

HOUSE FLOOR SUBSTITUTE FOR
HOUSE BILL 90

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

AN ACT

RELATING TO BORDER DEVELOPMENT; AMENDING THE BORDER DEVELOPMENT
ACT; CHANGING THE COMPOSITION OF THE BORDER AUTHORITY; MAKING
TECHNICAL AND CLARIFYING CHANGES TO LAW; REPEALING A SECTION OF
THE NMSA 1978.

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

SECTION 1. Section 58-27-2 NMSA 1978 (being Laws 1991,
Chapter 131, Section 2) is amended to read:

"58-27-2. LEGISLATIVE PURPOSE.--~~[By enacting]~~ The purpose
of the Border Development Act ~~[it]~~ is ~~[the purpose of the~~
~~legislature]~~ to:

A. encourage and foster development of the state
and its cities and counties by developing port facilities at
international ports of entry;

B. actively promote and assist public and private

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underscored material = new
[bracketed material] = delete

1 by the United States customs and border protection;

2 ~~[E.]~~ G. "project" means ~~[any]~~ land, ~~[or]~~ a building
3 or ~~[any]~~ other ~~[improvements]~~ improvement acquired as a part of
4 a port of entry, ~~[or]~~ associated with a port of entry or to aid
5 commerce in connection with a port of entry, including all
6 existing or not yet existing real and personal property deemed
7 necessary in connection ~~[therewith, whether or not now in~~
8 ~~existence. A project shall be]~~ with a port of entry, that is
9 suitable for use by, as or for one or more of the following:

10 (1) a port of entry, a foreign trade zone, an
11 inspection station, an emergency response station or ~~[any other~~
12 ~~facilities to be]~~ another facility used by ~~[any]~~ an agency or
13 entity of the United States government, by another qualified
14 entity or by ~~[any other]~~ a foreign international state;

15 (2) an industry for the manufacturing,
16 processing or assembling of ~~[any]~~ an agricultural, mining or
17 manufactured product;

18 (3) a railroad switching yard, railroad
19 station, bus terminal, airport or other passenger, commuter or
20 mass transportation system or freight transportation system;

21 (4) a commercial business or other enterprise
22 engaged in storing, warehousing, distributing or selling
23 products of manufacturing, agriculture, mining or related
24 industries, not including facilities designed for the
25 distribution to the public of electricity or gas;

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1 the acquisition of rights of way [~~or~~] associated with those
 2 systems; and

3 (10) fire protection services or equipment or
 4 police protection services or equipment;

5 [~~F.~~] H. "property" means, as necessary to a
 6 project, land, improvements to [~~the~~] land, buildings, [~~and~~]
 7 improvements to [~~the~~] buildings, machinery, [~~and~~] equipment,
 8 [~~of any kind necessary to the project~~] operating capital and
 9 [~~any~~] other personal [~~properties deemed necessary in connection~~
 10 ~~with the project~~] property; and

11 [~~G.~~] I. "qualified entity" means the state, [~~or~~]
 12 one of its agencies, instrumentalities, institutions or
 13 political subdivisions, [~~or~~] the United States or [~~any~~
 14 ~~corporation, department, instrumentality or agency of the~~
 15 ~~federal government;~~

16 ~~H. "bond" means any bonds, notes or other~~
 17 ~~obligations; and~~

18 ~~I. "bondholder" means a person who is the owner of~~
 19 ~~a bond, regardless of whether the bond is registered] one of
 20 its corporations, departments, instrumentalities or agencies."~~

21 SECTION 3. Section 58-27-4 NMSA 1978 (being Laws 1991,
 22 Chapter 131, Section 4, as amended) is amended to read:

23 "58-27-4. BORDER AUTHORITY CREATED--MEMBERSHIP.--

24 A. The "border authority" is created. The
 25 authority is a state agency and is administratively attached to

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1 in: 1) land development; 2) economic development; 3) maritime
 2 or overland shipping by truck or rail; 4) international
 3 commerce; 5) finance; 6) economics; 7) accounting; 8)
 4 engineering; 9) law; 10) agriculture; or 11) business
 5 management that consists of serving as the chief executive
 6 officer, president or managing director of a business or
 7 serving in another upper-level management position of a
 8 business; and

9 (c) are appointed subject to
 10 confirmation by the senate;

11 (2) one of whom is the secretary of economic
 12 development or the secretary's designee; and

13 (3) one of whom is the secretary of
 14 transportation or the secretary's designee.

15 C. The authority shall invite the following to
 16 serve as advisory members of the authority:

17 (1) the two United States senators
 18 representing New Mexico or those senators' designees;

19 (2) the United States representative
 20 representing New Mexico's second congressional district or the
 21 representative's designee;

22 (3) the lieutenant governor or the lieutenant
 23 governor's designee;

24 (4) a representative of the governor of the
 25 state of Chihuahua;

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1 (2) subject to [~~the provisions of~~] the Border
2 Development Act, initiate, develop, acquire, own, construct and
3 maintain border development projects;

4 (3) create programs to expand economic
5 opportunities beyond the [~~New Mexico-Chihuahua~~] New Mexico-
6 Mexico border area to other areas of the state;

7 (4) create avenues of communication between
8 New Mexico [~~and Chihuahua~~] and the Republic of Mexico
9 concerning economic development, trade and commerce,
10 transportation and industrial affairs;

11 (5) promote legislation that will further the
12 goals of the authority and development of the border region;

13 (6) produce or cause to have produced
14 promotional literature related to explanation and fulfillment
15 of the authority's goals;

