SENATE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO PUBLIC FINANCE; CHANGING THE NAME OF THE NEW MEXICO COMMUNITY ASSISTANCE ACT TO THE NEW MEXICO DISADVANTAGED COMMUNITY ASSISTANCE ACT; CHANGING THE NAME OF THE NEW MEXICO COMMUNITY DEVELOPMENT COUNCIL TO THE NEW MEXICO DISADVANTAGED COMMUNITY ASSISTANCE BOARD WITH A DIFFERENT COMPOSITION AND SPECIFIC PROJECT REVIEW DUTIES; AUTHORIZING THE LEGISLATURE TO APPROPRIATE FUNDS FOR LOCAL INFRASTRUCTURE PLANNING FROM THE PUBLIC PROJECT REVOLVING FUND TO THE NEW MEXICO DISADVANTAGED COMMUNITY ASSISTANCE PROJECT FUND; AUTHORIZING THE NEW MEXICO FINANCE AUTHORITY TO ASSIST THE NEW MEXICO DISADVANTAGED COMMUNITY ASSISTANCE BOARD AND ADMINISTER THE NEW MEXICO DISADVANTAGED COMMUNITY ASSISTANCE PROJECT FUND; MAKING AN APPROPRIATION.

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

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SECTION 1. Section 6-21-6.1 NMSA 1978 (being Laws 1994, Chapter 145, Section 2, as amended) is amended to read:

"6-21-6.1. PUBLIC PROJECT REVOLVING FUND--APPROPRIATIONS TO OTHER FUNDS.--

A. The authority and the department of environment may enter into a joint powers agreement pursuant to the Joint Powers Agreements Act for the purpose of describing and allocating duties and responsibilities with respect to creation of an integrated loan and grant program to be financed through issuance of bonds payable from the public project revolving fund. The bonds may be issued in installments or at one time by the authority in amounts authorized by law. The aggregate amount of bonds authorized and outstanding pursuant to this subsection shall not be greater than the amount of bonds that may be annually repaid from an amount not to exceed thirty-five percent of the governmental gross receipts tax proceeds distributed to the public project revolving fund in the preceding fiscal year. The net proceeds may be used for purposes of the [~~water and wastewater~~] local government planning fund and the water and wastewater project grant fund as specified in the New Mexico Finance Authority Act or for purposes of the Wastewater Facility Construction Loan Act, the Rural Infrastructure Act, the Solid Waste Act or the Drinking Water State Revolving Loan Fund Act.

B. Public projects funded pursuant to the

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Wastewater Facility Construction Loan Act, the Rural Infrastructure Act, the Solid Waste Act or the Drinking Water State Revolving Loan Fund Act shall not require specific authorization by law as required in Sections 6-21-6 and 6-21-8 NMSA 1978.

C. At the end of each fiscal year, after all debt service charges, replenishment of reserves and administrative costs on all outstanding bonds, notes or other obligations payable from the public project revolving fund are satisfied, an aggregate amount not to exceed thirty-five percent of the governmental gross receipts tax proceeds distributed to the public project revolving fund in the preceding fiscal year less all debt service charges and administrative costs of the authority paid in the preceding fiscal year on bonds issued pursuant to this section may be appropriated by the legislature from the public project revolving fund to the following funds for local infrastructure financing:

[~~(1) the wastewater facility construction loan fund for purposes of the Wastewater Facility Construction Loan Act;~~

~~(2) the rural infrastructure revolving loan fund for purposes of the Rural Infrastructure Act;~~

~~(3) the solid waste facility grant fund for purposes of the Solid Waste Act;~~

~~(4)~~] (1) the drinking water state revolving

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loan fund for purposes of the Drinking Water State Revolving Loan Fund Act;

[~~(5) the water and wastewater project grant fund for purposes specified in the New Mexico Finance Authority Act; or~~

~~(6)~~] (2) the [~~water and wastewater~~] local government planning fund for purposes specified in the New Mexico Finance Authority Act; or

(3) the New Mexico disadvantaged community assistance project fund for purposes specified in the New Mexico Finance Authority Act.

D. The authority and the department of environment in coordination with the New Mexico finance authority oversight committee may recommend annually to each regular session of the legislature amounts to be appropriated to the funds listed in Subsection C of this section for local infrastructure financing."

SECTION 2. Section 11-6-1 NMSA 1978 (being Laws 1977, Chapter 299, Section 1) is amended to read:

"11-6-1. SHORT TITLE.--[~~This act~~] Chapter 11, Article 6 NMSA 1978 may be cited as the "New Mexico Disadvantaged Community Assistance Act"."

SECTION 3. Section 11-6-2 NMSA 1978 (being Laws 1984, Chapter 5, Section 2) is repealed and a new Section 11-6-2 NMSA 1978 is enacted to read:

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"11-6-2. [NEW MATERIAL] FINDINGS AND PURPOSE.--

A. The legislature finds that:

(1) disadvantaged communities lack basic infrastructure resulting in poor social, health and economic conditions;

(2) adequate infrastructure such as water and wastewater systems, solid waste disposal facilities, roads and housing infrastructure are essential to improved health, safety and welfare of all New Mexicans, including residents of the disadvantaged communities;

(3) local efforts and resources have been insufficient to develop and maintain a consistent and adequate level of infrastructure;

(4) addressing the urgent need of replacing, improving and developing infrastructure through the use of an alternative financing mechanism is a long-term cost savings benefit to both the state and the disadvantaged communities; and

(5) adequate infrastructure development would allow disadvantaged community residents to achieve the basic conditions necessary to improve the quality of their lives.

