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SENATE BILL 83

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Stuart Ingle

FOR THE CAPITOL BUILDINGS PLANNING COMMISSION

AN ACT

RELATING TO STATE FACILITIES; REQUIRING STATE AGENCIES TO
SUBMIT FIVE-YEAR FACILITIES MASTER PLANS; PROVIDING FOR PLAN
GUIDELINES; PROVIDING ADDITIONAL DUTIES FOR THE PROPERTY
CONTROL DIVISION OF THE GENERAL SERVICES DEPARTMENT;
AUTHORIZING SHORT-TERM SEVERANCE TAX BONDS TO BE ISSUED;
RECONCILING CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW
IN LAWS 2001 BY REPEALING LAWS 2001, CHAPTER 293, SECTION 1;
MAKING APPROPRIATIONS; DECLARING AN EMERGENCY.

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

SECTION 1. Section 6-4-1 NMSA 1978 (being Laws 1975,
Chapter 282, Section 3, as amended) is amended to read:

"6-4-1. CAPITAL PROGRAMS--PREPARATION--DUTIES.--

A. The department of finance and administration and
the property control division of the general services

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1 department shall jointly prepare [~~amend and maintain a four-~~
2 ~~year program of major state capital improvement projects~~
3 ~~recommended to be undertaken by the state or to be undertaken~~
4 ~~with state aid or under state regulation]~~ and annually update a
5 five-year program for all state capital improvement projects,
6 which program shall be submitted to the governor and
7 legislature by November 1 of each year. The program shall
8 [~~classify~~] prioritize projects with respect to urgency and need
9 [~~for realization~~] and [~~it~~] shall recommend a time sequence for
10 construction. The program shall [~~also contain the contract~~
11 ~~price or estimated cost of each project and it shall indicate~~
12 ~~probable operating and maintenance costs and probable revenues,~~
13 ~~if any, as well as existing sources of funds or the need for~~
14 ~~additional sources of funds for the construction and operation~~
15 ~~of each project]~~ further classify the projects into:

16 (1) those projects for which the initial
17 planning and design phase has been completed and approved by
18 the appropriate planning entity and that are awaiting
19 consideration by the legislature and appropriation for the full
20 project costs; and

21 (2) those projects requesting funding for the
22 initial planning and design phase for which the programming,
23 delivery method, partial schematic design and construction cost
24 estimates have not been determined or completed.

25 B. Heads of departments and other agencies of the

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1 state shall transmit to the department of finance and
2 administration, in the form and content prescribed by the
3 property control division of the general services department,
4 on July 1 of each year, a [~~statement of all~~] plan for proposed
5 capital improvement projects [~~proposed~~] for the ensuing [~~four~~]
6 five years for review and recommendation to the governor with
7 respect to inclusion in the state capital program [~~of the~~
8 state]. A state agency required to develop a facilities master
9 plan pursuant to Section 6-4-1.1 NMSA 1978 shall submit its
10 plan for proposed capital projects as part of its facilities
11 master plan or update to that master plan."

12 SECTION 2. A new Section 6-4-1.1 NMSA 1978 is enacted to
13 read:

14 "6-4-1.1. [NEW MATERIAL] FACILITIES MASTER PLANS--
15 GUIDELINES.--

16 A. Each state agency shall annually develop or
17 update a five-year facilities master plan that describes all
18 capital projects proposed for the ensuing five years and
19 contains such other information as required by the property
20 control division of the general services department pursuant to
21 Subsection B of this section. The facilities master plan shall
22 be submitted to the department of finance and administration on
23 July 1 of each year pursuant to Section 6-4-1 NMSA 1978.

24 B. The property control division shall prescribe
25 the form and content of facilities master plans for state

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1 agencies to follow in the preparation of the master plans,
2 consistent with the capitol buildings planning commission
3 master plans and comprehensive planning principles. The
4 property control division shall provide technical assistance to
5 state agencies in the development of their facilities master
6 plans. The guidelines shall include:

- 7 (1) guidelines for development of the
8 facilities master plans;
- 9 (2) requirements for preventive and deferred
10 maintenance plans, including standards for facility maintenance
11 plans;
- 12 (3) a ranking system to determine priority
13 capital projects for state facilities;
- 14 (4) space and energy efficiency standards for
15 state facilities;
- 16 (5) life-cycle costing models for existing and
17 proposed state facilities; and
- 18 (6) any other requirements that may assist the
19 department of finance and administration, the property control
20 division, the governor and the legislature in assessing needs
21 and establishing priorities for including state capital
22 projects in the state capital program.

23 C. As used in this section, "state agency" means
24 any department, institution, board, bureau, commission,
25 district or committee of state government except:

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1 (1) political subdivisions of the state;
2 (2) institutions under the jurisdiction of the
3 higher education department;

4 (3) the state transportation commission and
5 the department of transportation in regard to facilities used
6 directly for the transportation of natural resources,
7 manufactured products or passengers, including communication
8 and transportation structures and other facilities necessary
9 for the operation of those facilities; provided that the state
10 transportation commission and the department of transportation
11 are each a "state agency" as used in this section in regard to
12 facilities that are used for administrative purposes by those
13 entities and are intended to provide work space for commission
14 and department officers and employees, including buildings and
15 the appurtenances, improvements, real estate, parking,
16 utilities and access roads associated with a building and
17 undeveloped or developed real estate that is intended for
18 improvement for administrative purposes;

19 (4) independent authorities specifically
20 exempted from laws governing state agencies;

21 (5) public schools and charter schools; and

22 (6) the public school facilities authority
23 when the authority acquires property pursuant to the Public
24 School Capital Outlay Act."

25 SECTION 3. Section 9-6-5.1 NMSA 1978 (being Laws 1983,
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1 Chapter 296, Section 7) is amended to read:

2 "9-6-5.1. PLANNING POWERS AND DUTIES OF SECRETARY OF
3 FINANCE AND ADMINISTRATION.--The secretary of [~~the department~~
4 ~~of~~] finance and administration, in addition to the other powers
5 and duties conferred:

6 A. shall review federal grant applications and
7 provide management assistance;

8 B. shall coordinate, in accordance with directives
9 from the governor's office of policy and planning, state agency
10 plans for economic, natural resource, energy resource and human
11 resource development;

12 C. shall provide aid to planning and development
13 districts in developing grant proposals and cooperate with
14 other local entities in developing grant proposals;

15 D. shall [~~acquire~~] receive, study and review all
16 plans for capital projects proposed by state agencies pursuant
17 to Section 6-4-1 NMSA 1978 and render advice on the plans. The
18 secretary shall maintain long-range estimates and plans for
19 capital projects [~~and develop standards for measuring the need~~
20 ~~for and utility of proposed projects~~];

21 E. may contract for, receive and utilize any grants
22 or other financial assistance made available by the United
23 States government or by any other source, public or private;

24 F. may provide planning and funding assistance to
25 units of local government, council of government organizations,

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1 Indian tribal governments situated within New Mexico and ~~[to]~~
2 nonprofit entities having for their purpose local, regional or
3 community betterment. The secretary, incident to any such
4 programs, may enter into contracts and agreements with such
5 units of local government, council of government organizations,
6 Indian tribal governments, nonprofit entities and the federal
7 government and may participate in or receive aid from any
8 federal or private program in relation to such a planning
9 program or assistance;

10 G. shall confer with the state budget division of
11 the department of finance and administration in developing
12 comprehensive plans to assure coordination of planning and
13 budgeting functions;

14 H. shall coordinate the state clearinghouse review
15 process;

16 I. shall develop a status of the state report;

17 J. shall review and coordinate comment by state
18 agencies on draft environmental impact statements;

19 K. shall provide community development block grant
20 technical assistance to local governments;

21 L. shall administer, in consultation with and upon
22 advice and direction from the community development block grant
23 policy committee, the program for the state community
24 development block grant program;

25 M. shall serve as staff to the New Mexico

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1 association of regional councils;

2 N. shall maintain a state planning library; and

3 O. shall provide planning assistance to county and
4 multi-county districts relative to application by such
5 districts for financial assistance and for regional plan
6 development."

7 SECTION 4. Section 15-3B-4 NMSA 1978 (being Laws 1978,
8 Chapter 166, Section 14, as amended by Laws 2001, Chapter 293,
9 Section 1 and by Laws 2001, Chapter 319, Section 4) is amended
10 to read:

11 "15-3B-4. DIVISION--DUTIES--FEDERAL FUNDS.--

12 A. The division shall:

13 (1) unless otherwise specified by law, assign
14 the use or occupancy of state buildings and lands under its
15 jurisdiction to the state agency or political subdivision that
16 may make the best and highest beneficial use of the property;

17 (2) regulate the use or occupancy of buildings
18 and real property under its jurisdiction and make reasonable
19 requirements for the continuation of that use or occupancy;

20 (3) regulate the lease purchase of buildings
21 or other real property by state executive agencies, except the
22 state land office;

23 [~~3~~] (4) establish space standards for
24 buildings under its jurisdiction;

25 [~~4~~] (5) have custody of all maps, deeds,

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1 plats, plans, specifications, contracts, books and other papers
2 connected with state buildings under its jurisdiction;

3 [~~(5)~~] (6) secure copies of all documents of
4 title to all real property under its jurisdiction held in the
5 name of the state or for the use of the state, and index those
6 documents so that the status of real property held by the state
7 under its jurisdiction can be readily ascertained;