16 (7) actively recruit industries and establish
17 programs that will result in the location and relocation of new
18 industries in the state;

19 (8) coordinate and expedite the involvement of
20 the executive department's border area efforts;

21 (9) perform or cause to be performed
22 environmental, transportation, communication, land use and
23 other technical studies necessary or advisable for projects or
24 programs or to secure port-of-entry approval by the United
25 States and the Mexican governments and other appropriate

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

4 (7) enter into agreements with the [~~federal~~]
 5 United States government for the operation, improvement and
 6 expansion of federal border facilities;

7 (8) enter into joint ventures, partnerships or
 8 other business relationships with qualified entities and
 9 private persons for the joint funding and operation of
 10 projects;

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

15 (10) expend funds or incur debt for the
 16 improvement, maintenance, repair or addition to property owned
 17 by the authority, the state or the United States government;
 18 and

19 (11) refinance a project.

20 C. In exercising its authority, the authority shall
 21 not incur debt as a general obligation of the state or pledge
 22 the full faith and credit of the state to repay debt."

23 SECTION 6. Section 58-27-12 NMSA 1978 (being Laws 1991,
 24 Chapter 131, Section 12, as amended) is amended to read:

25 "58-27-12. AUTHORITY STAFF--CONTRACTS.--

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underscored material = new
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1 SECTION 8. Section 58-27-15 NMSA 1978 (being Laws 1991,
2 Chapter 131, Section 15, as amended) is amended to read:

3 "58-27-15. [~~BORDER~~] AUTHORITY--BONDING AUTHORITY--POWER
4 TO ISSUE REVENUE BONDS.--

5 A. The authority may act as an issuing authority
6 for the purposes of the Private Activity Bond Act.

7 B. The authority may issue revenue bonds for
8 authority projects. With the exception of the port of entry or
9 foreign trade zone, the [~~border~~] authority shall not [~~be~~
10 ~~authorized to~~] issue bonds for projects for a qualified entity,
11 as defined in Section 6-21-3 NMSA 1978. Revenue bonds so
12 issued may be considered appropriate investments for the
13 severance tax permanent fund or collateral for the deposit of
14 public funds if the bonds are rated [~~not less than~~] "A" or
15 higher by a national rating service and if both the principal
16 and interest of the bonds are fully and unconditionally
17 guaranteed by a lease agreement executed by an agency of the
18 United States government or by a corporation organized and
19 operating within the United States that [~~corporation~~] is, or
20 [~~the~~] whose long-term debt [~~of that corporation being~~] is,
21 rated [~~not less than~~] "A" or higher by a national rating
22 service. All bonds issued by the authority are legal and
23 authorized investments for banks, trust companies, savings and
24 loan associations and insurance companies.

25 C. The authority may pay from the bond proceeds all

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1 B. The authority may pledge irrevocably for the
2 payment of interest and principal on refunding bonds the
3 appropriate pledged revenues [~~which~~] that may be pledged to an
4 original issue of bonds.

5 C. Bonds for refunding and bonds for any purpose
6 permitted by the Border Development Act may be issued
7 separately or issued in combination in one series or more."

8 SECTION 10. Section 58-27-25 NMSA 1978 (being Laws 1991,
9 Chapter 131, Section 25, as amended) is amended to read:

10 "58-27-25. FUND CREATED.--

11 A. The "border authority fund" is created in the
12 state treasury. Separate accounts within the fund may be
13 created for [~~any project~~] projects. Money in the fund is
14 appropriated to the authority for the purposes of carrying out
15 the [~~provisions of the~~] Border Development Act. Money in the
16 fund shall not revert at the end of a fiscal year.

17 B. Except as provided in Subsections E and F of
18 this section, money received by the authority shall be
19 deposited in the border authority fund, including [~~but not~~
20 ~~limited to~~] all:

21 (1) [~~the~~] proceeds of bonds issued by the
22 authority or from any loan to the authority made pursuant to
23 the Border Development Act;

24 (2) interest earned [~~upon~~] on money in the
25 fund;

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1 D. Earnings on the balance in the border authority
 2 fund shall be credited to the fund. [~~In addition, in the event~~
 3 ~~that~~] If the proceeds from the issuance of bonds or from money
 4 borrowed by the authority are deposited in the state treasury,
 5 interest earned on that money [~~during the period commencing~~
 6 ~~with~~] from the date of its deposit in the state treasury until
 7 [~~the~~] its actual transfer [~~of the money~~] to the fund shall be
 8 credited to the fund.

9 E. All proceeds from issuing revenue bonds shall be
 10 placed in trust with a chartered bank to be dispersed by the
 11 trustee [~~pursuant~~] according to the terms [~~set forth~~] in the
 12 bonding resolution adopted by the authority.

13 F. Ten percent of the tolls, fees, rents, lease
 14 payments and other charges that are imposed, collected and
 15 received by the authority shall be deposited [~~into~~] in the
 16 border project fund, and the remaining ninety percent shall be
 17 deposited [~~into~~] in the border authority fund. [~~provided that~~
 18 ~~the~~] Money deposited into the border authority fund shall be
 19 expended only as appropriated and in accordance with a budget
 20 approved by the state budget division of the department of
 21 finance and administration."

22 SECTION 11. REPEAL.--Section 58-27-7 NMSA 1978 (being
 23 Laws 1991, Chapter 131, Section 7) is repealed.

24 SECTION 12. EFFECTIVE DATE.--The effective date of the
 25 provisions of this act is July 1, 2017.

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