B. The purposes of the New Mexico Disadvantaged Community Assistance Act are to:

(1) ensure adequate financial resources for infrastructure development for disadvantaged communities;

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(2) provide for the planning and development of infrastructure in an efficient and cost-effective manner; and

(3) develop infrastructure projects to improve quality of life and encourage economic development."

SECTION 4. Section 11-6-3 NMSA 1978 (being Laws 1977, Chapter 299, Section 3, as amended) is repealed and a new Section 11-6-3 NMSA 1978 is enacted to read:

"11-6-3. [NEW MATERIAL] DEFINITIONS.--As used in the New Mexico Disadvantaged Community Assistance Act:

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

B. "board" means the New Mexico disadvantaged community assistance board;

C. "disadvantaged community" means an unincorporated rural community or an association organized under the provisions of the Sanitary Projects Act or Laws 1947, Chapter 206, Sections 1 through 15, Laws 1949, Chapter 79, Sections 1 through 19, or Laws 1951, Chapter 52, Sections 1 through 19:

(1) all of whose members live with a lack of:

(a) potable water supply;

(b) adequate sewage systems; or

(c) decent, safe and sanitary housing;

(2) that is ineligible for funding under the

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colonias infrastructure project fund;

(3) that is ineligible for funding under the tribal infrastructure project fund; and

(4) that has submitted appropriate documentation to the board to substantiate the conditions of this subsection;

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

E. "project fund" means the New Mexico disadvantaged community assistance project fund;

F. "qualified entity" means a county, municipality or other entity recognized as a political subdivision of the state; and

G. "qualified project" means a capital outlay project selected by the board for financial assistance that is primarily intended to develop disadvantaged community infrastructure. A qualified project may include a water system, a wastewater system, solid waste disposal facilities, roads or housing infrastructure; but "qualified project" does not include general operation and maintenance, equipment, housing allowance payments or mortgage subsidies."

SECTION 5. Section 11-6-4 NMSA 1978 (being Laws 1977, Chapter 299, Section 4, as amended) is repealed and a new Section 11-6-4 NMSA 1978 is enacted to read:

"11-6-4. [NEW MATERIAL] NEW MEXICO DISADVANTAGED

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COMMUNITY ASSISTANCE BOARD CREATED.--

A. The "New Mexico disadvantaged community assistance board" is created.

B. The board shall consist 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 leader of the senate;

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

(7) one member appointed by the minority 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, be residents of the

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disadvantaged community area 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 other compensation, perquisite or allowance.

D. There shall be five advisory, nonvoting members of the board as follows:

(1) the chair of the New Mexico council of governments or the chair's designee;

(2) the executive director of the New Mexico municipal league or the director's designee;

(3) the executive director of the New Mexico association of counties or the director's designee;

(4) the executive director of the New Mexico mortgage finance authority or the director's designee; and

(5) a representative of a disadvantaged community.

E. 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.

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F. 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 6. Section 11-6-5 NMSA 1978 (being Laws 1977, Chapter 299, Section 5, as amended) is repealed and a new Section 11-6-5 NMSA 1978 is enacted to read:

"11-6-5. [NEW MATERIAL] BOARD--DUTIES.--The board shall have all the powers necessary to carry out the purposes and provisions of the New Mexico Disadvantaged Community Assistance Act, including but not limited to the power to:

A. promulgate such rules as are necessary to govern the acceptance, evaluation and prioritization of applications submitted by qualified entities 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, improving or expanding a qualified project;

(2) developing engineering feasibility reports for qualified projects;

(3) inspecting construction of qualified

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projects;

(4) providing professional services; or

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

SECTION 7. Section 11-6-6 NMSA 1978 (being Laws 1977, Chapter 299, Section 6, as amended) is repealed and a new Section 11-6-6 NMSA 1978 is enacted to read:

"11-6-6. [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 qualified entities; and

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

SECTION 8. Section 11-6-7 NMSA 1978 (being Laws 1977, Chapter 299, Section 8) is repealed and a new Section 11-6-7 NMSA 1978 is enacted to read:

"11-6-7. [NEW MATERIAL] NEW MEXICO DISADVANTAGED COMMUNITY ASSISTANCE PROJECT FUND--CREATED--PURPOSE--APPROPRIATIONS.--

A. The "New Mexico disadvantaged community assistance project fund" is created in the authority and shall

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be administered by the authority.

B. The project fund shall consist of:

(1) distributions from the public project revolving fund;

(2) payments of principal and interest on loans for qualified projects; and

(3) other money appropriated by the legislature or distributed or otherwise allocated to the project fund for the purpose of supporting qualified projects.

C. Balances in the project fund at the end of a fiscal year shall revert to the public project revolving 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;

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

(3) recover from the project fund the costs of administering the project 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 9. REPEAL.--Sections 11-6-4.1, 11-6-5.1,

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11-6-6.1, 11-6-8 and 11-6-9 NMSA 1978 (being Laws 1981 (1st S.S.), Chapter 11, Section 3, Laws 1984, Chapter 5, Section 7, Laws 1979, Chapter 166, Section 4 and Laws 1977, Chapter 299, Sections 9 and 10, as amended) are repealed.

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