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**Regional Spaceport District Act**  
**SECTIONS 5-16-1 to 5-16-13 NMSA 1978**

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**5-16-1. SHORT TITLE.** Sections 1 through 13 of this act may be cited as the "Regional Spaceport District Act".

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**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;
  - B. allow multi-jurisdictional cooperation in the creation of a southwest regional spaceport;
  - C. provide for the promotion of the southwest regional spaceport;
- and
- D. foster tourism in the cities and counties comprising the district.
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**5-16-3. DEFINITIONS.** As used in the Regional Spaceport District Act:

- A. "authority" means the spaceport authority created pursuant to the Spaceport Development Act;
  - B. "board" means the board of directors of a district;
  - C. "bond" means a revenue bond issued by the authority on behalf of a district;
  - D. "combination" means two or more governmental units that exercise joint authority;
  - E. "district" means a regional spaceport district that is a political subdivision of the state created pursuant to the Regional Spaceport District Act;
  - F. "governmental unit" means the state, a county or a municipality of the state or an Indian nation, tribe or pueblo located within the boundaries of the state;
  - G. "project" means any land, building or other improvements acquired as part of a spaceport or associated with a spaceport or to aid commerce in connection with a spaceport and all real and personal property deemed necessary in connection with the spaceport;
  - H. "revenues" means municipal regional spaceport gross receipts tax revenues and county regional spaceport gross receipts tax revenues; and
  - I. "spaceport" means any facility in New Mexico at which space vehicles may be launched or landed, including all facilities and support infrastructure related to launch, landing or payload processing.
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**5-16-4. CREATION OF DISTRICT.**

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**A. A combination may create a regional spaceport district by contract. Upon the issuance by the authority of a certificate stating that the district has been duly organized according to the provisions of the Regional Spaceport District Act, the district may exercise the functions conferred by the provisions of that act. The authority shall issue the certificate within thirty days of the filing with the authority of a copy of a contract that fulfills all the requirements set forth in this section and a copy of the bylaws and operating procedures of the district. The authority shall cause the certificate to be recorded in each county having territory included in the boundaries of the district. Upon issuance of the certificate by the authority, the district shall constitute a separate political subdivision of the state and shall have all of the duties, privileges, immunities, rights, liabilities and disabilities of a political subdivision.**

**B. A contract establishing a district shall specify the:**

- (1) name and purpose of the district;**
- (2) establishment and organization of the board in which all legislative power of the district is vested;**
- (3) manner of the appointment, term of service and qualifications, if any, of the directors and the procedure for filling vacancies;**
- (4) voting requirements for action by the board;**
- (5) voting requirements for action by the board;**
- (6) provisions for the distribution, disposition or division of the assets of the district;**
- (7) term of the contract and the method by which it may be terminated or rescinded, but the contract shall not be terminated or rescinded so long as the authority has bonds outstanding;**
- (8) provisions for amendment of the contract;**
- (9) limitations on the powers granted by the Regional Spaceport District Act that may be exercised by the district; and**
- (10) conditions required when adding or deleting parties to the contract.**

**C. A governmental unit shall not enter into a contract establishing a district without holding at least three public hearings in addition to other requirements imposed by law for public notice. The governmental unit shall give notice of the time, place and purpose of the public hearing by publication in a newspaper of general circulation in the governmental unit at least ten days prior to the date of the public hearing.**

**D. Upon the approval of the governor and the combination, the state may join in a contract creating a district. The number of directors of the board to which the state is entitled shall be established in the contract, but in no case shall the state be entitled to less than one director. The governor shall appoint, with the confirmation of the senate, the director or directors representing the state on the board for a term as established by the contract that created the district.**

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**5-16-5. BOARD.**

**A. All powers, privileges and duties vested in or imposed upon the district shall be exercised and performed by the board. The board may delegate its powers by resolution to an officer or agent of the board, with the exception of the following:**

- (1) adoption of board policies and procedures;**
- (2) initiation or continuation of legal action;**
- (3) establishment of policies regarding the use of revenues; and**
- (4) request to the authority to issue bonds.**

**B. Only an elected official may vote on resolutions regarding Paragraph (4) of Subsection A of this section.**

**C. The board shall adopt rules to govern its conduct and provide meaningful opportunities for public input, which shall include standards and procedures for calling emergency meetings.**

**D. The board shall be composed of at least one director from each governmental unit that is a member of the district. A director shall be an elected official or the official's designee. A governmental unit shall not have a majority of membership on the board, unless there are three or fewer participating governmental units in the district.**

**E. A director of the board shall not vote on an issue when the director has a conflict of interest. A director of the board, officer of the board or employee of the board shall not:**

- (1) acquire a financial interest in a new or existing business venture or business property of any kind when the person believes or has reason to believe that the new financial interest will be directly affected by the official act;**
- (2) use confidential information acquired by virtue of the person's office or employment for the person's or another's private gain; or**
- (3) contract with the district without public notice and competitive bidding and full disclosure of the person's financial or other interest in the business that is party to the contract.**

**F. The attorney general shall investigate and prosecute, when appropriate, a complaint brought to the attorney general's attention involving a violation of Subsection E of this section. Violation of the provisions of Subsection E of this section by a director of the board, officer of the board or employee of the board is grounds for removal or suspension of the director or officer and dismissal, demotion or suspension of the employee.**

**G. In addition to all other powers conferred by the Regional Spaceport District Act, the board may:**

- (1) adopt bylaws;**
- (2) fix the time and place of meetings and the method of providing notice of the meetings;**
- (3) make and pass orders and resolutions necessary for the government and management of the affairs of the district and the execution of the powers vested in the district;**

- (4) adopt and use a seal; and**
  - (5) appoint advisory committees and define the duties of the committees.**
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**5-16-6. POWERS OF THE DISTRICT.**

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

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

**(2) sue and be sued;**

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

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

**(5) construct, in connection with the authority, a regional spaceport within the boundaries of the district.**

**B. After the creation of a district, the board may include property within or exclude property from the boundaries of the district in the manner provided in this section. Property shall not be included within the boundaries of the district unless it is within the boundaries of the members of the combination at the time of the inclusion. Prior to inclusion of property in or exclusion of property from the boundaries of the district, the board shall cause notice of the proposed inclusion or exclusion to be published in a newspaper of general circulation within the boundaries of the district and cause the notice to be mailed to the authority. The notice shall:**

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

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

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

**C. The board shall hear all objections to the proposed inclusion or exclusion of property at the time and place designated in the notice. The board, upon the affirmative vote of two-thirds of the directors, may adopt a resolution including or excluding all or a portion of the property described in the notice. Upon the adoption of the resolution, the property shall be included within or excluded from the boundaries of the district as set forth in the resolution. The board may adopt the resolution without amending the district's enabling contract. The board shall file the resolution with the authority, which shall cause the resolution to be recorded in the real estate records of each county having territory included in the boundaries of the district.**

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

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**5-16-8. INVESTMENTS.** A board shall invest or deposit funds in accordance with the prudent investor rule set forth in the Uniform Prudent Investor Act. The board shall employ the state investment council to invest the funds and may pay reasonable compensation for investment management services from the assets of the applicable funds. The board shall keep accurate and complete records and accounts concerning the investment portfolio.

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**5-16-9. TAXATION.** A district has no direct taxation authority.

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

A. accept legitimate contributions or liens securing obligations of the district from the person with respect to the financing, planning, designing, engineering and construction of a regional spaceport and, in connection with a loan or advance, enter into contracts establishing the repayment terms;

B. enter into contracts regarding the financing, planning, designing, engineering and construction of a regional spaceport; and

C. enter into joint operating contracts with the authority concerning the financing, planning, designing, engineering and construction of a regional spaceport.

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**5-16-11. NOTICE; OPPORTUNITY FOR COMMENT.** At least seven business days prior to a regularly scheduled meeting, the board shall make available to the public written or electronic notice of the time and agenda of the meeting. The board shall designate during each meeting a public comment period and shall offer the public an opportunity to comment.

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**5-16-12. ADDITION OR WITHDRAWAL OF TERRITORY BY A DISTRICT.**

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A. After the creation of a district, a governmental unit adjacent to but not part of that district may join the district and determine the territorial area to become a part of that district. A two-thirds' affirmative vote by the board shall be required before the governmental unit may join the district.

B. A governmental unit that is a member of a district may withdraw from the district by adopting a resolution to withdraw. The governmental unit shall withdraw its representative from the board. Real property owned by the district within the boundaries of the withdrawing governmental unit shall remain the property of the district. The provisions of withdrawal shall be negotiated and agreed to by the board, the governmental unit and the authority.

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**5-16-13. USE OF REVENUE BY GOVERNMENTAL UNITS.** Each governmental unit that is a county or municipality and is a member of a combination shall have enacted a municipal regional spaceport gross receipts tax or a county regional spaceport gross receipts tax prior to December 31, 2008. At least seventy-five percent of the municipal regional spaceport gross receipts tax or county regional spaceport gross receipts tax revenues received by each governmental unit must be used by the district for the financing, planning, designing, engineering and construction of a regional spaceport. No more than twenty-five percent of the municipal regional spaceport gross receipts tax or county regional spaceport gross receipts tax revenues may be used by the governmental unit enacting the tax for spaceport-related projects as approved by resolution of the governmental unit.

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