



SOUTH

Select State Models for the Creation of New State Utility Agencies

Cody Allen, Policy Analyst

Nick Bowman, Policy Analyst



SOUTH

Select State Models for the Creation of New State Utility Agencies

Introduction

Legislation to create and fund new state utility agencies may address startup costs and projected revenues over time. Typically, in the case of state-created municipal entities or utility authorities, revenue bonds are used to provide funding for the projects undertaken by the newly developed agency or corporation. Revenue bonds allow investors to subsidize the development of a project, with principal and interest being paid back over time utilizing the project's revenues.¹ However, revenue bonds are necessarily long-term in nature and may need to be supplemented by additional startup funds to initiate a new agency's work or projects. This **CSG South Policy Analysis** examines recent trends among select state and local agency startups focusing on funding frameworks.

California

In 2020, California voters approved [Proposition 24](#), a ballot initiative designed to replace the 2018 California Consumer Privacy Act. The new measure, also known as the California Privacy Rights Act, takes effect on January 1, 2023, and specifies guidelines for collecting personal information. The Act creates a new rulemaking and enforcement agency, the California Privacy Protection Agency (CPPA), revoking authority from the state attorney general. Any business or provider that violates the new privacy provisions will be fined up to \$2,500 per violation. The fine increases to \$7,500 if the victim is under 16 years of age. Revenue collected from these fines is deposited in the Consumer Privacy Fund, used for legal expenses and to establish an investment fund in the state treasury.² The state's fiscal year 2021 budget appropriates approximately \$10 million in annual funds to the CPPA, enough to hire 46 to 50 employees.³

Colorado

Though not related to creating a new state agency, Colorado's [House Bill 1198](#) (2018) touches on the use of best practices in state agencies. This bill requires all statutorily created state boards and commissions—other than special-purpose authorities—to implement written policies or bylaws and obtain annual training to promote the use of issue-specific best practices. The legislation additionally requires any state agency that oversees a statutorily created state board or commission to ensure that the relevant authority follows the same procedures.⁴ These best practices shall concern understanding and operating within statutory directives and legislative intent; defining the board or commission's role in overseeing projects; and identifying and managing conflicts of interest. For the complete list of guidelines, please see [the legislation](#).⁵



SOUTH

Connecticut

Connecticut's [Senate Bill 1243](#) (2011) created the nation's first "green bank."^{*} The bill renamed the existing Renewable Energy Fund to the Clean Energy Fund and placed it under the authority of a newly created quasi-governmental agency, the Clean Energy Finance and Investment Authority (CEFIA). While the state allocated funding for new initiatives under the CEFIA's purview, the fund maintained its existing revenue stream.⁶ The existing 0.3 cents per kilowatt-hour charge on electric bills collected approximately \$30 million annually for the state. Additionally, the measure dedicates any revenues captured through the regional greenhouse gas initiative (RGGI) to fund the CEFIA. Auction profits from the RGGI amount to \$16.5 million annually, with up to 23 percent or \$3.795 million transferring to the CEFIA on average.⁷ According to the CEFIA, the Connecticut Green Bank's return on investment amounts to \$6 for every \$1 in public funds.⁸

Maine

In 2021, the Maine Legislature passed [Senate Proposal 477](#) with support from both parties, creating the Maine Connectivity Authority—a new agency designed to advance universal access to affordable broadband internet.⁹ Up to \$150 million in American Rescue Plan funds and \$15 million raised via the sale of revenue bonds in 2020 served as the funding mechanism for this statewide broadband investment.¹⁰ The unprecedented windfall of federal funds enabled a significant portion of startup costs and short-term financing to be covered without initial state appropriations. Notably, the accompanying policy and fiscal note anticipated the new agency's cost burden on existing agencies would be minimal and readily absorbed within existing budgets.¹¹

Maryland

During the pandemic-shortened 2020 legislative session, a bipartisan group of lawmakers passed [Senate Bill 457](#), creating the framework for local governments or a collection of localities to develop and initiate new Resilience Authorities.¹² These Resilience Authorities can order and complete infrastructure projects via a flexible array of funding mechanisms. These new authorities may collect non-tax-related surcharges for their services and issue or sell state or local-tax exempt bonds. Additionally, Resilience Authorities can choose to be funded by state or local appropriations, nonprofit contributions, or any combination. The only funding restriction is the prohibition against levying taxes.¹³ While the fiscal note anticipated that future economic growth would offset any costs incurred by state or local governments in creating Resilience Authorities, legislative analysts deemed local appropriations necessary to cover related startup expenses for these authorities.¹⁴

* A "green bank" is a financial entity that accelerates the deployment of clean energy by means of limited public funding used to attract private investment in "green" projects - expanding affordable clean and renewable energy options for citizens.



