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SENATE BILL 454

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

George K. Munoz

AN ACT

RELATING TO THE NEW MEXICO FINANCE AUTHORITY; TEMPORARILY
REQUIRING REPORTING OF ECONOMIC DEVELOPMENT REVOLVING FUND
PROJECT AND FUND STATUS; TEMPORARILY REMOVING THE REQUIREMENT
FOR SPECIFIC PRIOR AUTHORIZATION OF PROJECTS FOR ECONOMIC
DEVELOPMENT REVOLVING FUND FUNDING.

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

SECTION 1. Section 6-25-6 NMSA 1978 (being Laws 2003,
Chapter 349, Section 6, as amended) is amended to read:

"6-25-6. NEW MEXICO FINANCE AUTHORITY--ADDITIONAL POWERS
AND DUTIES.--

A. To implement a program to assist eligible
entities in financing projects, the authority has the powers
specified in this section.

B. State projects receiving financing assistance

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1 with money in the fund shall first be approved by law. To
2 protect public money in the fund or other public resources,
3 rules of the authority relating to state projects shall include
4 provisions to ensure achievement of the economic development
5 goals of the state project and shall describe the means of
6 recovering public money or other public resources if an
7 eligible entity defaults on its obligations to the authority.

8 C. Standard projects shall be approved by the
9 authority pursuant to rules approved by the New Mexico finance
10 authority oversight committee.

11 D. The authority may:

12 (1) issue project revenue bonds on behalf of
13 an eligible entity, payable from the revenues of a project and
14 other revenues authorized as security for the bonds, to finance
15 a project on behalf of an eligible entity;

16 (2) make loans from the fund for projects to
17 eligible entities that establish one or more dedicated sources
18 of revenue to repay the loan from the authority;

19 (3) enter into loan participation agreements
20 from the fund for projects, whether in the form of an interest
21 rate buy-down, the purchase of loans or portions of loans
22 originated and underwritten by third-party lenders or other
23 similar arrangements;

24 (4) provide loan guarantees from the fund for
25 projects;

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1 (5) make, execute and enforce all contracts
2 necessary, convenient or desirable for purposes of the
3 authority or pertaining to project revenue bonds, economic
4 development revolving fund bonds, loans, loan participations or
5 loan guarantees and the Statewide Economic Development Finance
6 Act and pay the reasonable value of services rendered to the
7 authority pursuant to the contracts;

8 (6) purchase and hold loans and loan
9 participations in the fund at prices and in a manner determined
10 by the authority;

11 (7) sell loans and loan participations
12 acquired or held by the authority in the fund at prices and in
13 a manner determined by the authority;

14 (8) prescribe the form of application or
15 procedure required of an eligible entity to apply for financing
16 assistance;

17 (9) fix the terms and conditions of the
18 financing assistance, including the priority of lien and type
19 of collateral or other security, and enter into agreements with
20 eligible entities with respect to financing assistance;

21 (10) fix, revise from time to time, charge and
22 collect fees and other charges in connection with the issuance
23 of bonds; the making, purchase, participation in or guarantee
24 of loans; and the review of proposed financing assistance to an
25 eligible entity, whether or not the financing assistance is

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1 provided;

2 (11) employ architects, engineers, accountants
3 and attorneys; construction and financial experts; and such
4 other advisors, consultants and agents as may be necessary in
5 its judgment, and fix and pay their compensation;

6 (12) to the extent allowed under its contracts
7 with the holders of bonds of the authority, consent to
8 modification of the rate of interest, time and payment of
9 installments of principal or interest, security or any other
10 term of financing assistance;

11 (13) consider the ability of the eligible
12 entity to secure financing for a project from other sources and
13 the costs of that financing;

14 (14) acquire fee simple, leasehold,
15 mortgagor's or mortgagee's interests in real or personal
16 property and sell, mortgage, convey, lease or assign that
17 property for authority purposes; and

18 (15) in the event of default by an eligible
19 entity, enforce its rights by suit, mandamus and all other
20 remedies available under law.

21 E. The authority shall adopt rules subject to
22 approval of the New Mexico finance authority oversight
23 committee to:

24 (1) establish procedures for applying for
25 financing assistance;

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1 (2) establish credit qualifications for
2 eligible entities and establish terms and conditions for
3 financing assistance;

4 (3) establish economic development goals for
5 projects in consultation with the department;

6 (4) establish methods for determining
7 quantifiable benefits;

8 (5) provide safeguards to protect public money
9 and other public resources provided for a state project;

10 (6) establish procedures by which the
11 authority requests approval by law for state projects receiving
12 financing assistance with money in the fund; and

13 (7) establish fees to pay the costs of
14 evaluating, originating and administering financing assistance.

15 F. The authority shall coordinate with the
16 department to provide staffing and other assistance to the
17 department in carrying out the department's responsibilities
18 and activities pursuant to the Statewide Economic Development
19 Finance Act.

