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SENATE BILL 399

48TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2008

INTRODUCED BY

Pete Campos

AN ACT

RELATING TO CAPITAL PROJECTS; ENACTING THE CAPITAL PROJECTS
ACT; CREATING THE CAPITAL PROJECTS COUNCIL; PROVIDING
PROCEDURES FOR EVALUATING AND PRIORITIZING PROPOSED CAPITAL
PROJECTS.

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

Section 1. SHORT TITLE.--This act may be cited as the
"Capital Projects Act".

Section 2. FINDINGS AND PURPOSE.--

A. The legislature finds that:

(1) the cost of needed state and local capital
improvement and infrastructure projects annually exceeds the
available funding resources;

(2) it has become difficult to adequately
evaluate and prioritize proposed capital outlay projects to

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1 ensure that the available resources are expended in the most
2 cost-effective manner; and

3 (3) the current system for evaluating and
4 prioritizing proposed capital outlay projects could be improved
5 by delegating those functions to a coordinating council.

6 B. The purpose of the Capital Projects Act is to
7 create a council of experts to evaluate and prioritize proposed
8 statewide and local capital outlay projects and to monitor and
9 oversee projects authorized by the legislature to ensure that
10 appropriations are expended in the most cost-effective manner.

11 Section 3. DEFINITIONS.--As used in the Capital Projects
12 Act:

13 A. "capital project" means repair, renovation or
14 construction of a facility; purchase of land; acquisition of
15 capital equipment of a long-term nature; and repair, renovation
16 or construction of roads and water and wastewater systems; and

17 B. "council" means the capital projects council.

18 Section 4. CAPITAL PROJECTS COUNCIL--CREATION--
19 APPOINTMENT.--

20 A. The "capital projects council" is created. The
21 council shall consist of the following members:

22 (1) six members appointed by the governor, who
23 may be cabinet secretaries or public members;

24 (2) the state engineer or the state engineer's
25 designee;

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1 (3) the secretary of higher education or the
2 secretary's designee;

3 (4) the executive director of the New Mexico
4 municipal league or the executive director's designee;

5 (5) the executive director of the New Mexico
6 association of counties or the executive director's designee;

7 (6) the executive director of the New Mexico
8 finance authority or the executive director's designee; and

9 (7) one member, appointed by the governor,
10 representing Indian nations, tribes and pueblos.

11 B. The members appointed by the governor serve at
12 the pleasure of the governor. If the governor appoints public
13 members, they must have expertise in capital financing,
14 planning or construction.

15 C. The council shall elect a chair and such other
16 officers that it deems necessary. The council shall meet at
17 the call of the chair, not less than quarterly. Public members
18 of the council may receive per diem and mileage pursuant to the
19 Per Diem and Mileage Act.

20 Section 5. CAPITAL PROJECTS COUNCIL--POWERS--DUTIES.--

21 A. The council may:

22 (1) subject to legislative appropriation,
23 appoint and employ such professional, technical and clerical
24 assistance as it deems necessary to carry out the provisions of
25 the Capital Projects Act;

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1 (2) enter into those contracts necessary to
2 carry out the provisions of the Capital Projects Act;

3 (3) conduct research and studies to improve
4 the planning and prioritizing of capital projects and the
5 allocation of available resources;

6 (4) apply for and receive grants and accept
7 gifts, donations, bequests and devises in the name of the state
8 to carry out the provisions of the Capital Projects Act;

9 (5) appoint such committees and subcommittees
10 as necessary to perform its duties; and

11 (6) adopt rules necessary to carry out the
12 provisions of the Capital Projects Act.

13 B. The council shall:

14 (1) prepare an annual operating budget for
15 submission to the legislature;

16 (2) after July 1, 2009, accept proposals for
17 capital projects, prioritize the proposals and, by December 1,
18 2009 and each year thereafter, make recommendations to the
19 legislature for funding the prioritized projects;

20 (3) coordinate all planning, oversight,
21 monitoring and reporting functions of state government
22 regarding capital projects authorized by law. All agencies,
23 institutions, instrumentalities and political subdivisions of
24 the state shall assist the council in complying with this
25 requirement. The provisions of this paragraph do not apply to:

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1 (a) capital projects funded pursuant to
2 the Public School Capital Outlay Act;

3 (b) capital improvements funded pursuant
4 to the Public School Capital Improvements Act; and

5 (c) capital projects authorized by
6 legislation enacted after July 1, 2009 that specifically
7 exclude the capital project from the provisions of the Capital
8 Projects Act;

9 (4) develop criteria and procedures for
10 evaluating and prioritizing proposals for capital projects; and

11 (5) develop such reporting requirements for
12 capital projects as necessary to ensure that the projects are
13 being implemented in a cost-effective manner and consistent
14 with the original purpose of the legislation providing for the
15 project.

16 Section 6. CAPITAL PROJECTS PRIORITIZATION.--

17 A. After July 1, 2009, any agency, political
18 subdivision, instrumentality or institution of the state may
19 submit a proposal for a capital project to the council. Each
20 proposal shall contain:

21 (1) a detailed description of the proposed
22 project;

23 (2) an explanation of the need for the
24 proposed project;

25 (3) a description of the prime beneficiaries

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1 of the proposed project;

2 (4) the estimated total cost of the proposed
3 project and an explanation of how the cost was derived;

4 (5) the amount and source of any other
5 funding;

6 (6) an explanation of how the project will be
7 implemented and maintained and the amount and source of
8 estimated implementation and maintenance costs; and

9 (7) any other information required by rule of
10 the council.

11 B. Upon receipt of a proposal, the council shall
12 investigate the statements and facts contained in the proposal
13 and shall conduct such site visits and hearings as it deems
14 necessary. The council shall consider all proposals and, after
15 a public hearing, shall list all proposals in order of
16 priority.

17 Section 7. TEMPORARY PROVISION.--During fiscal year 2009,
18 the capital projects council shall organize and perform its
19 duties pursuant to the Capital Projects Act; except that the
20 council shall not accept and prioritize proposals and make
21 recommendations to the legislature until after July 1, 2009.
22 The council shall submit to the first session of the forty-
23 ninth legislature the criteria and procedures for evaluating
24 and prioritizing proposals and the reporting requirements
25 developed pursuant to the Capital Projects Act together with

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1 any recommendations of the council for proposed legislation.

2 Section 8. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2008.

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