SOUTH

New York

After numerous complaints about rising monthly water costs, the New York Assembly passed [Senate Bill 5527](#) (2021) to establish a new state entity, the South Nassau Water Authority (SNWA). The new authority will replace the private provider in Nassau County, New York American Water. Lawmakers drafted the measure after a study determined that creating a new public authority was constitutional. The bill outlines the authority's powers, approves the use of eminent domain, and codifies other related provisions. Notably, the legislation also permits the SNWA to:

- apply for and accept any gifts, grants, or loans of funds or property;
- authorize the issuance of general obligation and special obligation bonds; and
- create a special fund for the depositing of any revenues.

Furthermore, the bill specifies the composition of the authority's five-member board of directors: the governing board of the Town of Hempstead shall appoint three members, and the Nassau County Legislature shall appoint two members. Board members will receive no compensation for their services. After a special election to determine public sentiment, the authority may purchase or acquire an interest in New York American Water or initiate a condemnation proceeding following the eminent domain laws of the relevant jurisdiction. The authority's treasurer may issue a bond and must deposit all revenue raised by this bond within ten days of receipt.¹⁵

Conclusion

The unprecedented windfall in federal funding—both enacted in response to the pandemic and for nationwide infrastructure improvements—provides a unique opportunity for policymakers looking for alternative funding sources to allocate towards startup costs for new state-authorized agencies and programs.

¹ Official Code of Georgia Annotated § 36-82-3.

² California Proposition 24 (2020).

³ Aaron Nicodemus, "California Voters Approve Creation of New State Agency to Enforce CCPA," *Compliance Week*, accessed October 25, 2021, <https://www.complianceweek.com/data-privacy/california-voters-approve-creation-of-new-state-agency-to-enforce-ccpa/29695.article>.

⁴ "Best Practices For State Boards And Commissions," Colorado General Assembly, accessed October 27, 2021, <https://leg.colorado.gov/bills/hb18-1198>.

⁵ Colorado House Bill 18-1198 (2018).

⁶ Connecticut Senate Bill 1243 (2011).

⁷ "OFA Fiscal Notice: SB-1243," Office of Fiscal Analysis, Connecticut General Assembly, accessed November 4, 2021, <https://www.cga.ct.gov/2011/FN/2011SB-01243-ROO-FN.htm>.

⁸ "About Us," Connecticut Green Bank, accessed November 4, 2011, <https://www.ctgreenbank.com/about-us/>.

⁹ Maine Senate Proposal 477 (2021).



SOUTH

¹⁰ "Governor Mills Swears in Maine Connectivity Authority Board Members," Office of Governor Janet T. Mills, State of Maine, July 20, 2021, <https://www.maine.gov/governor/mills/news/governor-mills-swears-maine-connectivity-authority-board-members-2021-07-20>.

¹¹ "Fiscal Note," Energy, Utilities, and Technology Committee, 130th Maine Legislature, June 14, 2021, http://www.mainelegislature.org/legis/bills/bills_130th/fiscalpdfs/FN148404.pdf.

¹² Scott Dance, "The Future of What's Next: Maryland Counties Propose New Agency to Combat Climate Impacts," *Governing*, October 27, 2021, <https://www.governing.com/next/maryland-counties-propose-new-agency-to-combat-climate-impacts>.

¹³ Maryland Senate Bill 457 (2020).

¹⁴ Stephen M. Ross, "Fiscal and Policy Note," Department of Legislative Services, Maryland General Assembly, April 2, 2020, https://mgaleg.maryland.gov/2020RS/fnotes/bil_0007/sb0457.pdf.

¹⁵ New York Senate Bill 5527 (2021).