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HOUSE BILL 50

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

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AN ACT

RELATING TO SEVERANCE TAX BONDING; INCREASING REVENUE TO THE SEVERANCE TAX PERMANENT FUND BY DECREASING THE PERCENT OF ANNUAL DEPOSITS TO THE SEVERANCE TAX BONDING FUND THAT MAY BE USED FOR DEBT SERVICE; REDUCING SEVERANCE TAX BONDING CAPACITY ALLOCATED TO THE COLONIAS INFRASTRUCTURE PROJECT FUND AND THE TRIBAL INFRASTRUCTURE PROJECT FUND.

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

SECTION 1. Section 7-27-10.1 NMSA 1978 (being Laws 2003, Chapter 134, Section 1, as amended) is amended to read:

"7-27-10.1. BONDING CAPACITY--AUTHORIZATION FOR SEVERANCE TAX BONDS--PRIORITY FOR WATER PROJECTS AND TRIBAL INFRASTRUCTURE PROJECTS.--

A. By January 15 of each year, the board of finance division of the department of finance and administration shall

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1 estimate the amount of bonding capacity available for severance
2 tax bonds to be authorized by the legislature.

3 B. The division shall allocate [~~ten~~] eleven and
4 eleven-hundredths percent of the estimated bonding capacity
5 each year for water projects, and the legislature authorizes
6 the state board of finance to issue severance tax bonds in the
7 annually allocated amount for use by the water trust board to
8 fund water projects statewide, except for projects authorized
9 in Subsection E of this section. The water trust board shall
10 certify to the state board of finance the need for issuance of
11 bonds for water projects. The state board of finance may issue
12 and sell the bonds in the same manner as other severance tax
13 bonds in an amount not to exceed the authorized amount provided
14 for in this subsection. If necessary, the state board of
15 finance shall take the appropriate steps to comply with the
16 federal Internal Revenue Code of 1986, as amended. Proceeds
17 from the sale of the bonds are appropriated to the water
18 project fund in the New Mexico finance authority for the
19 purposes certified by the water trust board to the state board
20 of finance.

21 C. The board of finance division shall allocate
22 [~~five~~] two and one-half percent of the estimated bonding
23 capacity each year for tribal infrastructure projects, and the
24 legislature authorizes the state board of finance to issue
25 severance tax bonds in the annually allocated amount for use by

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1 the tribal infrastructure board to fund tribal infrastructure
2 projects. The tribal infrastructure board shall certify to the
3 state board of finance the need for issuance of bonds for
4 tribal infrastructure projects. The state board of finance may
5 issue and sell the bonds in the same manner as other severance
6 tax bonds in an amount not to exceed the authorized amount
7 provided for in this subsection. If necessary, the state board
8 of finance shall take the appropriate steps to comply with the
9 federal Internal Revenue Code of 1986, as amended. Proceeds
10 from the sale of the bonds are appropriated to the tribal
11 infrastructure project fund for the purposes certified by the
12 tribal infrastructure board to the state board of finance.

13 D. Money from the severance tax bonds provided for
14 in this section shall not be used to pay indirect project
15 costs. Any unexpended balance from proceeds of severance tax
16 bonds issued for a water project or a tribal infrastructure
17 project shall revert to the severance tax bonding fund within
18 six months of completion of the project. The New Mexico
19 finance authority shall monitor and ensure proper reversions of
20 the bond proceeds appropriated for water projects, and the
21 department of finance and administration shall monitor and
22 ensure proper reversions of the bond proceeds appropriated for
23 tribal infrastructure projects.

24 E. The board of finance division of the department
25 of finance and administration shall:

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1 (1) void the authorization to the water
2 project fund held at the New Mexico finance authority to make
3 grants or loans of severance tax bond proceeds for projects
4 pursuant to Subsection U of Section 1 of Chapter 41 of Laws
5 2006 for the northwest New Mexico council of governments in
6 McKinley county for a water distribution project and Subsection
7 25 of Section 1 of Chapter 139 of Laws 2007 for the Navajo
8 Nation division of natural resources department of water
9 resources water management branch for a regional water project
10 in Rio Arriba, Sandoval, McKinley, San Juan and Cibola
11 counties; and

12 (2) authorize the department of environment to
13 make a grant of the unexpended proceeds of severance tax bonds
14 issued in fiscal years 2006 and 2007 for the purposes of the
15 water project fund to be used for the authorizations identified
16 in Paragraph (1) of this subsection and appropriate to the
17 department of environment five million three hundred seventy-
18 five thousand two hundred forty-four dollars (\$5,375,244) for
19 the Navajo Nation division of natural resources department of
20 water resources water management branch for a regional water
21 distribution project in Rio Arriba, Sandoval, McKinley, San
22 Juan and Cibola counties. Any unexpended balance of the funds
23 authorized for expenditure in this section shall revert to the
24 severance tax bonding fund at the end of fiscal year 2013 or
25 upon completion of the project, whichever is earlier.

