

underscoring material = new
~~[bracketed material]~~ = delete

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 39

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

INTRODUCED BY

Jacob R. Candelaria

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

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:

.195002.3

underscored material = new
[bracketed material] = delete

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

3 "6-21-6.1. PUBLIC PROJECT REVOLVING FUND--APPROPRIATIONS
4 TO OTHER FUNDS.--

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

25 B. Public projects funded pursuant to the

.195002.3

underscored material = new
[bracketed material] = delete

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

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

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

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

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

25 ~~(4)]~~ (1) the drinking water state revolving

.195002.3

underscored material = new
[bracketed material] = delete

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

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

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

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

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

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

20 "11-6-1. SHORT TITLE.--~~[This act]~~ Chapter 11, Article 6
21 NMSA 1978 may be cited as the "New Mexico Disadvantaged
22 Community Assistance Act"."

23 SECTION 3. Section 11-6-2 NMSA 1978 (being Laws 1984,
24 Chapter 5, Section 2) is repealed and a new Section 11-6-2 NMSA
25 1978 is enacted to read:

.195002.3

1 "11-6-2. [NEW MATERIAL] FINDINGS AND PURPOSE.--

2 A. The legislature finds that:

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

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

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

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

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

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

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

.195002.3

underscored material = new
[bracketed material] = delete

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

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

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

9 "11-6-3. [NEW MATERIAL] DEFINITIONS.--As used in the New
10 Mexico Disadvantaged Community Assistance Act:

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

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

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

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

22 (a) potable water supply;

23 (b) adequate sewage systems; or

24 (c) decent, safe and sanitary housing;

25 (2) that is ineligible for funding under the

.195002.3

underscored material = new
[bracketed material] = delete

1 colonias infrastructure project fund;

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

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

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

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

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

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

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

25 "11-6-4. [NEW MATERIAL] NEW MEXICO DISADVANTAGED

.195002.3

underscoring material = new
~~[bracketed material] = delete~~

1 COMMUNITY ASSISTANCE BOARD CREATED.--

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

4 B. The board shall consist of seven voting members
5 as follows:

6 (1) the secretary of finance and
7 administration or the secretary's designee from the department
8 of finance and administration;

9 (2) the secretary of environment or the
10 secretary's designee from the department of environment;

11 (3) the chief executive officer of the
12 authority or the chief executive officer's designee from the
13 authority;

14 (4) one member appointed by the president pro
15 tempore of the senate;

16 (5) one member appointed by the minority
17 leader of the senate;

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

20 (7) one member appointed by the minority
21 leader of the house of representatives.

22 C. The members appointed pursuant to Paragraphs (4)
23 through (7) of Subsection B of this section shall be appointed
24 with the advice and consent of the senate, serve at the
25 pleasure of the appointing authority, be residents of the

.195002.3

1 disadvantaged community area and have experience in capital
2 project development or administration, and they may receive per
3 diem and mileage as provided for nonsalaried public officers in
4 the Per Diem and Mileage Act but shall receive no other
5 compensation, perquisite or allowance.

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

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

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

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

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

16 (5) a representative of a disadvantaged
17 community.

18 E. The board shall choose a chair and vice chair
19 from among its members and such other officers as it deems
20 necessary. A majority of members constitutes a quorum for the
21 transaction of business. The affirmative vote of at least a
22 majority of a quorum shall be necessary for an action to be
23 taken by the board. The board shall meet whenever a voting
24 member submits a request in writing to the chair, but not less
25 than quarterly.

underscored material = new
[bracketed material] = delete

1 F. All meetings of the board shall be open to the
2 public and subject to the Open Meetings Act, and at each
3 meeting, the board shall provide an opportunity for public
4 comment."

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

8 "11-6-5. [NEW MATERIAL] BOARD--DUTIES.--The board shall
9 have all the powers necessary to carry out the purposes and
10 provisions of the New Mexico Disadvantaged Community Assistance
11 Act, including but not limited to the power to:

12 A. promulgate such rules as are necessary to govern
13 the acceptance, evaluation and prioritization of applications
14 submitted by qualified entities for financial assistance;

15 B. after applications have been processed and
16 evaluated by the authority, prioritize the qualified projects
17 for financial assistance; and

18 C. upon such terms and conditions as are
19 established by the authority, recommend the prioritized
20 projects to the authority for financial assistance for:

21 (1) planning, designing, constructing,
22 improving or expanding a qualified project;

23 (2) developing engineering feasibility reports
24 for qualified projects;

25 (3) inspecting construction of qualified

underscoring material = new
[bracketed material] = delete

1 projects;

2 (4) providing professional services; or

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

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

9 "11-6-6. [NEW MATERIAL] AUTHORITY--DUTIES.--The authority
10 shall:

11 A. provide staff support to the board;

12 B. administer the project fund;

13 C. at the direction of the board, process, review
14 and evaluate applications for financial assistance from
15 qualified entities; and

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

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

21 "11-6-7. [NEW MATERIAL] NEW MEXICO DISADVANTAGED
22 COMMUNITY ASSISTANCE PROJECT FUND--CREATED--PURPOSE--
23 APPROPRIATIONS.--

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

.195002.3

underscored material = new
~~[bracketed material] = delete~~

1 be administered by the authority.

2 B. The project fund shall consist of:

3 (1) distributions from the public project
4 revolving fund;

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

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

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

12 D. The project fund may consist of subaccounts as
13 determined to be necessary by the authority.

14 E. The authority may establish procedures and adopt
15 rules as required to:

16 (1) administer the project fund;

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

19 (3) recover from the project fund the costs of
20 administering the project fund and originating the grants and
21 loans; and

22 (4) govern the process through which qualified
23 entities may apply for financial assistance from the project
24 fund."

25 SECTION 9. A new section of the New Mexico Disadvantaged

.195002.3

underscoring = new
~~[bracketed material]~~ = delete

1 Community Assistance Act is enacted to read:

2 "[NEW MATERIAL] DISTRIBUTION FROM PUBLIC PROJECT REVOLVING
3 FUND.--At the end of fiscal year 2014, after all debt service
4 charges, replenishment of reserves and administrative costs on
5 all outstanding bonds, notes or other obligations payable from
6 the public project revolving fund are satisfied, the authority
7 shall distribute one million dollars (\$1,000,000) from the
8 public project revolving fund to the project fund to carry out
9 the provisions of the New Mexico Disadvantaged Community
10 Assistance Act."

11 SECTION 10. REPEAL.--Sections 11-6-4.1, 11-6-5.1,
12 11-6-6.1, 11-6-8 and 11-6-9 NMSA 1978 (being Laws 1981 (1st
13 S.S.), Chapter 11, Section 3, Laws 1984, Chapter 5, Section 7,
14 Laws 1979, Chapter 166, Section 4 and Laws 1977, Chapter 299,
15 Sections 9 and 10, as amended) are repealed.