8 [~~(6)~~] (7) control the lease or rental of space
9 in private buildings by state executive agencies other than the
10 state land office, including inspection for code compliance and
11 life and safety issues. The director may act as lessee on
12 behalf of a state agency if the division determines it is in
13 the best interest of the state;

14 [~~(7)~~] (8) make rules for the conduct of all
15 persons in and about buildings and grounds under its
16 jurisdiction necessary and proper for the safety, care and
17 preservation of the buildings and grounds and for the safety
18 and convenience of the persons while they are in and about the
19 buildings and grounds;

20 [~~(8)~~] (9) have the power to sell state
21 buildings and real property under its jurisdiction in
22 accordance with Sections 13-6-2 and 13-6-3 NMSA 1978. Any such
23 sale shall be by quitclaim deed;

24 [~~(9)~~] (10) have the power to purchase title
25 insurance or a title opinion in conjunction with the sale of

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1 state buildings or land;

2 [~~(10)~~] (11) have the power to enter into
3 contracts for the improvement, alteration and reconstruction of
4 the state buildings under its jurisdiction, including the
5 governor's residence, and for the design and construction of
6 additional buildings, to the extent funds are available;

7 [~~(11)~~] (12) develop long-range programs for
8 the continuing preservation and repair of buildings and
9 improvements and for beautification of grounds and premises
10 under its jurisdiction;

11 [~~(12)~~] (13) conduct continuing review and
12 analysis of requirements for additional structures and
13 facilities to house state agencies;

14 [~~(13)~~] (14) ensure that on-site inspections of
15 capital projects are conducted to verify that construction
16 specifications are being met; [~~and~~

17 ~~(14)~~ (15) receive gifts, grants and donations
18 from the federal government or other sources for the public
19 buildings repair fund;

20 (16) prescribe guidelines for state agencies
21 to use in preparing five-year facilities master plans pursuant
22 to Section 6-4-1.1 NMSA 1978; and

23 (17) in conjunction with the department of
24 finance and administration, prepare and submit a five-year
25 program for all state capital improvement projects pursuant to

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1 Section 6-4-1 NMSA 1978.

2 B. The provisions of this section are subject to
3 federal law or rules if the buildings or property was purchased
4 with federal funds.

5 C. The division and a state agency or institution
6 that controls property exempt from the jurisdiction of the
7 division may enter into a joint powers agreement pursuant to
8 the Joint Powers Agreements Act giving the division the power
9 to exercise control of the property as specified in the
10 agreement."

11 SECTION 5. [NEW MATERIAL] SHORT-TERM SEVERANCE TAX BONDS
12 AUTHORIZED--APPROPRIATION OF PROCEEDS.--

13 A. In addition to the bonds issued pursuant to
14 Section 7-27-14 NMSA 1978 and notwithstanding the limitations
15 of that section, in compliance with the Severance Tax Bonding
16 Act, in fiscal year 2012, the state board of finance may issue
17 and sell severance tax bonds with a term that does not extend
18 beyond the fiscal year in which they are issued in an amount
19 not exceeding three million three hundred thousand dollars
20 (\$3,300,000) when the director of the property control division
21 of the general services department certifies the need for the
22 issuance of the bonds.

23 B. Two million three hundred thousand dollars
24 (\$2,300,000) of the proceeds from the sale of the bonds issued
25 pursuant to Subsection A of this section is appropriated to the

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1 capital program fund to conduct a facility condition assessment
2 of all state facilities, excluding political subdivisions of
3 the state and independent authorities specifically exempted
4 from laws governing state agencies, facilities under the
5 jurisdiction of the higher education department, public school
6 facilities and department of transportation facilities that are
7 used for nonadministrative purposes.

8 C. One million dollars (\$1,000,000) of the proceeds
9 from the sale of the bonds issued pursuant to Subsection A of
10 this section is appropriated to the property control division
11 to conduct facilities master planning with state agencies to
12 develop and design five-year facilities master plans and
13 updates for the state capital program.

14 D. No severance tax bonds shall be issued pursuant
15 to this section unless the balance in the severance tax bonding
16 fund as of the date that the bonds are issued is greater than
17 the sum of:

18 (1) the debt service on the severance tax
19 bonds to be issued pursuant to this section;

20 (2) the debt service scheduled to be paid
21 during the remainder of the fiscal year on all outstanding
22 severance tax bonds and supplemental severance tax bonds; and

23 (3) the amount necessary to meet all principal
24 and interest payments on outstanding bonds payable from the
25 severance tax bonding fund on the next two ensuing semiannual

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payment dates.

SECTION 6. REPEAL.--Laws 2001, Chapter 293, Section 1 is repealed.

SECTION 7. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately.