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## FISCAL IMPACT REPORT

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| <b>SPONSOR</b> <u>Lara/Garratt</u>                               | <b>LAST UPDATED</b> _____                |
|  | <b>ORIGINAL DATE</b> <u>2/05/2024</u>    |
| <b>SHORT TITLE</b> <u>Border Authority Members and Oversight</u> | <b>BILL NUMBER</b> <u>House Bill 307</u> |
|  | <b>ANALYST</b> <u>Rodriguez</u>          |

### APPROPRIATION\* (dollars in thousands)

| FY24 | FY25   | Recurring or Nonrecurring | Fund Affected |
|------|--------|---------------------------|---------------|
|      | \$50.0 | Nonrecurring              | General Fund  |

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\* (dollars in thousands)

| Agency/Program   | FY24             | FY25              | FY26               | 3 Year Total Cost  | Recurring or Nonrecurring | Fund Affected |
|------------------|------------------|-------------------|--------------------|--------------------|---------------------------|---------------|
| Border Authority | No fiscal impact | \$60.0 to \$105.0 | \$110.0 to \$155.0 | \$170.0 to \$260.0 | Recurring                 | General Fund  |

Parentheses ( ) indicate expenditure decreases.  
 \*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Agency Analysis Received From

Border Authority/Economic Development Department (EDD)  
 New Mexico Attorney General (NMAG)

## SUMMARY

### Synopsis of House Bill 307

House Bill 307 (HB307) eliminates the Border Authority’s administrative attachment to the Economic Development Department (EDD) and establishes the Border Authority as an adjunct agency.

This bill changes the board composition from seven members to six. Board members are appointed by the Speaker of the House, President Pro Tempore of the Senate, Minority Floor Leader of the Senate, Minority Floor Leader of the House of Representatives, and the governor.

This bill provides a temporary provision that transfers all appropriations, equipment, supplies, and existing contracts related to the Border Authority from EDD to the authority.

HB307 appropriates \$50 thousand from the general fund to the Border Authority for expenditure in FY25 and subsequent fiscal years to establish the Border Authority as an adjunct agency separate from EDD.

The effective date of this bill is July 1, 2024.

## **FISCAL IMPLICATIONS**

The appropriation of \$50 thousand contained in this bill is a nonrecurring expense to the general fund. Any unexpended or unencumbered balance remaining at the end of a fiscal year shall not revert to the general fund. However, it is unknown if this appropriation will be enough to cover the costs associated with establishing the authority as an adjunct agency.

The Border Authority is administratively attached to the Economic Development Department (EDD). EDD supports the authority with budget, procurement, information technology, vehicle, and human resources. In addition to the one-time appropriation in this bill, the authority will need recurring funding to cover independent administrative costs and other costs normally covered by EDD. Both EDD and NMAG also indicate the authority would need additional legal counsel, either from other state or private entities, if it were an adjunct agency. LFC estimates the authority would need an additional \$110 thousand to \$155 thousand for 1 FTE to cover budget, procurement, and human resources; legal support; information technology; and miscellaneous administrative costs. The FY25 costs are reduced by \$50 thousand to account for the appropriation in this bill.

## **SIGNIFICANT ISSUES**

***Agency collaboration.*** Under current statute, the secretary of the Economic Development Department is a member of the board. Border development is an important element of EDD's strategic plan. As noted in the strategic plan, the border region is well suited for more than half of the targeted industries, including global trade, sustainable energy, intelligent manufacturing, sustainable agriculture, film and television, and outdoor recreation. The border region has recently seen significant investment from the Local Economic Development Act for expanding and relocating companies. This bill removes the EDD secretary as a board member, which could hinder agency collaboration.

***Staffing.*** The Border Authority currently has 4 FTE. The positions include a director, deputy director, financial coordinator, and program coordinator. Two FTE are governor exempt positions and the other two are classified. As noted by the Border Authority, the authority relies on EDD staff for administrative support and to cover functions not assigned to the existing staff and board members. For comparison, EDD's program support has a \$4.1 million budget and 29 authorized FTE in FY24.

***Efficiency.*** HB307 utilizes the Executive Reorganization Act to remove the authority from an administrative attachment to EDD. However, the authority indicates that it would be difficult to accomplish its duties without being attached to a cabinet agency. The authority notes:

It is not clear how, if at all, removing the Border Authority from an administrative attachment to EDD allows for more efficient management, eliminates overlapping/duplication of efforts, or improves administrative or budgetary controls. Additionally, this legislation may create a disruption of governmental services and functions, create unnecessary expenses, and specifically conflict with current projects and other business pending before the current Border Authority as an entity.

***Voting and executive board.*** This bill proposes changes to the board composition of the Border Authority. This table provides a comparison of the proposed changes:

| Current Board   | HB307   |
|---|---|
| Seven voting members  | Six voting members  |
| Six appointed by the governor, seventh member is the secretary of EDD               | One member appointed by Speaker of the House, President Pro Tempore of the Senate, Minority Floor Leader of the Senate, and Minority Floor Leader of the House<br>Two members appointed by governor |
| No more than three appointed by the governor can belong to the same political party | No restrictions based on party affiliation  |
| Appointed members confirmed by the senate   | No language on confirmations  |
| One non-voting member - Lieutenant governor   | No non-voting member  |
| Governor appoints replacement   | Vacancy is filled in the same manner as the original appointment  |

Previous bills were introduced that removed language that no more than three appointed members cannot belong to the same party. For those bills, the Border Authority noted that this language offers a “check and balance” for any political party and offers a bipartisan analysis of processes and programs in addition to being an even and fair representation of the counties served by the authority.

The bill also proposes the following changes for the executive committee:

| Current Executive Board                | HB307   |
|--|---|
| Chair and four members                 | Chair and three members   |
| Executive director is nonvoting member | No language for executive director as part of the executive committee |

Regarding the proposed composition of the executive committee, NMAG indicates:

HB307 would keep the executive committee of the authority (Section 58-27-7) but reduce its size by one to a total of four members. The executive committee would be subject to the requirements of the Open Meetings Act because it would constitute a majority of the Authority membership and also because it is a public body itself due to its creation in statute. As noted in Section 58-27-7, the Authority would have to delegate duties to the committee by rule for it to function.

## ADMINISTRATIVE IMPLICATIONS

NMAG provides the Border Authority would require additional resources from the department to support with the transition of new duties and to coordinate new resources.

## **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

The current version of the General Appropriation Act does not include an appropriation of \$50 thousand to establish the Border Authority as an adjunct agency.

## **ALTERNATIVES**

The Border Authority indicates that a more detailed review of the costs and steps required to separate the Border Authority from EDD could be undertaken in the interim without this legislation in place.

## **POSSIBLE QUESTIONS**

How will this bill improve the authority's mandated responsibilities? How will this bill improve border and economic development efforts?

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