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SENATE BILL 429

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

INTRODUCED BY

Richard C. Martinez

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; PROVIDING THAT CERTAIN  
PROJECTS CRITICAL TO ECONOMIC DEVELOPMENT 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 6-21-6.3 NMSA 1978 (being Laws 1999,  
Chapter 186, Section 2, as amended) is amended to read:

"6-21-6.3. WATER AND WASTEWATER PROJECT GRANT FUND--  
CREATION-- ADMINISTRATION-- PURPOSES. --

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1           A. There is created in the authority the "water and  
2 wastewater project grant fund", which shall be administered by  
3 the authority. The authority shall adopt, in accordance with  
4 the New Mexico Finance Authority Act, rules necessary to  
5 administer the fund.

6           B. The following shall be deposited directly into  
7 the water and wastewater project grant fund:

8                   (1) the net proceeds from the sale of bonds  
9 issued pursuant to the provisions of Section 6-21-6.1 NMSA 1978  
10 for the purposes of the water and wastewater project grant fund  
11 and payable from the public project revolving fund;

12                   (2) money appropriated by the legislature to  
13 implement the provisions of this section; and

14                   (3) any other public or private money  
15 dedicated to the fund.

16           C. Money in the water and wastewater project grant  
17 fund is appropriated to the authority to make grants to  
18 qualified entities for water or wastewater public projects  
19 ~~[pursuant to specific authorization by law for each project]~~  
20 that are specifically authorized by law or authorized by other  
21 provisions of the New Mexico Finance Authority Act and to pay  
22 administrative costs of the water and wastewater project grant  
23 program.

24           D. The authority shall adopt rules governing the  
25 terms and conditions of grants made from the water and

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1 wastewater project grant fund. Except in the circumstances set  
2 forth in Subsection F of this section, grants may be made from  
3 the fund only with participation from the qualified entity in  
4 the form of a local match, which shall be determined by a  
5 sliding scale based on the qualified entity's financial  
6 capacity to pay a portion of the project from local resources.  
7 Grants from the water and wastewater project grant fund may be  
8 made only as all or part of financing for a complete project  
9 after the authority has determined that the financing for the  
10 complete project is cost effective.

11 E. The authority may make grants from the water and  
12 wastewater project grant fund to qualified entities for  
13 emergency public projects without specific authorization by  
14 law. Each emergency public project shall be designated as such  
15 by the authority prior to making the grant. The aggregate  
16 amount of grants for emergency public projects in any one  
17 fiscal year shall not exceed three million dollars  
18 (\$3,000,000).

19 F. To encourage consolidation of water or  
20 wastewater systems and to discourage proliferation of multiple  
21 water or wastewater systems, the authority may determine the  
22 local match requirement based on the financial capacity of:

23 (1) the residents of the geographic area  
24 benefiting from the improvements to be financed with the  
25 proceeds of the grant received on their behalf by the qualified

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1 entity; or

2 (2) the qualified entity benefiting from the  
3 improvements to be financed with the proceeds of the grant when  
4 the benefiting qualified entity agrees to consolidate with the  
5 qualified entity receiving the grant. "

6 Section 3. Section 6-21-8 NMSA 1978 (being Laws 1992,  
7 Chapter 61, Section 8, as amended) is amended to read:

8 "6-21-8. PUBLIC PROJECT FINANCE PROGRAM - LOANS - PURCHASE  
9 OR SALE OF SECURITIES. -- To implement a program to assist  
10 qualified entities in financing public projects, the authority  
11 ~~[subject to specific authorization by law for projects financed~~  
12 ~~with money in the public project revolving fund]~~ has the powers  
13 specified in this section; provided that the authority shall  
14 take no action concerning a project financed with money in the  
15 public project revolving fund unless the project is  
16 specifically authorized by law or authorized pursuant to other  
17 provisions of the New Mexico Finance Authority Act. The  
18 authority may:

19 A. make loans to qualified entities that establish  
20 one or more dedicated sources of revenue to repay the loan from  
21 the authority;

22 B. make, enter into and enforce all contracts  
23 necessary, convenient or desirable for the purposes of the  
24 authority or pertaining to:

25 (1) a loan to a qualified entity;

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

4 (3) a purchase or sale of securities  
5 individually or on a pooled basis; or

6 (4) the performance of its duties and  
7 execution of its powers under the New Mexico Finance Authority  
8 Act;

9 C. purchase or hold securities at prices and in a  
10 manner the authority considers advisable, giving due  
11 consideration to the financial capability of the qualified  
12 entity, and sell securities acquired or held by it at prices  
13 without relation to cost and in a manner the authority  
14 considers advisable;

15 D. prescribe the form of application or procedure  
16 required of a qualified entity for a loan or purchase of its  
17 securities, fix the terms and conditions of the loan or  
18 purchase and enter into agreements with qualified entities with  
19 respect to loans or purchases;

20 E. charge for its costs and services in review or  
21 consideration of a proposed loan to a qualified entity or  
22 purchase by the authority of securities, whether or not the  
23 loan is made or the securities purchased;

24 F. fix and establish terms and provisions with  
25 respect to:

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

3 (2) redemption or payment before maturity; and

4 (3) any other matters that in connection with  
5 the purchase are necessary, desirable or advisable in the  
6 judgment of the authority;

7 G. to the extent permitted under its contracts with  
8 the holders of bonds of the authority, consent to modification  
9 of the rate of interest, time and payment of installment of  
10 principal or interest, security or any other term of a bond,  
11 contract or agreement of any kind to which the authority is a  
12 party;

13 H. in connection with the purchase of any  
14 securities, consider the ability of the qualified entity to  
15 secure financing from other sources and the costs of that  
16 financing and the particular public project or purpose to be  
17 financed or refinanced with the proceeds of the securities to  
18 be purchased by the authority;

19 I. acquire fee simple, leasehold, mortgagor's or  
20 mortgagee's interests in real and personal property and to  
21 sell, mortgage, convey or lease that property for authority  
22 purposes; and

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

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1 Section 4. A new section of the New Mexico Finance  
2 Authority Act is enacted to read:

3 "[NEW MATERIAL] AUTHORIZATION FOR CRITICAL ECONOMIC  
4 DEVELOPMENT PUBLIC PROJECTS. --

5 A. The authority may make loans and grants,  
6 pursuant to the provisions of the New Mexico Finance Authority  
7 Act, from the public project revolving fund, the water and  
8 wastewater project grant fund and the water and wastewater  
9 planning fund for public projects designated as critical  
10 economic development public projects pursuant to Subsection B  
11 of this section without the specific authorization by law  
12 otherwise required by Sections 6-21-6, 6-21-6.3 and 6-21-8 NMSA  
13 1978.

14 B. The authority may designate a public project as  
15 a "critical economic development public project" if:

16 (1) the secretary of economic development  
17 certifies to the authority that:

18 (a) the project will facilitate the  
19 location of a new business or the expansion of an existing  
20 business; and

21 (b) the new business location or  
22 existing business expansion will benefit a New Mexico community  
23 in attracting new jobs or increasing local revenues;

24 (2) the authority finds that timing of the  
25 project is so urgent that the economic development benefit to

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1 the community may be lost if the funding decision is delayed  
2 until specific authorization can be obtained from the  
3 legislature; and

4 (3) the project, the secretary's certification  
5 and the authority's proposed designation are reviewed by the  
6 New Mexico finance authority oversight committee. "

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