

1 SENATE BILL 234

2 **54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020**

3 INTRODUCED BY

4 Richard C. Martinez

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10 AN ACT

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

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

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

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

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

25 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;

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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
21 INFRASTRUCTURE TRUST FUND--CREATED--INVESTMENT--DISTRIBUTION.--

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

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

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

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

22 A. The "water association infrastructure project
23 fund" is created in the authority and shall be administered by
24 the authority.

25 B. The project fund shall consist of:

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- 1 (1) distributions from the trust fund;
2 (2) payments of principal and interest on
3 loans for qualified projects;
4 (3) other money appropriated by the
5 legislature or distributed or otherwise allocated to the
6 project fund for the purpose of supporting qualified projects;
7 (4) the proceeds of severance tax bonds
8 appropriated to the project fund for qualified projects; and
9 (5) income from investment of the project fund
10 that shall be credited to the project fund.

11 C. Except for severance tax bond proceeds required
12 to revert to the severance tax bonding fund, balances in the
13 project fund at the end of a fiscal year shall not revert to
14 any other fund.

15 D. The project fund may consist of subaccounts as
16 determined to be necessary by the authority.

17 E. The authority may establish procedures and adopt
18 rules as required to:

- 19 (1) administer the project fund;
20 (2) originate grants or loans for qualified
21 projects recommended by the board;
22 (3) recover from the project fund the costs of
23 administering the fund and originating the grants and loans;
24 and
25 (4) govern the process through which qualified

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1 entities may apply for financial assistance from the project
2 fund.

3 SECTION 8. A new section of the Severance Tax Bonding Act
4 is enacted to read:

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

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

13 B. The legislature authorizes the state board of
14 finance to issue severance tax bonds in the amount allocated
15 pursuant to this section for use by the water association
16 infrastructure board to fund the projects. The water
17 association infrastructure board shall certify to the state
18 board of finance the need for issuance of bonds for water
19 association infrastructure 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 section. If necessary,
23 the state board of finance shall take the appropriate steps to
24 comply with the federal Internal Revenue Code of 1986, as that
25 code may be amended or renumbered. Proceeds from the sale of

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1 the bonds are appropriated to the water association
2 infrastructure project fund for the purposes certified by the
3 water association infrastructure board to the state board of
4 finance.

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

13 D. As used in this section, "water association
14 infrastructure project" means a qualified project pursuant to
15 the Water Association Infrastructure Act."

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

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