

Requirements for Regional Transit District Certification

As required by the
New Mexico Regional Transit District Act

Prepared for the
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In 2003, New Mexico Governor Bill Richardson signed into law Senate Bill 34, the “Regional Transit District Act.” This legislation authorized the creation of regional transit districts in the State of New Mexico and outlined their powers and duties.

The following is a summary of the legal requirements necessary to certify a Regional Transit District in New Mexico.

For more information please contact the New Mexico Department of Transportation’s Public Transportation Programs Bureau at (505) 827-1577.

The Regional Transit District Act Section Overview

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Creation of Transit Districts

Who can enter into a contract to form a Regional Transit District (RTD)?

A Combination: Two or more **governmental units** which exercise joint authority to form an RTD

What constitutes a Governmental Unit?

- 🚍 The State of New Mexico
- 🚍 County
- 🚍 Municipality of the State
- 🚍 Indian nation, tribe or pueblo located within the boundaries of the State

How is a Regional Transit District created?

- 🚍 Upon the issuance of a certification by the New Mexico Transportation Commission that a District has been duly formed under the Regional Transit District Act (RTDA – NMSA 78 73-25)
- 🚍 The District may exercise the functions conferred by the RTDA
- 🚍 The New Mexico Transportation Commission shall issue a certification within 30 days from filing a completed contract
- 🚍 The New Mexico Transportation Commission shall cause certification to be recorded in each county included in the boundaries of the District
- 🚍 Upon issuance of a certification, a District shall constitute a separate political entity

Regional Transit District Requirements for Certification


What elements have to be included in a RTD Contract for the New Mexico Transportation Commission?


- 🚍 The name and purpose of the District
- 🚍 Establishment and organization of the board of directors in which the legislative power of the RTD is vested
- 🚍 Manner of the appointment, term of service and qualifications (if any) of the Directors
- 🚍 Officers of the District, the method of their appointment, and their duties
- 🚍 Voting requirements for action by the Board of Directors
- 🚍 Provision for distribution, disposition, or division of the assets of the District





The contract shall also specify:

 The Boundaries of the District

 Which shall not include territory outside the boundaries of the members of the District without the consent of the governing body of the governmental unit of the territory


 OR Territory within the unincorporated boundaries of a county that is not a member of the District as the boundaries of the county exist on the date the District is created without the consent of the governing body of the affected county.

 Term of the contract and method by which it may be terminated or rescinded


 The contract may not be terminated or rescinded as long as the District has bonds outstanding.


 Provisions for amending the contract

 Limitations on the powers granted by the RTDA which may be exercised by the District

 Conditions required when adding or deleting parties to the Contract

Are there additional requirements for governmental units that want to enter into a RTD contract?

 A governmental unit shall not enter into a contract establishing a district without holding at least one public hearing 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


Can the State of New Mexico join a RTD?

Upon the approval of the governor, 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 the director or directors representing the state on the board, for a term as established by the contract that created the district.











Regional Transit District Board Requirements

What are the legislative requirements for the RTD Board?

 All powers, privileges, and duties vested in or imposed upon the District shall be exercised by the Board of Directors. The Board of Directors may delegate its powers by resolution to an officer or agent except for:












 Adoption of Board policies and procedures



-  Ratification of acquisition of land by negotiated sale
 -  Initiation or continuation of legal action
 -  Establishment of policies regarding fees, tolls, rates or charges
 -  Approval of route or schedule changes affecting more than 25% of a transit system
 -  Issuance of bonds
-  Only elected officials shall be able to vote on resolutions on acquisition of land and issuance of bonds
 -  The Board of Directors shall promulgate and adhere to policies and procedures that govern its conduct, and provide meaningful opportunities for public input; this includes standards and procedures for calling an emergency meeting.
 -  The Board of Directors shall be composed of at least one Director from each member governmental unit. The director shall be an elected official or designee. No single governmental unit shall have a majority of membership on the Board unless the District has three or fewer participating entities.
 -  A Director shall not vote on an issue in which the Director has a conflict of interest as defined in the RTDA.
 -  The Attorney General shall investigate and prosecute, when appropriate, a complaint involving conflict of interest violations.

Other Board Powers

The Board may:

-  Adopt bylaws
-  Fix the time and place of meetings and the method of providing meeting notice
-  Make and pass orders and resolutions necessary for governing and managing the District and executing the powers vested in the District
-  Adopt and use a seal
-  Maintain offices at a place designated by the Board of Directors
-  Appoint, hire and retain employees, advisors, bankers, agents or other consultants
-  Appoint advisory committees and define the duties of committees
-  Prescribe in according with the Procurement Code, methods of auditing and allowing/rejecting claims and demands for:
 -  Awarding contracts
 -  Acquisition of equipment
 -  Performance or furnishing of materials or supplies



Powers of the District

Once a Regional Transit District is certified, what legal powers will it have?

- 🚌 A District is a body politic and corporate. In addition to other powers granted to the District by the RTD Act, a District:
 - 🚌 May have perpetual existence except as otherwise provide in the contract.
 - 🚌 May sue and be sued.
 - 🚌 Enter into contracts/agreements affecting the affairs of the RTD.
 - 🚌 Establish and change the fees, rates, or charges for the use of its property or services.
 - 🚌 Pledge all or a portion of the revenues to the payment of bonds.
 - 🚌 Finance, construct, operate or maintain regional transit systems within the District boundaries.
 - 🚌 Purchase, trade, exchange, lease, dispose of and encumber real property including easements and rights of way.
 - 🚌 Accept real or personal property for the use of the District. Accept gifts or conveyances approved by the Board of Directors.
 - 🚌 Use public ways or private property with permission of the owner for the construction, maintenance and operation of District operated transit services.
 - 🚌 Provide transportation services outside the boundaries of the RTD.

