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SENATE BILL

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

INTRODUCED BY

Bill Tallman

AN ACT

RELATING TO CAPITAL EXPENDITURES; CREATING THE PUBLIC WORKS COMMISSION; PROVIDING POWERS AND DUTIES; REQUIRING THAT THE COMMISSION ANNUALLY HEAR PROPOSALS FOR AND REVIEW CAPITAL OUTLAY-FUNDED PROJECTS; MAKING AN APPROPRIATION.

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

**SECTION 1. [NEW MATERIAL] PUBLIC WORKS COMMISSION--
CREATED--MEMBERSHIP--STAFF.--**

A. The "public works commission" is created and shall consist of twelve members.

B. The speaker of the house of representatives shall appoint four members of the house to serve as members of the public works commission. The speaker shall make appointments so that the two major political parties have the same proportional representation on the commission as exists in

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1 the house, except insofar as is necessary to ensure that at
2 least one member from each party is appointed.

3 C. The committees' committee of the senate shall
4 appoint four members of the senate to serve as members of the
5 public works commission, unless the senate appointments are
6 made in the interim, in which case the president pro tempore of
7 the senate shall make the appointments in consultation with,
8 and with the agreement of, a majority of the members of the
9 committees' committee. The committees' committee or the
10 president pro tempore, as appropriate, shall make appointments
11 so that the two major political parties have the same
12 proportional representation on the public works commission as
13 exists in the senate, except insofar as is necessary to ensure
14 that at least one member from each party is appointed.

15 D. The members of the commission appointed pursuant
16 to Subsections B and C of this section shall biennially appoint
17 four public members, who have expertise in the fields of
18 architecture or engineering, to serve as members of the public
19 works commission; provided that no more than two shall be from
20 the same political party.

21 E. The speaker of the house of representatives and
22 the committees' committee, or the president pro tempore of the
23 senate, as appropriate:

24 (1) shall select the public works commission's
25 chair and vice chair, whose seats in those positions shall

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1 rotate each year; and

2 (2) may remove a member from the commission
3 for nonattendance.

4 F. The public works commission shall not take any
5 action unless approved by a majority of the commission members
6 appointed pursuant to Subsections B and C of this section.

7 G. The commission may hire or contract for
8 appropriate staff. Staff shall assist the commission as
9 directed by the chair. The commission may request assistance
10 from the legislative council service and the legislative
11 finance committee.

12 SECTION 2. [NEW MATERIAL] PUBLIC WORKS COMMISSION--
13 ADDITIONAL POWERS AND DUTIES--CAPITAL PROJECT REVIEW.--

14 A. As used in this section:

15 (1) "capital project":

16 (a) means: 1) the acquisition, repair,
17 alteration, demolition, renovation, construction,
18 reconstruction, furnishing or equipping by an eligible entity
19 of a public building or public work located wholly in New
20 Mexico; 2) the acquisition by an eligible entity of heavy
21 equipment; or 3) the acquisition, repair, alteration,
22 furnishing or equipping by an eligible entity of information
23 technology; and

24 (b) includes the purchase of the
25 following, if directly related to the project: 1) planning,

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1 design and professional services in the fields of engineering,
2 surveying, architecture or landscape architecture; 2) rights of
3 way or easements; 3) land or other property for the public
4 building or public work; 4) water rights; 5) site improvements
5 to public property; 6) long-term equipment for the public
6 building or public work; and 7) fixtures; and

7 (2) "eligible entity" means a:

8 (a) state agency or institution;

9 (b) political subdivision of the state;

10 or

11 (c) federally recognized tribe or pueblo
12 located wholly or partially in New Mexico.

13 B. The public works commission shall meet no less
14 than six times per year to review proposals for capital outlay
15 funding of capital projects and shall review the status of
16 projects with authorization for capital outlay funding. To
17 carry out its duties, the commission may:

18 (1) engage an eligible entity or state agency
19 to which money for a capital project is or would be
20 appropriated;

21 (2) hold hearings to receive from the officers
22 and employees of eligible entities testimony on proposals for
23 funding of capital projects;

24 (3) request that an eligible entity submit
25 information on, or data supporting the funding of, a capital

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1 project;

2 (4) evaluate proposals for the funding of
3 capital projects using a set of criteria, developed by the
4 commission, for ranking and prioritizing projects that shall
5 include:

6 (a) the impact of the project on the
7 public health and safety;

8 (b) the project's financial benefit to
9 the community;

10 (c) the project's benefit to existing
11 capital projects or infrastructure in the area;

12 (d) any potential budgetary impact once
13 the project is completed;

14 (e) the scheduling and time line of the
15 project;

16 (f) whether the proposed funding would
17 be sufficient to finance the project; and

18 (g) the overall goals of the project and
19 any applicable external factors; and

20 (5) develop, adopt and promulgate the rules
21 necessary for the commission to implement and administer the
22 provisions of this 2022 act, including rules related to the
23 frequency, scope and manner for holding meetings and attendance
24 requirements for members.

25 C. The public works commission shall study and

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1 review capital projects:

2 (1) that will fill critical health and safety
3 needs;

4 (2) that will create jobs in New Mexico;

5 (3) that have funding available from other
6 state and non-state sources, including local, state and federal
7 agencies and instrumentalities;

8 (4) that, if necessary, will or may be phased,
9 and for which funding to complete at least one full, functional
10 phase is available;

11 (5) for which sponsoring entities can provide
12 for project operation and maintenance upon completion;

13 (6) that are included in infrastructure
14 capital improvement plans adopted by state agencies or local
15 governments;

16 (7) for which capital outlay funding is an
17 appropriate source of funding; and

18 (8) that meet other criteria, as determined by
19 the commission.

20 D. The public works commission shall develop policy
21 proposals relating to capital projects, including prioritizing
22 existing and proposed capital projects.

23 E. The public works commission shall submit a
24 report of its findings, including specific recommendations and
25 proposed legislation, to the New Mexico legislative council,

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1 the legislative finance committee and any other appropriate
2 interim committee no later than November 1 of each year.

3 SECTION 3. APPROPRIATION.--Three hundred thirty-five
4 thousand dollars (\$335,000) is appropriated from the general
5 fund to the department of finance and administration for
6 expenditure in fiscal year 2023 and subsequent fiscal years by
7 the public works commission to carry out the duties of the
8 commission and hire or contract for appropriate staff. Any
9 unexpended or unencumbered balance remaining at the end of a
10 fiscal year shall not revert to the general fund.