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HOUSE BILL 179

**55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022**

INTRODUCED BY

Jack Chatfield and Rebecca Dow and Candie G. Sweetser and  
Susan K. Herrera and Anthony Allison

AN ACT

RELATING TO WATER PROJECTS; PROVIDING THAT SEVERANCE TAX BOND  
PROCEEDS FROM THE ISSUANCE OF AN ADDITIONAL NINE PERCENT OF THE  
ESTIMATED BONDING CAPACITY BE DEDICATED FOR GRANTS FOR DRINKING  
WATER AND WASTEWATER PROJECTS; INCLUDING WASTEWATER PROJECTS AS  
WATER PROJECTS THAT MAY BE FUNDED FROM THE WATER PROJECT FUND;  
ALLOWING THE WATER TRUST BOARD TO AUTHORIZE WASTEWATER PROJECTS  
TO THE NEW MEXICO FINANCE AUTHORITY.

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

**SECTION 1.** Section 7-27-10.1 NMSA 1978 (being Laws 2003,  
Chapter 134, Section 1, as amended) is amended to read:

"7-27-10.1. TRANSFER TO SEVERANCE TAX PERMANENT FUND  
BEFORE DETERMINING BONDING CAPACITY--AUTHORIZATION FOR  
SEVERANCE TAX BONDS--PRIORITY FOR WATER PROJECTS AND TRIBAL  
INFRASTRUCTURE PROJECTS.--

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1           A. On December 31 of each year from 2019 through  
2 2028, the division shall transfer twenty-three million six  
3 hundred ninety thousand dollars (\$23,690,000) from the  
4 severance tax bonding fund to the severance tax permanent fund,  
5 unless the state board of finance determines that a lesser  
6 transfer amount is necessary pursuant to Section 7-27-8 NMSA  
7 1978 to avoid a potential shortfall in debt service  
8 obligations.

9           B. By January 15 of each year, the division shall  
10 estimate the amount of bonding capacity available for severance  
11 tax bonds to be authorized by the legislature.

12           C. For each year except 2017, the division shall  
13 allocate [~~nine~~] eighteen percent of the estimated bonding  
14 capacity each year for water projects, and the legislature  
15 authorizes the state board of finance to issue severance tax  
16 bonds in the annually allocated amount for use by the water  
17 trust board to fund water projects statewide. The water trust  
18 board shall certify to the state board of finance the need for  
19 issuance of bonds for water projects. The state board of  
20 finance may issue and sell the bonds in the same manner as  
21 other severance tax bonds in an amount not to exceed the  
22 authorized amount provided for in this subsection. If  
23 necessary, the state board of finance shall take the  
24 appropriate steps to comply with the federal Internal Revenue  
25 Code of 1986, as amended. Proceeds from the sale of the bonds

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1 are appropriated to the water project fund in the New Mexico  
2 finance authority for the purposes certified by the water trust  
3 board to the state board of finance; provided that at least  
4 one-half of the proceeds from the sale of the bonds are  
5 reserved for the purposes of making grants for drinking water  
6 and wastewater projects certified by the water trust board to  
7 the state board of finance.

8 D. The division shall allocate the following  
9 percentage of the estimated bonding capacity for tribal  
10 infrastructure projects:

- 11 (1) in 2016, six and one-half percent; and  
12 (2) in 2017 and each subsequent year, four and  
13 one-half percent.

14 E. The legislature authorizes the state board of  
15 finance to issue severance tax bonds in the amount provided for  
16 in this section for use by the tribal infrastructure board to  
17 fund tribal infrastructure projects. The tribal infrastructure  
18 board shall certify to the state board of finance the need for  
19 issuance of bonds for tribal infrastructure projects. The  
20 state board of finance may issue and sell the bonds in the same  
21 manner as other severance tax bonds in an amount not to exceed  
22 the authorized amount provided for in this section. If  
23 necessary, the state board of finance shall take the  
24 appropriate steps to comply with the federal Internal Revenue  
25 Code of 1986, as amended. Proceeds from the sale of the bonds

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1 are appropriated to the tribal infrastructure project fund for  
2 the purposes certified by the tribal infrastructure board to  
3 the state board of finance.

4 F. Money from the severance tax bonds provided for  
5 in this section shall not be used to pay indirect project  
6 costs. Any unexpended balance from proceeds of severance tax  
7 bonds issued for a water project or a tribal infrastructure  
8 project shall revert to the severance tax bonding fund within  
9 six months of completion of the project. The New Mexico  
10 finance authority shall monitor and ensure proper reversions of  
11 the bond proceeds appropriated for water projects, and the  
12 department of finance and administration shall monitor and  
13 ensure proper reversions of the bond proceeds appropriated for  
14 tribal infrastructure projects.

15 G. As used in this section:

16 (1) "division" means the board of finance  
17 division of the department of finance and administration;

18 (2) "tribal infrastructure project" means a  
19 qualified project under the Tribal Infrastructure Act; and

20 (3) "water project" means a capital outlay  
21 project for:

22 (a) the storage, conveyance or delivery  
23 of water to end users;

24 (b) the implementation of federal  
25 Endangered Species Act of 1973 collaborative programs;

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1 (c) the restoration and management of  
2 watersheds;  
3 (d) flood prevention; [Ø]   
4 (e) conservation, recycling, treatment  
5 or reuse of water; or  
6 (f) the treatment or disposal of sewage  
7 or waste."

8 SECTION 2. Section 72-4A-5 NMSA 1978 (being Laws 2001,  
9 Chapter 164, Section 5, as amended) is amended to read:

10 "72-4A-5. BOARD--DUTIES.--The board shall:

11 A. adopt rules governing terms and conditions of  
12 grants or loans recommended by the board for appropriation by  
13 the legislature from the water project fund, giving priority to  
14 projects that have been identified as being urgent to meet the  
15 needs of a regional water planning area that has a completed  
16 regional water plan that has been accepted by the interstate  
17 stream commission; that have matching contributions from  
18 federal or local funding sources available; and that have  
19 obtained all requisite state and federal permits and  
20 authorizations necessary to initiate the project;

21 B. authorize qualifying water projects to the  
22 authority that are for:

- 23 (1) storage, conveyance or delivery of water  
24 to end users;  
25 (2) implementation of federal Endangered

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1 Species Act of 1973 collaborative programs;  
2 (3) restoration and management of watersheds;  
3 (4) flood prevention; ~~[or]~~  
4 (5) water conservation or recycling, treatment  
5 or reuse of water as provided by law; or  
6 (6) the treatment or disposal of sewage or  
7 waste;  
8 C. create a drought strike team to coordinate  
9 responses to emergency water shortages caused by drought  
10 conditions; and  
11 D. evaluate projects, including their environmental  
12 impacts, and recommend projects to the interstate stream  
13 commission pursuant to the provisions of Section 72-14-45 NMSA  
14 1978."

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