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HOUSE BILL 592

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

INTRODUCED BY

Anna M. Crook

AN ACT

RELATING TO LOCAL ECONOMIC DEVELOPMENT; EXEMPTING CERTAIN  
INFORMATION RELATED TO LOCAL ECONOMIC DEVELOPMENT FROM THE  
INSPECTION OF PUBLIC RECORDS ACT; DEFINING "ECONOMIC  
DEVELOPMENT CORPORATION", "INCENTIVE INFORMATION" AND  
"PROPRIETARY TECHNICAL OR BUSINESS INFORMATION".

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

SECTION 1. Section 5-10-3 NMSA 1978 (being Laws 1993,  
Chapter 297, Section 3, as amended) is amended to read:

"5-10-3. DEFINITIONS.--As used in the Local Economic  
Development Act:

A. "arts and cultural district" means a developed  
district of public and private uses that is created pursuant to  
the Arts and Cultural District Act;

B. "cultural facility" means a facility that is

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1 owned by the state, a county, a municipality or a qualifying  
2 entity that serves the public through preserving, educating and  
3 promoting the arts and culture of a particular locale,  
4 including theaters, museums, libraries, galleries, cultural  
5 compounds, educational organizations, performing arts venues  
6 and organizations, fine arts organizations, studios and media  
7 laboratories and live-work housing facilities;

8 C. "department" means the economic development  
9 department;

10 D. "economic development corporation" means a  
11 corporation designated as a local economic development  
12 corporation by the department or a local government's governing  
13 body;

14 [~~D-~~] E. "economic development project" or "project"  
15 means the provision of direct or indirect assistance to a  
16 qualifying entity by a local or regional government and  
17 includes the purchase, lease, grant, construction,  
18 reconstruction, improvement or other acquisition or conveyance  
19 of land, buildings or other infrastructure; public works  
20 improvements essential to the location or expansion of a  
21 qualifying entity; payments for professional services contracts  
22 necessary for local or regional governments to implement a plan  
23 or project; the provision of direct loans or grants for land,  
24 buildings or infrastructure; technical assistance to cultural  
25 facilities; loan guarantees securing the cost of land,

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1 buildings or infrastructure in an amount not to exceed the  
2 revenue that may be derived from the municipal infrastructure  
3 gross receipts tax or the county infrastructure gross receipts  
4 tax; grants for public works infrastructure improvements  
5 essential to the location or expansion of a qualifying entity;  
6 grants or subsidies to cultural facilities; purchase of land  
7 for a publicly held industrial park or a publicly owned  
8 cultural facility; and the construction of a building for use  
9 by a qualifying entity;

10 ~~[E.]~~ F. "governing body" means the city council,  
11 city commission or board of trustees of a municipality or the  
12 board of county commissioners of a county;

13 G. "incentive information" means information about  
14 financial or other incentives offered to a business or person  
15 by an economic development corporation related to a local  
16 economic development project;

17 ~~[F.]~~ H. "local government" means a municipality or  
18 county;

19 ~~[G.]~~ I. "municipality" means an incorporated city,  
20 town or village;

21 ~~[H.]~~ J. "person" means an individual, corporation,  
22 association, partnership or other legal entity;

23 K. "proprietary technical or business information"  
24 means the confidential information of a qualifying entity  
25 related to a local economic development project and includes:

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1                   (1) business trade secrets;

2                   (2) a business' or person's commercial or  
3 financial information, the disclosure of which would cause  
4 substantial competitive harm or disadvantage to the business or  
5 person;

6                   (3) credit reports of a business' principals  
7 and officers; and

8                   (4) reports relating to a person's background  
9 that contain information that is not publicly available or is  
10 protected by state or federal privacy laws;

11                   ~~[F.]~~ L. "qualifying entity" means a corporation,  
12 limited liability company, partnership, joint venture,  
13 syndicate, association or other person that is one or a  
14 combination of two or more of the following:

15                   (1) an industry for the manufacturing,  
16 processing or assembling of agricultural or manufactured  
17 products;

18                   (2) a commercial enterprise for storing,  
19 warehousing, distributing or selling products of agriculture,  
20 mining or industry, but, other than as provided in Paragraph  
21 (5) or (6) of this subsection, not including any enterprise for  
22 sale of goods or commodities at retail or for distribution to  
23 the public of electricity, gas, water or telephone or other  
24 services commonly classified as public utilities;

25                   (3) a business in which all or part of the

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1 activities of the business involves the supplying of services  
2 to the general public or to governmental agencies or to a  
3 specific industry or customer, but, other than as provided in  
4 Paragraph (5) of this subsection, not including businesses  
5 primarily engaged in the sale of goods or commodities at  
6 retail;

7 (4) an Indian nation, tribe or pueblo or a  
8 federally chartered tribal corporation;

9 (5) a telecommunications sales enterprise that  
10 makes the majority of its sales to persons outside New Mexico;

11 (6) a facility for the direct sales by growers  
12 of agricultural products, commonly known as farmers' markets;

13 (7) a business that is the developer of a  
14 metropolitan redevelopment project; and

15 (8) a cultural facility; and

16 [~~J~~] M. "regional government" means any combination  
17 of municipalities and counties that enter into a joint powers  
18 agreement to provide for economic development projects pursuant  
19 to a plan adopted by all parties to the joint powers  
20 agreement."

21 **SECTION 2.** A new section of the Local Economic  
22 Development Act is enacted to read:

23 "[NEW MATERIAL] PROPRIETARY INFORMATION--INCENTIVE  
24 INFORMATION--CONFIDENTIALITY.--

25 A. Proprietary technical or business information or

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1 information related to the possible relocation or expansion of  
2 a qualifying entity obtained by an economic development  
3 corporation or the department from a qualifying entity shall be  
4 confidential and not subject to inspection pursuant to the  
5 Inspection of Public Records Act.

6 B. Incentive information shall be confidential and  
7 not subject to inspection pursuant to the Inspection of Public  
8 Records Act until an ordinance related to a local economic  
9 development project, to which the incentive information  
10 relates, is introduced to a governing body."

11 SECTION 3. EFFECTIVE DATE.--The effective date of the  
12 provisions of this act is July 1, 2013.