existing state programs that make loans to for-profit and nonprofit companies.

The Act initially capitalizes the bank with a twenty-million-dollar (\$20,000,000) appropriation and a thirty-five-million-dollar (\$35,000,000) deposit from the State Treasurer. The bank will need to grow its deposit base to support its lending capacity. Incentives for deposits and bank partners are unclear, and the bank may be perceived as competing with existing local depository institutions, including regional and community banks and credit unions. As presented, the bank may require significant additional investment to achieve operational sustainability and solvency.

PERFORMANCE IMPLICATIONS

It is unclear how the bank will identify qualified Board members with requisite experience in compliance with the provisions of the Act.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Section 5 of the Act gives the bank a broad mandate and authorities that may overlap with existing state agencies, including the New Mexico State Investment Council, NMFA, NMEDD and the New Mexico Small Business Investment Corporation. It is not clear how the bank might enhance rather than duplicate the state's existing financial infrastructure supporting public and private projects with public benefit.

TECHNICAL ISSUES

Section 5(B), which states the bank shall not make loans to a private individual or private legal entity, may conflict with Section 5(A)(2)(A) which provides the bank may make, purchase, guarantee or hold loans to state-chartered or federally chartered lending agencies or institutions.

Section 5(B), which states the bank shall not make loans to a private individual or private legal entity, may conflict with Section 5(A)(2)(D) which provides the bank may make, purchase, guarantee or hold loans to 501(c)(3) non-profit organizations subject to the provision of the New Mexico Nonprofit Corporation Act.

OTHER SUBSTANTIVE ISSUES

The bank is subject to the Inspection of Public Records Act, which may prove to be problematic if it is to participate in economic development lending.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Public agencies with existing funding programs supporting agriculture, commerce and industry for public benefit can understand capital needs and develop new programs and products to address identified additional financing needs.