F I S C A L   I M P A C T   R E P O R T

		ORIGINAL DATE	02/17/21		
SPONSOR	STBTC	**LAST UPDATED**	03/01/21	**HB**	
SHORT TITLE	Uses of Local Econ Development Funding			**SB**	CS/CS/SB49/SHPACS/STBTCS
				ANALYST	Martinez

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Response Received from:
Economic Development Department (EDD)

SUMMARY

Synopsis of Bill

The Senate Tax, Business and Transportation Committee (STBTC) substitute for the Senate Health and Public Affairs Committee substitute for Senate Bill 49 amends the Local Economic Development Act (LEDA). Amendments include changing the definition of retail business, removing the non-compete clause for retail businesses, expanding opportunities for a municipality to enter into a project participation agreement with the Department of Economic Development and includes that a project participation agreement can occur within the unincorporated portion of a county, rather than ten miles from the closest municipality with a population greater than fifteen thousand according to the most recent federal decennial census.

The effective date of this bill is July 1, 2021.

FISCAL IMPLICATIONS

STBTC substitute for SB49 does not carry an appropriation and it is unclear at this point of the fiscal implications of this bill as EDD has not had sufficient time to respond to the request for analysis.

SIGNIFICANT ISSUES

Section 1 – M (1) states that a retail business includes a business in a municipality with a population, according to the most recent federal decennial census of (a) fifteen thousand or less; or (b) more than fifteen thousand and removes “less than thirty-five thousand” and adds (2) in “an unincorporated area of a county."

Section 1 – M (1) also removes the requirement that a business will not directly compete with an existing business that is: 1) in the municipality; and 2) engaged in the sale of the same or similar goods or commodities at retail.

Removing the competition clause would open up local use of LEDA to allow for a new business to potentially have a competitive advantage over a long-time tax paying and tax collecting business of the community. It would be up to the municipality to determine whether to make that decision.

Section 2 – A 1 (i) replaces “and” with “or” widening the qualifications needed for the Economic Development Department to create a project participation agreement with a local or regional governments in economic development projects.

Section 2 – A 1 (j) includes “rehabilitation or remodeling” as a qualification for a business to meet the requirements for a project participation agreement with the department.

Section 2 - A 2 (b) states that the department may participate with local or regional governments in economic development projects that is located “within the unincorporated portion of a county” and removes that criteria of “more than ten miles from the closest municipality with a population greater than fifteen thousand according to the most recent federal decennial census”

The Economic Development Department provided the following:

> This bill could result in local governments making the choice to incentive new retail businesses that would compete directly with existing retail operations. In normal economic circumstances, this could harm local businesses, but in the current economic crisis, bringing in new competition and subsidizing that competition could put local shops out of business. Additionally, this could result in an incentives war among communities, with local governments using LEDA to steal retail operations away from other neighboring communities.
>
> By removing the clause that requires the company receiving public investment to not be in competition with existing business, this bill creates the potential for unfair practices. The new company receiving the public support would have a competitive advantage over an existing, taxpaying business within the community.
>
> Making public investment available to all retail in unincorporated areas creates multiple situations across New Mexico where a company could locate feet outside of an incorporated area and compete with existing business, get public investment, and be in a lower property tax zone.
>
> Removing the cap on population to allow for public investment in retail would open up

LEDA as an incentive in all areas of New Mexico, including Class A counties and New Mexico's largest cities. Retail can be challenging to attract to smaller communities, but this is not typically something that needs to be incentivized in larger communities.

Removing the population limits could create a bidding war between communities; for example, Rio Rancho could entice retail to move a mile from Albuquerque and into Rio Rancho using taxpayer money. Albuquerque could respond in turn. A similar situation arose in Kansas City, where the Missouri and Kansas sides created a massive incentives war to get businesses to locate on one side of the state line or the other. It was detrimental to the community and a significant use of taxpayer dollars, and both states ended up passing legislation to stop that from continuing.

JM/rl