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HOUSE BILL 248

**54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

INTRODUCED BY

Susan K. Herrera and Gail Armstrong

AN ACT

RELATING TO PUBLIC FINANCE; ENACTING THE WATER ASSOCIATION  
INFRASTRUCTURE ACT; CREATING A BOARD; PRESCRIBING POWERS AND  
DUTIES; CREATING A TRUST FUND; CREATING A PROJECT FUND;  
ALLOCATING SEVERANCE TAX BONDING CAPACITY FOR WATER ASSOCIATION  
INFRASTRUCTURE PROJECTS; AUTHORIZING SEVERANCE TAX BONDS.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--Sections 1  
through 7 of this act may be cited as the "Water Association  
Infrastructure Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the  
Water Association Infrastructure Act:

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

B. "board" means the water association

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1 infrastructure board;

2 C. "financial assistance" means providing grants or  
3 loans on terms and conditions approved by the authority;

4 D. "project fund" means the water association  
5 infrastructure project fund;

6 E. "qualified project" means a capital outlay  
7 project selected by the board for financial assistance that is  
8 primarily intended to develop water association infrastructure.

9 A "qualified project" may include a water system or a  
10 wastewater system; but "qualified project" does not include  
11 general operation and maintenance or equipment;

12 F. "trust fund" means the water association  
13 infrastructure trust fund; and

14 G. "water association" means a mutual domestic  
15 water consumers association or other association organized  
16 pursuant to the Sanitary Projects Act.

17 SECTION 3. [NEW MATERIAL] WATER ASSOCIATION  
18 INFRASTRUCTURE BOARD CREATED.--

19 A. The "water association infrastructure board" is  
20 created.

21 B. The board consists of seven voting members as  
22 follows:

23 (1) the secretary of finance and  
24 administration or the secretary's designee from the department  
25 of finance and administration;

.216101.1

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

3                   (3) the chief executive officer of the  
4 authority or the chief executive officer's designee from the  
5 authority;

6                   (4) one member appointed by the president pro  
7 tempore of the senate;

8                   (5) one member appointed by the minority floor  
9 leader of the senate;

10                  (6) one member appointed by the speaker of the  
11 house of representatives; and

12                  (7) one member appointed by the minority floor  
13 leader of the house of representatives.

14                  C. The members appointed pursuant to Paragraphs (4)  
15 through (7) of Subsection B of this section shall be appointed  
16 with the advice and consent of the senate, serve at the  
17 pleasure of the appointing authority and have experience in  
18 capital project development or administration, and they may  
19 receive per diem and mileage as provided for nonsalaried public  
20 officers in the Per Diem and Mileage Act but shall receive no  
21 other compensation, perquisite or allowance.

22                  D. The board shall choose a chair and vice chair  
23 from among its members and such other officers as it deems  
24 necessary. A majority of members constitutes a quorum for the  
25 transaction of business. The affirmative vote of at least a

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1 majority of a quorum shall be necessary for an action to be  
2 taken by the board. The board shall meet whenever a voting  
3 member submits a request in writing to the chair, but not less  
4 than quarterly.

5 E. All meetings of the board shall be open to the  
6 public and subject to the Open Meetings Act and, at each  
7 meeting, the board shall provide an opportunity for public  
8 comment.

9 SECTION 4. [NEW MATERIAL] BOARD--DUTIES.--The board  
10 shall:

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

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

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

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

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

24 (3) inspecting construction of qualified  
25 projects;

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- 1 (4) providing professional services;  
2 (5) completing environmental assessments or  
3 archaeological clearances and other surveys for qualified  
4 projects;  
5 (6) completing an asset management plan or a  
6 master plan for a qualified project;  
7 (7) acquiring land, water rights, easements or  
8 rights of way; or  
9 (8) paying legal costs and fiscal agent fees  
10 associated with development of qualified projects.

11 SECTION 5. [NEW MATERIAL] AUTHORITY--DUTIES.--The  
12 authority shall:

- 13 A. provide staff support to the board;  
14 B. administer the project fund;  
15 C. at the direction of the board, process, review  
16 and evaluate applications for financial assistance from water  
17 associations; and  
18 D. at the direction of the board, administer  
19 qualified projects that receive financial assistance.

20 SECTION 6. [NEW MATERIAL] WATER ASSOCIATION TRUST FUND--  
21 CREATED--INVESTMENT--DISTRIBUTION.--

22 A. The "water association trust fund" is created in  
23 the state treasury. The trust fund consists of money that is  
24 appropriated, donated or otherwise allocated to it. Money in  
25 the trust fund shall be invested by the state investment

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1 officer in the manner that land grant permanent funds are  
2 invested pursuant to Chapter 6, Article 8 NMSA 1978. Income  
3 from investment of the trust fund shall be credited to the  
4 fund. Money in the trust fund shall not be expended for any  
5 purpose, but an annual distribution from the trust fund shall  
6 be made to the project fund pursuant to this section.

7 B. On July 1 of each year in which adequate money  
8 is available in the trust fund, an annual distribution shall be  
9 made from the trust fund to the project fund in the amount of  
10 ten million dollars (\$10,000,000) until the distribution is  
11 less than an amount equal to four and seven-tenths percent of  
12 the average of the year-end market values of the trust fund for  
13 the immediately preceding five calendar years. Thereafter, the  
14 amount of the annual distribution shall be four and seven-  
15 tenths percent of the average of the year-end market values of  
16 the trust fund for the immediately preceding five calendar  
17 years.

18 SECTION 7. [NEW MATERIAL] WATER ASSOCIATION PROJECT  
19 FUND--CREATED--PURPOSE--APPROPRIATIONS.--

20 A. The "water association project fund" is created  
21 in the authority and shall be administered by the authority.

22 B. The project fund shall consist of:

23 (1) distributions from the trust fund;

24 (2) payments of principal and interest on

25 loans for qualified projects;

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1 (3) other money appropriated by the  
2 legislature or distributed or otherwise allocated to the  
3 project fund for the purpose of supporting qualified projects;

4 (4) the proceeds of severance tax bonds  
5 appropriated to the project fund for qualified projects; and

6 (5) income from investment of the project fund  
7 that shall be credited to the project fund.

8 C. Except for severance tax bond proceeds required  
9 to revert to the severance tax bonding fund, balances in the  
10 project fund at the end of a fiscal year shall not revert to  
11 any other 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 fund and originating the grants and loans;

21 and

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

25 SECTION 8. A new section of the Severance Tax Bonding Act

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1 is enacted to read:

2 "[NEW MATERIAL] AUTHORIZATION FOR SEVERANCE TAX BONDS--  
3 PRIORITY FOR INFRASTRUCTURE PROJECTS FOR WATER ASSOCIATIONS.--

4 A. After the annual estimate of severance tax  
5 bonding capacity is made pursuant to Subsection A of Section  
6 7-27-10.1 NMSA 1978, the board of finance division of the  
7 department of finance and administration shall allocate four  
8 and one-half percent of the estimated bonding capacity for  
9 water association infrastructure projects.

10 B. The legislature authorizes the state board of  
11 finance to issue severance tax bonds in the amount allocated  
12 pursuant to this section for use by the water association  
13 infrastructure board to fund the projects. The water  
14 association infrastructure board shall certify to the state  
15 board of finance the need for issuance of bonds for water  
16 association infrastructure projects. The state board of  
17 finance may issue and sell the bonds in the same manner as  
18 other severance tax bonds in an amount not to exceed the  
19 authorized amount provided for in this section. If necessary,  
20 the state board of finance shall take the appropriate steps to  
21 comply with the federal Internal Revenue Code of 1986, as that  
22 code may be amended or renumbered. Proceeds from the sale of  
23 the bonds are appropriated to the water association  
24 infrastructure project fund for the purposes certified by the  
25 water association infrastructure board to the state board of

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1 finance.

2 C. Money from the severance tax bonds provided for  
3 in this section shall not be used to pay indirect project  
4 costs. Any unexpended balance from proceeds of severance tax  
5 bonds issued for a water association infrastructure project  
6 shall revert to the severance tax bonding fund within six  
7 months of completion of the project. The New Mexico finance  
8 authority shall monitor and ensure proper reversions of the  
9 bond proceeds appropriated for the projects.

10 D. As used in this section, "water association  
11 infrastructure project" means a qualified project pursuant to  
12 the Water Association Infrastructure Act."

13 SECTION 9. APPLICABILITY.--The allocation of severance  
14 tax bonding capacity and the authorization of severance tax  
15 bonds for water association infrastructure projects pursuant to  
16 Section 8 of this act shall commence with the severance tax  
17 bonding capacity estimated by January 15, 2021.

18 SECTION 10. EFFECTIVE DATE.--The effective date of the  
19 provisions of this act is July 1, 2020.