20 G. The authority shall report no less than
21 quarterly to the legislature and the New Mexico finance
22 authority oversight committee on applications considered by the
23 authority for funding of standard projects; on projects
24 approved for funding by the authority; and on the status of the
25 economic development revolving fund, pursuant to rules of the

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1 authority approved by the New Mexico finance authority
2 oversight committee."

3 SECTION 2. Section 6-25-6 NMSA 1978 (being Laws 2003,
4 Chapter 349, Section 6, as amended by Section 1 of this act) is
5 repealed and a new Section 6-25-6 NMSA 1978 is enacted to read:

6 "6-25-6. [NEW MATERIAL] NEW MEXICO FINANCE AUTHORITY--
7 ADDITIONAL POWERS AND DUTIES.--

8 A. To implement a program to assist eligible
9 entities in financing projects, the authority has the powers
10 specified in this section.

11 B. Projects receiving financing assistance with
12 money in the fund shall first be approved by law. To protect
13 public money in the fund or other public resources, rules of
14 the authority relating to state projects shall include
15 provisions to ensure achievement of the economic development
16 goals of the state project and shall describe the means of
17 recovering public money or other public resources if an
18 eligible entity defaults on its obligations to the authority.

19 C. Standard projects shall be approved by the
20 authority pursuant to rules approved by the New Mexico finance
21 authority oversight committee.

22 D. The authority may:

23 (1) issue project revenue bonds on behalf of
24 an eligible entity, payable from the revenues of a project and
25 other revenues authorized as security for the bonds, to finance

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1 a project on behalf of an eligible entity;

2 (2) make loans from the fund for projects to
3 eligible entities that establish one or more dedicated sources
4 of revenue to repay the loan from the authority;

5 (3) enter into loan participation agreements
6 from the fund for projects, whether in the form of an interest
7 rate buy-down, the purchase of loans or portions of loans
8 originated and underwritten by third-party lenders or other
9 similar arrangements;

10 (4) provide loan guarantees from the fund for
11 projects;

12 (5) make, execute and enforce all contracts
13 necessary, convenient or desirable for purposes of the
14 authority or pertaining to project revenue bonds, economic
15 development revolving fund bonds, loans, loan participations or
16 loan guarantees and the Statewide Economic Development Finance
17 Act and pay the reasonable value of services rendered to the
18 authority pursuant to the contracts;

19 (6) purchase and hold loans and loan
20 participations in the fund at prices and in a manner determined
21 by the authority;

22 (7) sell loans and loan participations
23 acquired or held by the authority in the fund at prices and in
24 a manner determined by the authority;

25 (8) prescribe the form of application or

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1 procedure required of an eligible entity to apply for financing
2 assistance;

3 (9) fix the terms and conditions of the
4 financing assistance, including the priority of lien and type
5 of collateral or other security, and enter into agreements with
6 eligible entities with respect to financing assistance;

7 (10) fix, revise from time to time, charge and
8 collect fees and other charges in connection with the issuance
9 of bonds; the making, purchase, participation in or guarantee
10 of loans; and the review of proposed financing assistance to an
11 eligible entity, whether or not the financing assistance is
12 provided;

13 (11) employ architects, engineers, accountants
14 and attorneys; construction and financial experts; and such
15 other advisors, consultants and agents as may be necessary in
16 its judgment, and fix and pay their compensation;

17 (12) to the extent allowed under its contracts
18 with the holders of bonds of the authority, consent to
19 modification of the rate of interest, time and payment of
20 installments of principal or interest, security or any other
21 term of financing assistance;

22 (13) consider the ability of the eligible
23 entity to secure financing for a project from other sources and
24 the costs of that financing;

25 (14) acquire fee simple, leasehold,

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1 mortgagor's or mortgagee's interests in real or personal
2 property and sell, mortgage, convey, lease or assign that
3 property for authority purposes; and

4 (15) in the event of default by an eligible
5 entity, enforce its rights by suit, mandamus and all other
6 remedies available under law.

7 E. The authority shall adopt rules subject to
8 approval of the New Mexico finance authority oversight
9 committee to:

10 (1) establish procedures for applying for
11 financing assistance;

12 (2) establish credit qualifications for
13 eligible entities and establish terms and conditions for
14 financing assistance;

15 (3) establish economic development goals for
16 projects in consultation with the department;

17 (4) establish methods for determining
18 quantifiable benefits;

19 (5) provide safeguards to protect public money
20 and other public resources provided for a state project;

21 (6) establish procedures by which the
22 authority requests approval by law for projects receiving
23 financing assistance with money in the fund; and

24 (7) establish fees to pay the costs of
25 evaluating, originating and administering financing assistance.

1 F. The authority shall coordinate with the
2 department to provide staffing and other assistance to the
3 department in carrying out the department's responsibilities
4 and activities pursuant to the Statewide Economic Development
5 Finance Act."

6 SECTION 3. EFFECTIVE DATE.--

7 A. The effective date of the provisions of Section
8 1 of this act is July 1, 2011.

9 B. The effective date of the provisions of Section
10 2 of this act is July 1, 2013.

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