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SENATE BILL 118

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

George K. Munoz

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO THE NEW MEXICO FINANCE AUTHORITY; EXTENDING FOR
THREE YEARS THE REQUIREMENT OF REPORTING ECONOMIC DEVELOPMENT
REVOLVING FUND PROJECT AND FUND STATUS; EXTENDING THE
SUSPENSION FOR THREE YEARS OF 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 G. The authority shall report to the New Mexico
4 finance authority oversight committee each year regarding the
5 total expenditures from the economic development revolving fund
6 for the previous fiscal year, the purposes for which
7 expenditures were made, an analysis of the progress of the
8 projects funded and proposals for legislative action."

9 SECTION 2. That version of Section 6-25-6 NMSA 1978
10 (being Laws 2011, Chapter 150, Section 2) that is to become
11 effective on July 1, 2016 is amended to read:

12 "6-25-6. NEW MEXICO FINANCE AUTHORITY--ADDITIONAL POWERS
13 AND DUTIES.--

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

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

25 C. Standard projects shall be approved by the

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1 authority pursuant to rules approved by the New Mexico finance
2 authority oversight committee.

3 D. The authority may:

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5 an eligible entity, payable from the revenues of a project and
6 other revenues authorized as security for the bonds, to finance
7 a project on behalf of an eligible entity;

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

11 (3) enter into loan participation agreements
12 from the fund for projects, whether in the form of an interest
13 rate buy-down, the purchase of loans or portions of loans
14 originated and underwritten by third-party lenders or other
15 similar arrangements;

16 (4) provide loan guarantees from the fund for
17 projects;

18 (5) make, execute and enforce all contracts
19 necessary, convenient or desirable for purposes of the
20 authority or pertaining to project revenue bonds, economic
21 development revolving fund bonds, loans, loan participations or
22 loan guarantees and the Statewide Economic Development Finance
23 Act and pay the reasonable value of services rendered to the
24 authority pursuant to the contracts;

25 (6) purchase and hold loans and loan

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1 participations in the fund at prices and in a manner determined
2 by the authority;

3 (7) sell loans and loan participations
4 acquired or held by the authority in the fund at prices and in
5 a manner determined by the authority;

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

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

13 (10) fix, revise from time to time, charge and
14 collect fees and other charges in connection with the issuance
15 of bonds; the making, purchase, participation in or guarantee
16 of loans; and the review of proposed financing assistance to an
17 eligible entity, whether or not the financing assistance is
18 provided;

19 (11) employ architects, engineers, accountants
20 and attorneys; construction and financial experts; and such
21 other advisors, consultants and agents as may be necessary in
22 its judgment, and fix and pay their compensation;

23 (12) to the extent allowed under its contracts
24 with the holders of bonds of the authority, consent to
25 modification of the rate of interest, time and payment of

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1 installments of principal or interest, security or any other
2 term of financing assistance;

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

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

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

13 E. The authority shall adopt rules subject to
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15 committee to:

16 (1) establish procedures for applying for
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18 (2) establish credit qualifications for
19 eligible entities and establish terms and conditions for
20 financing assistance;

21 (3) establish economic development goals for
22 projects in consultation with the department;

23 (4) establish methods for determining
24 quantifiable benefits;

25 (5) provide safeguards to protect public money

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2 (6) establish procedures by which the
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4 financing assistance with money in the fund; and

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

7 F. The authority shall coordinate with the
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9 department in carrying out the department's responsibilities
10 and activities pursuant to the Statewide Economic Development
11 Finance Act.

12 G. The authority shall report to the New Mexico
13 finance authority oversight committee each year regarding the
14 total expenditures from the economic development revolving fund
15 for the previous fiscal year, the purposes for which
16 expenditures were made, an analysis of the progress of the
17 projects funded and proposals for legislative action."

18 SECTION 3. Laws 2011, Chapter 150, Section 3 is amended
19 to read:

20 "SECTION 3. EFFECTIVE DATE.--

21 A. The effective date of the provisions of Section
22 1 of this act is July 1, 2011.

23 B. The effective date of the provisions of Section
24 2 of this act is July 1, [2013] 2016."

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