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HOUSE BILL 589

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Teresa A. Zanetti

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; ENACTING THE ECONOMIC DEVELOPMENT CORPORATION ACT; CREATING A NONPROFIT CORPORATION, SEPARATE AND APART FROM THE STATE, TO CARRY OUT ECONOMIC DEVELOPMENT ACTIVITIES PURSUANT TO A CONTRACT WITH THE ECONOMIC DEVELOPMENT DEPARTMENT; MAKING AN APPROPRIATION.

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

Section 1. SHORT TITLE. -- This act may be cited as the "Economic Development Corporation Act".

Section 2. PURPOSES. -- The purposes of the Economic Development Corporation Act are to:

A. promote, stimulate, develop and advance business, prosperity, employment and economic welfare in the state and among its citizens;

B. encourage and assist the location of new

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1 business and industry in this state and the rehabilitation and
2 expansion of existing business and industry;

3 C. cooperate and act in conjunction with other
4 organizations, public or private, in the promotion and
5 advancement of industrial, commercial, agricultural and
6 recreational developments in the state; and

7 D. provide for the creation of a nonprofit
8 corporation with the responsibility to work with communities
9 throughout New Mexico in effectuating these purposes in a
10 manner that can be quantified and measured.

11 Section 3. ADELANTE NEW MEXICO! -- CORPORATION AUTHORIZED --
12 BOARD OF DIRECTORS -- ORGANIZATION -- LIMITATION OF LIABILITY. --

13 A. The "Adelante New Mexico!" corporation, a
14 nonprofit organization to provide economic development services
15 to the state, is authorized to be organized and formed under
16 the provisions of the Nonprofit Corporation Act and the
17 Economic Development Corporation Act.

18 B. Adelante New Mexico! shall be governed by a
19 board of directors composed of fifteen members as follows:

- 20 (1) the secretary of economic development;
- 21 (2) one economic development professional,
22 appointed by the governor, from each regional planning
23 district, provided that no more than four of the economic
24 development professionals shall be members of the same
25 political party; and

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1 (3) one professional businessperson, appointed
2 by the governor, from each regional planning district, provided
3 that no more than four of the professional businesspersons
4 shall be members of the same political party.

5 C. The board of directors shall elect a chairman
6 and such other officers as the board deems necessary.

7 D. The board of directors shall adopt bylaws, in
8 accordance with the provisions of the Nonprofit Corporation
9 Act, governing the conduct of Adelante New Mexico! in the
10 performance of its duties under the Economic Development
11 Corporation Act.

12 E. The board of directors shall hire a president
13 who shall be the chief administrative officer of Adelante New
14 Mexico! and be responsible for its operations.

15 F. A director, the president or another officer
16 shall not be personally liable for any damages resulting from:

17 (1) any negligent act or omission of an
18 employee of Adelante New Mexico!;

19 (2) any negligent act or omission of another
20 director or officer of Adelante New Mexico!; or

21 (3) any action taken as a director or officer
22 or a failure to take any action as a director or officer unless
23 the director or officer has breached or failed to perform the
24 duties of his office and the breach or failure to perform
25 constitutes willful misconduct or recklessness.

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1 Section 4. **ADELANTE NEW MEXICO! -- POWERS. --** Adelante New
2 Mexico! shall have the powers conferred upon domestic nonprofit
3 corporations by the Nonprofit Corporation Act unless otherwise
4 specified in the Economic Development Corporation Act and shall
5 also have the power to:

6 A. sue and be sued in its corporate name;

7 B. purchase, take, receive or otherwise acquire;
8 own, hold, dispose of or use; and otherwise deal in and with
9 property, including an interest in or ownership of intangible
10 personal property, intellectual property or technological
11 innovations;

12 C. sell, convey, pledge, exchange, transfer or
13 otherwise dispose of its assets and properties for
14 consideration upon terms and conditions that the corporation
15 shall determine;

16 D. make contracts, incur liabilities or borrow
17 money at rates of interest that the corporation may determine;

18 E. make and execute all contracts, agreements or
19 instruments necessary or convenient in the exercise of the
20 powers and functions granted the corporation by the Economic
21 Development Corporation Act;

22 F. receive and administer grants, contracts and
23 private gifts;

24 G. invest and reinvest its funds;

25 H. conduct its activities, carry on its operations,

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1 have offices and exercise the powers granted by the Economic
2 Development Corporation Act;

3 I. employ officers and employees that it deems
4 necessary, set their compensation and prescribe their duties;

5 J. enter into agreements with insurance carriers to
6 insure against any loss in connection with its operations;

7 K. authorize retirement programs and other benefits
8 for salaried officers and employees of Adelante New Mexico!;
9 and

10 L. contract with economic development experts and
11 other experts and consultants that may be required and to fix
12 and pay their compensation.

13 Section 5. ADELANTE NEW MEXICO!-- DUTIES.-- Pursuant to
14 policies established by its board of directors and as directed
15 by its president, Adelante New Mexico! shall:

16 A. establish relationships with communities
17 throughout New Mexico in order to understand their economic
18 development goals;

19 B. work for those communities in recruiting the
20 types of businesses and jobs that have been identified by the
21 communities;

22 C. solicit economic development funds from federal
23 and private sources;

24 D. solicit and sell memberships to businesses and
25 businesspersons who desire to participate in Adelante New

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1 Mexico! and its programs;

2 E. participate in economic development conferences
3 and job fairs in order to educate businesses throughout the
4 country and the world on the economic benefits and other
5 attractions of New Mexico;

6 F. sponsor such forums and conferences as are
7 necessary in order to empower New Mexico businesses and
8 citizens with those business skills needed to compete in a
9 worldwide economy; and

10 G. perform such other activities as are needed to
11 further the purposes of the Economic Development Corporation
12 Act.

13 Section 6. APPLICATION OF OTHER LAWS. --

14 A. Adelante New Mexico! is separate and apart from
15 the state and shall not be deemed an agency, public body or
16 other political subdivision of New Mexico for purposes of
17 applying laws relating to personnel, procurement of goods and
18 services, meetings of the board of directors, gross receipts
19 tax, disposition or acquisition of property, capital outlays,
20 per diem and mileage and inspection of records.

21 B. Adelante New Mexico!, its officers, directors
22 and employees shall be granted immunity from liability for any
23 tort as provided in the Tort Claims Act and may enter into
24 agreements with insurance carriers to insure against a loss in
25 connection with its operations even though the loss may be

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1 included among losses covered by the risk management fund of
2 New Mexico.

3 Section 7. APPROPRIATION-- CONTRACT WITH ADELANTE NEW
4 MEXICO!.. --

5 A. Three million dollars (\$3,000,000) is
6 appropriated from the general fund to the economic development
7 department for expenditure in fiscal year 2004 for the purpose
8 of contracting with Adelante New Mexico! to exercise powers and
9 perform duties pursuant to the Economic Development Corporation
10 Act. Any unexpended or unencumbered balance remaining at the
11 end of fiscal year 2004 shall revert to the general fund. The
12 contract shall contain such provisions and reporting
13 requirements as necessary to assure the department that all
14 expenditures pursuant to the contract will further the purposes
15 of the Economic Development Corporation Act.

16 B. The provisions of the Procurement Code shall not
17 apply to the contract entered into pursuant to Subsection A of
18 this section.