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1 F. As used in this section:

2 (1) "tribal infrastructure project" means a
3 qualified project under the Tribal Infrastructure Act; and

4 (2) "water project" means a capital outlay
5 project for:

6 (a) the storage, conveyance or delivery
7 of water to end users;

8 (b) the implementation of federal
9 Endangered Species Act of 1973 collaborative programs;

10 (c) the restoration and management of
11 watersheds;

12 (d) flood prevention; or

13 (e) conservation, recycling, treatment
14 or reuse of water."

15 SECTION 2. Section 7-27-12.5 NMSA 1978 (being Laws 2010,
16 Chapter 10, Section 9) is amended to read:

17 "7-27-12.5. AUTHORIZATION FOR SEVERANCE TAX BONDS--
18 PRIORITY FOR INFRASTRUCTURE PROJECTS FOR COLONIAS.--

19 A. After the annual estimate of severance tax
20 bonding capacity pursuant to Subsection A of Section 7-27-10.1
21 NMSA 1978, the board of finance division of the department of
22 finance and administration shall allocate [~~five~~] two and one-
23 half percent of the estimated bonding capacity each year for
24 colonias infrastructure projects, and the legislature
25 authorizes the state board of finance to issue severance tax

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1 bonds in the annually allocated amount for use by the colonias
2 infrastructure board to fund the projects. The colonias
3 infrastructure board shall certify to the state board of
4 finance the need for issuance of bonds for colonias
5 infrastructure projects. The state board of finance may issue
6 and sell the bonds in the same manner as other severance tax
7 bonds in an amount not to exceed the authorized amount provided
8 for in this subsection. If necessary, the state board of
9 finance shall take the appropriate steps to comply with the
10 federal Internal Revenue Code of 1986, as amended. Proceeds
11 from the sale of the bonds are appropriated to the colonias
12 infrastructure project fund for the purposes certified by the
13 colonias infrastructure board to the state board of finance.

14 B. Money from the severance tax bonds provided for
15 in this section shall not be used to pay indirect project
16 costs. Any unexpended balance from proceeds of severance tax
17 bonds issued for a colonias infrastructure project shall revert
18 to the severance tax bonding fund within six months of
19 completion of the project. The colonias infrastructure board
20 shall monitor and ensure proper reversions of the bond proceeds
21 appropriated for the projects.

22 C. As used in this section, "colonias
23 infrastructure project" means a qualified project under the
24 Colonias Infrastructure Act."

25 SECTION 3. Section 7-27-14 NMSA 1978 (being Laws 1961,

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1 Chapter 5, Section 11, as amended) is amended to read:

2 "7-27-14. AMOUNT OF TAX--SECURITY FOR BONDS.--

3 A. The legislature shall provide for the continued
4 assessment, levy, collection and deposit into the severance tax
5 bonding fund of the tax or taxes upon natural resource products
6 severed and saved from the soil of the state that, together
7 with such other income as may be deposited to the fund, will be
8 sufficient to produce an amount that is at least the amount
9 necessary to meet annual debt service charges on all
10 outstanding severance tax bonds and supplemental severance tax
11 bonds.

12 B. Except as otherwise specifically provided by
13 law, the state board of finance shall issue no severance tax
14 bonds unless the aggregate amount of severance tax bonds
15 outstanding, and including the issue proposed, can be serviced
16 with not more than [~~fifty~~] forty-five percent of the annual
17 deposits into the severance tax bonding fund, as determined by
18 the deposits during the preceding fiscal year.

19 C. The state board of finance shall issue no
20 supplemental severance tax bonds with a term that extends
21 beyond the fiscal year in which the bonds are issued unless the
22 aggregate amount of severance tax bonds and supplemental
23 severance tax bonds outstanding, and including the issue
24 proposed, can be serviced with not more than sixty-two and
25 one-half percent of the annual deposits into the severance tax

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1 bonding fund, as determined by the deposits during the
2 preceding fiscal year.

3 D. Except as otherwise specifically provided by
4 law, the state board of finance may issue supplemental
5 severance tax bonds with a term that does not extend beyond the
6 fiscal year in which they are issued if the debt service on
7 such supplemental severance tax bonds when added to the debt
8 service previously paid or scheduled to be paid during that
9 fiscal year on severance tax bonds and supplemental severance
10 tax bonds does not exceed [~~ninety-five~~] ninety percent of the
11 deposits into the severance tax bonding fund during the
12 preceding fiscal year.

13 E. The provisions of this section shall not be
14 modified by the terms of any severance tax bonds or
15 supplemental severance tax bonds hereafter issued."

16 SECTION 4. EFFECTIVE DATE.--The effective date of the
17 provisions of this act is July 1, 2012.