

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 429

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; PROVIDING THAT CERTAIN URGENT
ECONOMIC DEVELOPMENT PROJECTS MAY BE FUNDED PURSUANT TO THE NEW
MEXICO FINANCE AUTHORITY ACT WITHOUT PRIOR LEGISLATIVE
AUTHORIZATION.

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

Section 1. Section 6-21-1 NMSA 1978 (being Laws 1992,
Chapter 61, Section 1) is amended to read:

"6-21-1. SHORT TITLE. -- [~~Sections 1 through 29 of this
act~~] Chapter 6, Article 21 NMSA 1978 may be cited as the "New
Mexico Finance Authority Act". "

Section 2. Section 6-21-8 NMSA 1978 (being Laws 1992,
Chapter 61, Section 8, as amended) is amended to read:

"6-21-8. PUBLIC PROJECT FINANCE PROGRAM - LOANS - PURCHASE
OR SALE OF SECURITIES. -- To implement a program to assist

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underscoring material = new
[bracketed material] = delete

1 qualified entities in financing public projects, the authority
2 [~~subject to specific authorization by law for projects financed~~
3 ~~with money in the public project revolving fund~~] has the powers
4 specified in this section; provided that the authority shall
5 take no action concerning a project financed with money in the
6 public project revolving fund unless the project is
7 specifically authorized by law or authorized pursuant to other
8 provisions of the New Mexico Finance Authority Act. The
9 authority may:

10 A. make loans to qualified entities that establish
11 one or more dedicated sources of revenue to repay the loan from
12 the authority;

13 B. make, enter into and enforce all contracts
14 necessary, convenient or desirable for the purposes of the
15 authority or pertaining to:

16 (1) a loan to a qualified entity;

17 (2) a grant to a qualified entity from money
18 available to the authority except money in the public project
19 revolving fund;

20 (3) a purchase or sale of securities
21 individually or on a pooled basis; or

22 (4) the performance of its duties and
23 execution of its powers under the New Mexico Finance Authority
24 Act;

25 C. purchase or hold securities at prices and in a

1 manner the authority considers advisable, giving due
2 consideration to the financial capability of the qualified
3 entity, and sell securities acquired or held by it at prices
4 without relation to cost and in a manner the authority
5 considers advisable;

6 D. prescribe the form of application or procedure
7 required of a qualified entity for a loan or purchase of its
8 securities, fix the terms and conditions of the loan or
9 purchase and enter into agreements with qualified entities with
10 respect to loans or purchases;

11 E. charge for its costs and services in review or
12 consideration of a proposed loan to a qualified entity or
13 purchase by the authority of securities, whether or not the
14 loan is made or the securities purchased;

15 F. fix and establish terms and provisions with
16 respect to:

17 (1) a purchase of securities by the authority,
18 including date and maturities of the securities;

19 (2) redemption or payment before maturity; and

20 (3) any other matters that in connection with
21 the purchase are necessary, desirable or advisable in the
22 judgment of the authority;

23 G. to the extent permitted under its contracts with
24 the holders of bonds of the authority, consent to modification
25 of the rate of interest, time and payment of installment of

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1 principal or interest, security or any other term of a bond,
2 contract or agreement of any kind to which the authority is a
3 party;

4 H. in connection with the purchase of any
5 securities, consider the ability of the qualified entity to
6 secure financing from other sources and the costs of that
7 financing and the particular public project or purpose to be
8 financed or refinanced with the proceeds of the securities to
9 be purchased by the authority;

10 I. acquire fee simple, leasehold, mortgagor's or
11 mortgagee's interests in real and personal property and to
12 sell, mortgage, convey or lease that property for authority
13 purposes; and

14 J. in the event of default by a qualified entity,
15 enforce its rights by suit or mandamus or may use all other
16 available remedies under state law."

17 Section 3. A new section of the New Mexico Finance
18 Authority Act is enacted to read:

19 "[NEW MATERIAL] AUTHORIZATION FOR URGENT ECONOMIC
20 DEVELOPMENT PUBLIC PROJECTS. --

21 A. The authority may make loans to a qualified
22 entity, pursuant to the provisions of the New Mexico Finance
23 Authority Act, from the public project revolving fund for
24 public projects designated as urgent economic development
25 public projects pursuant to Subsection B of this section

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1 without the specific authorization by law otherwise required by
2 Sections 6-21-6 and 6-21-8 NMSA 1978.

3 B. The authority may designate an urgent economic
4 development public project and provide urgent economic
5 development financing to a qualified entity if the secretary of
6 economic development provides documents to the authority
7 certifying the need for the financing and:

8 (1) describing a substantial favorable
9 economic impact and benefit to the qualified entity;

10 (2) demonstrating the urgent nature of the
11 economic development public project because of the likelihood
12 that a new business may choose another location outside of the
13 state or an existing business may be unable to expand in a
14 timely fashion without receipt of the urgent economic
15 development financing;

16 (3) including evidence from the business
17 detailing the new or expanded business opportunity and
18 describing the jobs to be provided and the urgency of the
19 public project; and

20 (4) including a resolution adopted by the
21 governing body of the qualified entity approving the project
22 and requesting the urgent economic development financing.

23 C. After review of the documents submitted by the
24 secretary of economic development, the authority may provide
25 urgent economic development financing to the qualified entity

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1 if the authority finds that the timing of the project is so
2 urgent that the economic development benefit to the qualified
3 entity will be lost if the funding decision is delayed until
4 specific authorization of the public project can be obtained
5 from the legislature.

6 D. Before urgent economic development financing is
7 made available pursuant to this section, the authority shall
8 adopt rules governing the process for reviewing urgent economic
9 development projects and the submission of certification
10 requests. The rules shall be subject to approval of the New
11 Mexico finance authority oversight committee.

12 E. No urgent economic development project approved
13 pursuant to this section shall receive financing in an amount
14 exceeding two million dollars (\$2,000,000), and the total
15 amount of urgent economic development financing provided by the
16 authority pursuant to the provisions of this section in any
17 fiscal year shall not exceed twenty million dollars
18 (\$20,000,000). "

19 Section 4. DELAYED REPEAL. --The provisions of Section 3
20 of this act are repealed effective June 30, 2006.