

LFC Requester:	Julisa Rodriguez
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

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SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date 2/2/24
Bill No: HB 307

Sponsor: Lara
Short Title: Border Authority Members & Oversight

Agency Name and Code Border Authority 417
Number: _____
Person Writing Joe De La Rosa
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
	\$50	R	GF

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Relates to HB 13 (2023)
Duplicates/Relates to Appropriation in the General Appropriation Act:

\$603.7 agency budget recommendation in HB 2

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

House Bill 307 (HB307) eliminates the Border Authority’s administrative attachment to the Economic Development Department (EDD) and establishes the Border Authority as an adjunct agency under a provision of the Executive Reorganization Act, 9-1-6 NMSA 1978. The bill provides for six voting members of the Authority (rather than seven), four appointed by the Legislature and two by the Governor, and an executive committee composed of the chair and three other members appointed by the chair. The bill removes the executive director of the Authority as a nonvoting member of the committee. HB307 also removes the Lieutenant Governor as an ex-officio non-voting member of the Authority. It transfers assets of EDD related to the duties of the Authority to the adjunct agency.

The bill appropriates \$50,000 (from the general fund) to the Authority for FY2025 and in subsequent years from the General Fund, non-reverting.

Border authority membership is reduced from seven gubernatorial appointees, including the chair of designee of the EDD, to six appointed as indicated below, all of whom must all be citizens of the state and serve staggered terms as currently provided. Members are appointed as follows:

- One by the Speaker of the House
- One by the President Pro Tem of the Senate
- One by the Minority Floor Leader of the Senate
- One by the Minority Floor Leader of the House
- Two by the Governor.

Vacancies are filled by the original appointing authority. The Secretary of EDD is removed from membership. The Chair and Vice Chair are selected from among the membership by Authority members “as it deems necessary.”

FISCAL IMPLICATIONS

The proposed legislation includes an appropriation of \$50 thousand dollars for expenses related to establishing the border authority as an adjunct agency separate from EDD. It is not known what the actual expenses for establishing the adjunct agency would be. EDD does not currently

have a detailed accounting of what current administrative costs are for the Border Authority.

It is not known whether \$50 thousand is enough to cover independent administrative costs for the Border Authority.

Currently the Border Authority has a staff of four full-time employees (FTEs). Two are Gov-Ex and two are classified. As a result, the Authority relies on EDD staff for administrative support related to issues such as procurement, contracts, human resources/personnel matters, and general administrative functions not assigned to the financial coordinator, commissions and boards coordinator, or the executive director or deputy executive director.

Additionally, the Authority utilizes legal counsel from the Attorney General's Office, but counsel is only provided in support of official Board business and does not provide counsel to staff. As a result, the Border Authority as an adjunct agency would need to contract outside legal counsel.

SIGNIFICANT ISSUES

HB 307 utilizes 9-1-6 NMSA 1978 of the Executive Reorganization Act to remove the Border Authority from an administrative attachment to EDD. The purpose of the Executive Reorganization Act is "to allow for more efficient management of the executive branch by creating an executive cabinet composed of secretaries of departments; to eliminate overlapping and duplication of effort; and to provide for administrative and budgetary controls within this organizational structure..." NMSA 1978, Section 9-1-2.

It is not clear how, if at all, removing the Border Authority from an administrative attachment to EDD allows for more efficient management, eliminates overlapping/duplication of efforts, or improves administrative or budgetary controls.

Additionally, this legislation may create a disruption of governmental services and functions, create unnecessary expenses, and specifically conflict with current projects and other business pending before the current Border Authority as an entity.

HB 307 removes the ability of the Executive to appoint members to an agency which was created to "advise the governor and the governor's staff and the New Mexico finance authority oversight committee on methods, proposals, programs and initiatives involving the New Mexico-Chihuahua border area that may further stimulate the border economy and provide additional employment opportunities for New Mexico citizens". NMSA 1978, § 58-27-10(A)(1). If enacted, HB 307 creates an executive branch agency, with a majority of members appointed by the legislature, subject to legislative oversight, to advise the executive branch on matters under the purview of the Governor.

PERFORMANCE IMPLICATIONS

With a staff of only four, the Border Authority relies on the support of EDD within the established purposes of the Executive Reorganization Act. Namely, the Border Authority being administratively attached to a cabinet agency serves the purposes of:

- (1) advise the governor on problems of state government;
- (2) establish liaison and provide communication between the executive departments and state elected officials;
- (3) investigate problems of public policy;

- (4) study government performance and recommend methods of interagency cooperation;
 - (5) review policy problems and recommend solutions;
 - (6) strive to minimize and eliminate overlapping jurisdictions and conflicts within the executive branch; and
 - (7) assist the governor in defining policies and programs to make the government responsive to the needs of the people.
- NMSA 1978, §9-1-3(B).

It would be difficult if not impossible for the Border Authority to perform at this level without being attached to a Cabinet Agency.

ADMINISTRATIVE IMPLICATIONS

The Border Authority is an agency with only four staff members. There are no particular requirements/qualifications required for two of the four staff members, and by removing the attachment to the Economic Development Department, effective public administration would be challenging.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

TECHNICAL ISSUES

Unknown if the legislative intent of the Executive Reorganization Act is applied in HB307.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

A more detailed review of the costs and steps required to separate the Border Authority from EDD could be undertaken in the interim without this legislation in place.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS