

HOUSE BILL 169

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

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AN ACT

RELATING TO ECONOMIC DEVELOPMENT; AMENDING THE LOCAL ECONOMIC DEVELOPMENT ACT; INCLUDING CONSTRUCTION OR UPGRADES TO FACILITATE THE USE OF WATER-EFFICIENT OR CLEAN ENERGY TECHNOLOGIES OR TO MEET OR EXCEED GREEN BUILDING CERTIFICATION STANDARDS IN THE DEFINITION OF "ECONOMIC DEVELOPMENT PROJECT"; INCLUDING AN ENTITY THAT DEVELOPS WATER OR BROADBAND INFRASTRUCTURE IN THE DEFINITION OF "QUALIFYING ENTITY".

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

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1 the Arts and Cultural District Act;

2 B. "broadband telecommunications network
3 facilities" means the electronics, equipment, transmission
4 facilities, fiber-optic cables and any other item directly
5 related to a system capable of transmission of internet
6 protocol or other formatted data at current federal
7 communications commission minimum speed standard, all of which
8 will be owned and used by a provider of internet access
9 services;

10 C. "cultural facility" means a facility that is
11 owned by the state, a county, a municipality or a qualifying
12 entity that serves the public through preserving, educating and
13 promoting the arts and culture of a particular locale,
14 including theaters, museums, libraries, galleries, cultural
15 compounds, educational organizations, performing arts venues
16 and organizations, fine arts organizations, studios and media
17 laboratories and live-work housing facilities;

18 D. "department" means the economic development
19 department;

20 E. "economic development project" or "project"
21 means the provision of public support or assistance by the
22 state to a local or regional government or the provision of
23 direct or indirect assistance to a qualifying entity by a local
24 or regional government. "Economic development project":

25 (1) includes:

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1 (a) the purchase, lease, grant,
2 construction, reconstruction, improvement or other acquisition
3 or conveyance of land, buildings or other infrastructure;

4 (b) rights-of-way infrastructure,
5 including trenching and conduit, for the placement of new
6 broadband telecommunications network facilities;

7 (c) public works improvements essential
8 to the location or expansion of a qualifying entity;

9 (d) payments for professional services
10 contracts necessary for local or regional governments to
11 implement a plan or project;

12 (e) the provision of direct loans or
13 grants for land, buildings or infrastructure;

14 (f) technical assistance to cultural
15 facilities;

16 (g) loan guarantees securing the cost of
17 land, buildings or infrastructure in an amount not to exceed
18 the revenue that may be derived from an increment of the: 1)
19 municipal gross receipts tax imposed at a rate not to exceed
20 one-fourth percent and dedicated by the ordinance imposing the
21 increment to a project; or 2) county gross receipts tax imposed
22 at a rate not to exceed one-eighth percent and dedicated by the
23 ordinance imposing the increment to a project;

24 (h) grants for public works
25 infrastructure improvements essential to the location or

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1 expansion of a qualifying entity and grants or subsidies to
2 cultural facilities;

3 (i) the purchase of land for a publicly
4 held industrial park or a publicly owned cultural facility;
5 [~~and~~]

6 (j) the construction of a building for
7 use by a qualifying entity; [~~but~~] and

8 (k) construction, retrofits,
9 improvements or upgrades to buildings or infrastructure to
10 facilitate the use of water-efficient or clean energy
11 technologies, including electricity generation or storage, or
12 to meet or exceed nationally or internationally recognized
13 green building certification standards; but

14 (2) does not include the purchase, lease,
15 grant or other acquisition or conveyance of water rights;

16 F. "governing body" means the city council, city
17 commission or board of trustees of a municipality or the board
18 of county commissioners of a county;

19 G. "local government" means a municipality or
20 county;

21 H. "municipality" means an incorporated city, town
22 or village;

23 I. "new full-time economic base job" means a job:

24 (1) that is primarily performed in New Mexico;

25 (2) that is held by an employee who is hired

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1 to work an average of at least thirty-two hours per week for at
2 least forty-eight weeks per year;

3 (3) that is:

4 (a) involved, directly or in a
5 supervisory capacity, with the production of: 1) a service;
6 provided that the majority of the revenue generated from the
7 service is from sources outside the state; or 2) tangible or
8 intangible personal property for sale; or

9 (b) held by an employee who is employed
10 at a regional, national or international headquarters operation
11 or at an operation that primarily provides services for other
12 operations of the qualifying entity that are located outside
13 the state; and

14 (4) that is not directly involved with natural
15 resources extraction or processing, on-site services where the
16 customer is present for the delivery of the service, retail,
17 construction or agriculture except for value-added processing
18 performed on agricultural products that would then be sold for
19 wholesale or retail consumption;

20 J. "person" means an individual, corporation,
21 association, partnership or other legal entity;

22 K. "qualifying entity" means a corporation, limited
23 liability company, partnership, joint venture, syndicate,
24 association or other person that is one or a combination of two
25 or more of the following:

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1 (1) an industry for the manufacturing,
2 processing or assembling of agricultural or manufactured
3 products;

4 (2) a commercial enterprise for storing,
5 warehousing, distributing or selling products of agriculture,
6 mining or industry, but, other than as provided in Paragraph
7 (5), (6) or (9) of this subsection, not including any
8 enterprise for sale of goods or commodities at retail or for
9 distribution to the public of electricity, gas, water or
10 telephone or other services commonly classified as public
11 utilities;

12 (3) a business, including a restaurant or
13 lodging establishment, in which all or part of the activities
14 of the business involves the supplying of services to the
15 general public or to governmental agencies or to a specific
16 industry or customer, but, other than as provided in Paragraph
17 (5) or (9) of this subsection, not including businesses
18 primarily engaged in the sale of goods or commodities at
19 retail;

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

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

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

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- 1 (7) a business that is the developer of a
2 metropolitan redevelopment project;
- 3 (8) a cultural facility; ~~and~~
- 4 (9) a retail business; or
- 5 (10) an entity that is the developer of water
6 or broadband infrastructure that is needed to connect areas of
7 the state that are not served by, or have inadequate access to,
8 water or broadband resources;

9 L. "regional government" means any combination of
10 municipalities and counties that enter into a joint powers
11 agreement to provide for economic development projects pursuant
12 to a plan adopted by all parties to the joint powers agreement;
13 and

14 M. "retail business" means a business that is
15 primarily engaged in the sale of goods or commodities at retail
16 and that is located in a municipality with a population,
17 according to the most recent federal decennial census, of:

- 18 (1) fifteen thousand or less; or
- 19 (2) more than fifteen thousand but less than
20 thirty-five thousand if:
- 21 (a) the economic development project is
22 not funded or financed with state government revenues; and
- 23 (b) the business created through the
24 project will not directly compete with an existing business
25 that is: 1) in the municipality; and 2) engaged in the sale of

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the same or similar goods or commodities at retail."