- 🚌 After the creation of a District, the Board of Directors may include property within or exclude property from the boundaries of the District:

Property in non-member entities within the boundaries of the District may be included with the approval of the governing body of the governmental unit affected.

The RTD shall cause notice to be published in local newspapers and sent to the Transportation Commission.

Notice shall include a description of the property and the date, time, and location of a Public Hearing not less than 20 days after publication of Notice.

Board shall approve by 2/3 vote whether property is included/excluded.

Will the RTD have taxing authority?

RTD's currently have no direct taxation authority.



Will the RTD be exempt from taxation?

The income or other revenues of a district, all properties at any time owned by a district, all bonds issued by a district and the income from the bonds issued by a district are exempt from taxation in the state.

Bonds

Will the RTD be able to issue bonds?

- 🚌 A district may issue bonds solely for the purpose of financing the purchase, construction, renovation, equipping or furnishing of a regional transit system project. The district shall issue the 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. Proceeds of the bonds may be used to pay expenses incurred in the preparation, issuance and sale of the bonds.

As provided in the resolution of the board under which the bonds are authorized to be issued, the bonds shall:

- be executed and delivered by the district;
- be in a form and denomination and include terms and maturities;
- be subject to optional or mandatory redemption prior to maturity with or without a premium;
- be in fully registered form or bearer form registrable as to principal or interest or both;
- bear conversion privileges; (6) be payable in installments and at a time not exceeding forty years from the date of issuance;
- be payable within or outside the state;
- have the principal paid in yearly amounts beginning not later than two years from the date of issuance of the bonds;
- be subject to purchase at the option of the holder or the district;
- be executed by the officers of the district, including the use of one or more facsimile signatures so long as at least one manual signature appears on the bonds, which signatures may be either of an officer of the district or of an agent authenticating the same;
- be in the form of coupon bonds that have attached interest coupons bearing a manual or facsimile signature of an officer of the district; and
- be sold at a net effective interest rate not exceeding the maximum net effective interest rate permitted by the Public Securities Act.

- 🚌 Bonds may be sold at public or private sale at a price, in a manner and at a time determined by the board, and the board may pay all fees, expenses and commissions that it deems necessary or advantageous in connection with the sale of the bonds. The power to fix the date



of sale of the bonds, receive bids or proposals, award and sell bonds, fix interest rates and take all other action necessary to sell and deliver the bonds may be delegated to an officer or agent of the district. Outstanding bonds may be refunded by the district as provided in the Public Securities Act.

- ☞ A resolution authorizing the issuance of bonds may pledge all or a portion of the revenues of the district, may contain a provision for protecting and enforcing the rights and remedies of holders of the bonds as the district deems appropriate, may set forth the rights and remedies of the holders of the bonds and may contain provisions that the district deems appropriate for the security of the holders of the bonds.
- ☞ A pledge of revenues or property made by a district or by a person or governmental unit with which a district contracts shall be valid and binding from the time the pledge is made. The revenues or property so pledged shall immediately be subject to the lien of the pledge without a physical delivery or further act, and the lien of the pledge shall be valid and binding against all parties having claims in tort or contract or otherwise against the pledging party, irrespective of whether the claiming party has notice of the lien.
- ☞ Neither the directors of the board, employees of the district or a person executing the bonds shall be liable personally on the bonds or subject to personal liability or accountability by reason of the issuance of the bonds.
- ☞ A district may purchase its bonds out of available funds and may hold, pledge, cancel or resell the bonds subject to and in accordance with agreements with the holders.
- ☞ Bonds shall be payable solely from pledgeable revenue and shall not constitute an indebtedness or general obligation of the district, the state or other political subdivisions of the state.
- ☞ The form and terms of bonds shall be approved by the state board of finance before issuance of the bonds.

Cooperative Powers




Are there additional powers of a RTD?

- ☞ Accept legitimate contributions or liens securing obligations of the District from persons to finance, construct, operate or maintain regional transit system.
- ☞ Enter into contracts regarding the financing, construction operation or maintaining of specified regional transit systems.
- ☞ Enter into joint operating agreements concerning regional transit systems.
- ☞ Acquire easements or rights of way for regional transit.
- ☞ Designate a regional transit system as part of the State, County or Municipal highway system with approval of the applicable jurisdiction.







Governmental Unit Powers

A governmental unit, for the purpose of aiding the financing, construction, operation or maintenance of a regional transit system, may:

-  Sell, lease, donate, transfer or dispose of real or personal property or interest therein to the RTD.
-  Enter into agreements with a person for the joint financing, construction, operation or maintenance of a regional transit system.
-  Transfer to the District a contract awarded by the governmental units for the construction, operation or maintenance of a regional transit system.

Addition/Withdrawal of Territory

How do governmental units join or withdraw from a RTD?

-  Governmental units adjacent to the RTD may join the District and determine the territorial area to be included in the District. The applying governmental units must receive a 2/3 majority vote of the District's Board of Directors to become a member.
-  A governmental unit may withdraw from the District by adopting a resolution to withdraw.
-  Any real property owned within the withdrawing governmental unit shall remain the property of the RTD.
-  Provisions of withdrawal shall be negotiated among the Board, the governmental unit withdrawing, and the Transportation Commission.

Matching Funds

The local government members of a combination shall match at least one dollar for every four dollars provided by the state. Before a District is able to receive state matching funds, it must be certified by the Transportation Commission.

