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SENATE BILL 64

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Richard C. Martinez

FOR THE NEW MEXICO FINANCE AUTHORITY OVERSIGHT COMMITTEE

AN ACT

RELATING TO THE SPACEPORT; RENAMING THE SOUTHWEST REGIONAL
SPACEPORT "SPACEPORT AMERICA" FOR TRADEMARKING PURPOSES.

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

Section 1. Section 5-16-1 NMSA 1978 (being Laws 2006,
Chapter 15, Section 1) is amended to read:

"5-16-1. SHORT TITLE.--~~[Sections 1 through 13 of this
act]~~ Chapter 5, Article 16 NMSA 1978 may be cited as the
"Regional Spaceport District Act"."

Section 2. Section 5-16-2 NMSA 1978 (being Laws 2006,
Chapter 15, Section 2) is amended to read:

"5-16-2. PURPOSES.--The purposes of the Regional
Spaceport District Act are to:

A. serve the public by providing for the
development of [~~a southwest regional~~] "Spaceport America";

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1 B. allow multi-jurisdictional cooperation in the
2 creation of [~~a southwest regional~~] Spaceport America;

3 C. provide for the promotion of [~~the southwest~~
4 ~~regional~~] Spaceport America; and

5 D. foster tourism in the cities and counties
6 comprising the district."

7 Section 3. Section 5-16-6 NMSA 1978 (being Laws 2006,
8 Chapter 15, Section 6) is amended to read:

9 "5-16-6. POWERS OF THE DISTRICT.--

10 A. A district is a body politic and corporate. In
11 addition to other powers granted to the district pursuant to
12 the Regional Spaceport District Act, the district may:

13 (1) have perpetual existence, except as
14 otherwise provided in the contract;

15 (2) sue and be sued;

16 (3) enter into contracts and agreements
17 affecting the affairs of the district;

18 (4) pledge all or a portion of the revenues to
19 the payment of bonds of the authority; and

20 (5) construct, in connection with the
21 authority, [~~a regional~~] Spaceport America within the boundaries
22 of the district.

23 B. After the creation of a district, the board may
24 include property within or exclude property from the boundaries
25 of the district in the manner provided in this section.

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1 Property shall not be included within the boundaries of the
2 district unless it is within the boundaries of the members of
3 the combination at the time of the inclusion. Prior to
4 inclusion of property in or exclusion of property from the
5 boundaries of the district, the board shall cause notice of the
6 proposed inclusion or exclusion to be published in a newspaper
7 of general circulation within the boundaries of the district
8 and cause the notice to be mailed to the authority. The notice
9 shall:

10 (1) describe the property to be included in or
11 excluded from the boundaries of the district;

12 (2) specify the date, time and place at which
13 the board shall hold a public hearing on the proposed inclusion
14 or exclusion; provided that the date of the public hearing
15 contained in the notice shall be not less than twenty days
16 after publication of the notice; and

17 (3) state that persons having objections to
18 the inclusion or exclusion may appear at the public hearing to
19 object to the proposed inclusion or exclusion.

20 C. The board shall hear all objections to the
21 proposed inclusion or exclusion of property at the time and
22 place designated in the notice. The board, upon the
23 affirmative vote of two-thirds of the directors, may adopt a
24 resolution including or excluding all or a portion of the
25 property described in the notice. Upon the adoption of the

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1 resolution, the property shall be included within or excluded
2 from the boundaries of the district as set forth in the
3 resolution. The board may adopt the resolution without
4 amending the district's enabling contract. The board shall
5 file the resolution with the authority, which shall cause the
6 resolution to be recorded in the real estate records of each
7 county having territory included in the boundaries of the
8 district."

9 Section 4. Section 5-16-7 NMSA 1978 (being Laws 2006,
10 Chapter 15, Section 7) is amended to read:

11 "5-16-7. BONDS.--A district may enter into contracts with
12 the authority pursuant to which the authority may issue bonds
13 under the Spaceport Development Act for the purpose of
14 financing the planning, designing, engineering and construction
15 of [~~a regional~~] Spaceport America or a spaceport-related
16 project. The district shall request that the authority issue
17 bonds pursuant to resolution of the board, and the bonds shall
18 be payable solely out of all or a specified portion of the
19 revenues as designated by the board."

20 Section 5. Section 5-16-10 NMSA 1978 (being Laws 2006,
21 Chapter 15, Section 10) is amended to read:

22 "5-16-10. COOPERATIVE POWERS.--A district may cooperate
23 with a person to:

24 A. accept legitimate contributions or liens
25 securing obligations of the district from the person with

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1 respect to the financing, planning, designing, engineering and
2 construction of [~~a regional~~] Spaceport America and, in
3 connection with a loan or advance, enter into contracts
4 establishing the repayment terms;

5 B. enter into contracts regarding the financing,
6 planning, designing, engineering and construction of [~~a~~
7 ~~regional~~] Spaceport America; and

8 C. enter into joint operating contracts with the
9 authority concerning the financing, planning, designing,
10 engineering and construction of [~~a regional~~] Spaceport
11 America."

12 Section 6. Section 5-16-13 NMSA 1978 (being Laws 2006,
13 Chapter 15, Section 13) is amended to read:

14 "5-16-13. USE OF REVENUE BY GOVERNMENTAL UNITS.--Each
15 governmental unit that is a county or municipality and is a
16 member of a combination shall have enacted a municipal regional
17 spaceport gross receipts tax or a county regional spaceport
18 gross receipts tax prior to December 31, 2008. At least
19 seventy-five percent of the municipal regional spaceport gross
20 receipts tax or county regional spaceport gross receipts tax
21 revenues received by each governmental unit must be used by the
22 district for the financing, planning, designing, engineering
23 and construction of [~~a regional~~] Spaceport America. No more
24 than twenty-five percent of the municipal regional spaceport
25 gross receipts tax or county regional spaceport gross receipts

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1 tax revenues may be used by the governmental unit enacting the
2 tax for spaceport-related projects as approved by resolution of
3 the governmental unit."

4 Section 7. Section 58-31-2 NMSA 1978 (being Laws 2005,
5 Chapter 128, Section 2) is amended to read:

6 "58-31-2. PURPOSE.--The purpose of the Spaceport
7 Development Act is to:

8 A. encourage and foster development of the state
9 and its cities and counties by developing spaceport facilities
10 in New Mexico;

11 B. actively promote and assist public and private
12 sector infrastructure development to attract new industries and
13 businesses, thereby creating new job opportunities in the
14 state;

15 C. create the statutory framework that will enable
16 the state to design, finance, construct, equip and operate
17 spaceport facilities necessary to ensure the timely, planned
18 and efficient development of [~~a southwest regional~~] Spaceport
19 America; and

20 D. promote educational involvement in spaceport
21 activities and education and training of the work force to
22 develop the skills needed for spaceport operations."

23 Section 8. Section 58-31-5 NMSA 1978 (being Laws 2005,
24 Chapter 128, Section 5, as amended) is amended to read:

25 "58-31-5. AUTHORITY POWERS AND DUTIES.--

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A. The authority shall:

(1) hire an executive director, who shall employ the necessary professional, technical and clerical staff to enable the authority to function efficiently and shall direct the affairs and business of the authority, subject to the direction of the authority;

(2) be located within fifty miles of [~~a southwest regional~~] Spaceport America;

(3) advise the governor, the governor's staff and the New Mexico finance authority oversight committee on methods, proposals, programs and initiatives involving [~~a southwest regional~~] Spaceport America that may further stimulate space-related business and employment opportunities in New Mexico;

(4) initiate, develop, acquire, own, construct, maintain and lease space-related projects;

(5) make and execute all contracts and other instruments necessary or convenient to the exercise of its powers and duties;

(6) create programs to expand high-technology economic opportunities within New Mexico;

(7) create avenues of communication among federal government agencies, the space industry, users of space launch services and academia concerning space business;

(8) promote legislation that will further the

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1 goals of the authority and development of space business;

2 (9) oversee and fund production of promotional
3 literature related to the authority's goals;

4 (10) identify science and technology trends
5 that are significant to space enterprise and the state and act
6 as a clearinghouse for space enterprise issues and information;

7 (11) coordinate and expedite the involvement
8 of the state executive branch's space-related development
9 efforts; and

10 (12) perform environmental, transportation,
11 communication, land use and other technical studies necessary
12 or advisable for projects and programs or to secure licensing
13 by appropriate United States agencies.

14 B. The authority may:

15 (1) advise and cooperate with municipalities,
16 counties, state agencies and organizations, appropriate federal
17 agencies and organizations and other interested persons and
18 groups;

19 (2) solicit and accept federal, state, local
20 and private grants of funds or property and financial or other
21 aid for the purpose of carrying out the provisions of the
22 Spaceport Development Act;

23 (3) adopt rules governing the manner in which
24 its business is transacted and the manner in which the powers
25 of the authority are exercised and its duties performed;

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1 (4) operate spaceport facilities, including
2 acquisition of real property necessary for spaceport facilities
3 and the filing of necessary documents with appropriate
4 agencies;

5 (5) construct, purchase, accept donations of
6 or lease projects located within the state;

7 (6) sell, lease or otherwise dispose of a
8 project upon terms and conditions acceptable to the authority
9 and in the best interests of the state;

10 (7) issue revenue bonds and borrow money for
11 the purpose of defraying the cost of acquiring a project by
12 purchase or construction and of securing the payment of the
13 bonds or repayment of a loan;

14 (8) enter into contracts with regional
15 spaceport districts and issue bonds on behalf of regional
16 spaceport districts for the purpose of financing the purchase,
17 construction, renovation, equipping or furnishing of [~~a~~
18 ~~regional~~] Spaceport America or a spaceport-related project;

19 (9) refinance a project;

20 (10) contract with any competent private or
21 public organization or individual to assist in the fulfillment
22 of its duties;

23 (11) fix, alter, charge and collect tolls,
24 fees or rentals and impose any other charges for the use of or
25 for services rendered by any authority facility, program or

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1 service; and

2 (12) contract with regional spaceport
3 districts to receive municipal spaceport gross receipts tax and
4 county regional spaceport gross receipts tax revenues.

5 C. The authority shall not:

6 (1) incur debt as a general obligation of the
7 state or pledge the full faith and credit of the state to repay
8 debt; or

9 (2) expend funds or incur debt for the
10 improvement, maintenance, repair or addition to property unless
11 it is owned by the authority, the state or a political
12 subdivision of the state."

13 Section 9. Section 58-31-6 NMSA 1978 (being Laws 2005,
14 Chapter 128, Section 6, as amended) is amended to read:

15 "58-31-6. SPACEPORT AUTHORITY--BONDING AUTHORITY--POWER
16 TO ISSUE REVENUE BONDS.--

17 A. The authority may issue revenue bonds on its own
18 behalf or on behalf of a regional spaceport district, for
19 [~~regional~~] Spaceport America purposes and spaceport-related
20 projects. Revenue bonds so issued may be considered
21 appropriate investments for the severance tax permanent fund or
22 collateral for the deposit of public funds if the bonds are
23 rated not less than "A" by a national rating service and both
24 the principal and interest of the bonds are fully and
25 unconditionally guaranteed by a lease agreement executed by an

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1 agency of the United States government or by a corporation
2 organized and operating within the United States, that
3 corporation or the long-term debt of that corporation being
4 rated not less than "A" by a national rating service. All
5 bonds issued by the authority are legal and authorized
6 investments for banks, trust companies, savings and loan
7 associations and insurance companies.

8 B. The authority may pay from the bond proceeds all
9 expenses, premiums and commissions that the authority deems
10 necessary or advantageous in connection with the authorization,
11 sale and issuance of the bonds.

12 C. Authority revenue bonds:

13 (1) may have interest or appreciated principal
14 value or any part thereof payable at intervals determined by
15 the authority;

16 (2) may be subject to prior redemption or
17 mandatory redemption at the authority's option at the time and
18 upon such terms and conditions with or without the payment of a
19 premium as may be provided by resolution of the authority;

20 (3) may mature at any time not exceeding
21 twenty years after the date of issuance if secured by revenue
22 from the county or municipal regional spaceport gross receipts
23 tax or thirty years if secured by revenue from other sources;

24 (4) may be serial in form and maturity;
25 consist of one or more bonds payable at one time or in

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1 installments; or may be in such other form as determined by the
2 authority;

3 (5) may be in registered or bearer form or in
4 book-entry form through facilities of a securities depository
5 either as to principal or interest or both;

6 (6) shall be sold for cash at, above or below
7 par and at a price that results in a net effective interest
8 rate that conforms to the Public Securities Act; and

9 (7) may be sold at public or negotiated sale.

10 D. Subject to the approval of the state board of
11 finance, the authority may enter into other financial
12 arrangements if it determines that the arrangements will assist
13 the authority."

14 Section 10. TEMPORARY PROVISION--TRANSFERS.--

15 A. On the effective date of this act, all
16 functions, appropriations, money, personnel, records, files,
17 furniture, equipment and other property of the southwest
18 regional spaceport shall be transferred to Spaceport America.

19 B. On the effective date of this act, all
20 contractual obligations of the southwest regional spaceport
21 shall be binding on Spaceport America.

22 C. On the effective date of this act, all
23 references in law to the southwest regional spaceport shall be
24 deemed to be references to Spaceport America.