

1 SENATE BILL 223
2 **57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025**

3 INTRODUCED BY
4 Antoinette Sedillo Lopez
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10 AN ACT

11 RELATING TO ECONOMIC DEVELOPMENT; AMENDING THE LOCAL ECONOMIC
12 DEVELOPMENT ACT; REQUIRING A QUALIFYING ENTITY TO CONDUCT A
13 HOUSING STUDY PRIOR TO SUBMITTING AN APPLICATION FOR PUBLIC
14 SUPPORT; ADDING DEFINITIONS; AMENDING APPLICATION AND
15 EVALUATION REQUIREMENTS.
16

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

18 SECTION 1. Section 5-10-3 NMSA 1978 (being Laws 1993,
19 Chapter 297, Section 3, as amended by Laws 2021, Chapter 3,
20 Section 1 and by Laws 2021, Chapter 135, Section 1) is amended
21 to read:

22 "5-10-3. DEFINITIONS.--As used in the Local Economic
23 Development Act:

24 A. "arts and cultural district" means a developed
25 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 baseline 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 project of a qualifying entity for which public
22 support may be provided pursuant to the Local Economic
23 Development Act;

24 F. "governing body" means the city council, city
25 commission or board of trustees of a municipality or the board

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1 of county commissioners of a county;

2 G. "housing study" means a multivariable estimate
3 of housing demand created by new employment, including new
4 full-time economic base jobs, expected to occur as a result of
5 implementation of an economic development project;

6 ~~[G.]~~ H. "local government" means a municipality or
7 county;

8 ~~[H.]~~ I. "municipality" means an incorporated city,
9 town or village;

10 ~~[I.]~~ J. "new full-time economic base job" means a
11 job:

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

13 (2) that is held by an employee who is hired
14 to work an average of at least thirty-two hours per week for at
15 least forty-eight weeks per year;

16 (3) that is:

17 (a) involved, directly or in a
18 supervisory capacity, with the production of: 1) a service;
19 provided that the majority of the revenue generated from the
20 service is from sources outside the state; or 2) tangible or
21 intangible personal property for sale; or

22 (b) held by an employee who is employed
23 at a regional, national or international headquarters operation
24 or at an operation that primarily provides services for other
25 operations of the qualifying entity that are located outside

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1 the state; and

2 (4) that is not directly involved with natural
3 resources extraction or processing, on-site services where the
4 customer is present for the delivery of the service, retail,
5 construction or agriculture except for value-added processing
6 performed on agricultural products that would then be sold for
7 wholesale or retail consumption;

8 [~~J~~] K. "person" means an individual, corporation,
9 association, partnership or other legal entity;

10 [~~K~~] L. "public support" means the provision of
11 assistance by the state to a local or regional government or
12 the provision of direct or indirect assistance to a qualifying
13 entity by a local or regional government for an economic
14 development project. "Public support":

15 (1) includes the provision of:

16 (a) land, buildings or other
17 infrastructure, by purchase, lease, grant, construction,
18 reconstruction, improvement or other acquisition or conveyance;

19 (b) the placement of new broadband
20 telecommunications network facilities; provided that the
21 facilities shall not serve a public facility or location that
22 already meets federal communications commission baseline speed
23 standards;

24 (c) rights-of-way infrastructure,
25 including trenching and conduit, for the placement of new

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1 broadband telecommunications network facilities;

2 (d) public works improvements essential
3 to the location or expansion of a qualifying entity;

4 (e) payments for professional services
5 contracts necessary for local or regional governments to
6 implement a plan or provide public support for a project;

7 (f) direct loans or grants for land,
8 buildings or infrastructure;

9 (g) technical assistance to cultural
10 facilities;

11 (h) loan guarantees securing the cost of
12 land, buildings or infrastructure in an amount not to exceed
13 the revenue that may be derived from an increment of the: 1)
14 municipal gross receipts tax imposed at a rate not to exceed
15 one-fourth percent and dedicated by the ordinance imposing the
16 increment for projects; or 2) county gross receipts tax imposed
17 at a rate not to exceed one-eighth percent and dedicated by the
18 ordinance imposing the increment for projects;

19 (i) grants for public works
20 infrastructure improvements essential to the location or
21 expansion of a qualifying entity and grants or subsidies to
22 cultural facilities;

23 (j) land for a publicly held industrial
24 park or a publicly owned cultural facility, by purchase; and

25 (k) the construction of a building for

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1 use by a qualifying entity; but

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

4 ~~[H-]~~ M. "qualifying entity" means a corporation,
5 limited liability company, partnership, joint venture,
6 syndicate, association or other person that is one or a
7 combination of two or more of the following:

8 (1) an industry for the manufacturing,
9 processing or assembling of agricultural or manufactured
10 products;

11 (2) a commercial enterprise for storing,
12 warehousing, distributing or selling products of agriculture,
13 mining or industry, but, other than as provided in Paragraph
14 (5), (6) or (9) of this subsection, not including any
15 enterprise for sale of goods or commodities at retail or for
16 distribution to the public of electricity, gas, water or
17 telephone or other services commonly classified as public
18 utilities;

19 (3) a business, including a restaurant or
20 lodging establishment, in which all or part of the activities
21 of the business involves the supplying of services to the
22 general public or to governmental agencies or to a specific
23 industry or customer, but, other than as provided in Paragraph
24 (5) or (9) of this subsection, not including businesses
25 primarily engaged in the sale of goods or commodities at

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1 retail;

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

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

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

8 (7) a business that is the developer of a
9 metropolitan redevelopment project;

10 (8) a cultural facility; and

11 (9) a retail business;

12 [~~M.~~] N. "regional government" means any combination
13 of municipalities and counties that enter into a joint powers
14 agreement to provide public support for economic development
15 projects pursuant to a plan adopted by all parties to the joint
16 powers agreement; and

17 [~~N.~~] O. "retail business" means a business that is
18 primarily engaged in the sale of goods or commodities at retail
19 and that is located:

20 (1) in a municipality with a population,
21 according to the most recent federal decennial census, of:

22 (a) fifteen thousand or less; or

23 (b) more than fifteen thousand if the
24 economic development project is not funded or financed with
25 state government revenues; or

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1 (2) in an unincorporated area of a county."

2 SECTION 2. Section 5-10-6 NMSA 1978 (being Laws 1993,
3 Chapter 297, Section 6, as amended) is amended to read:

4 "5-10-6. ECONOMIC DEVELOPMENT PLAN--CONTENTS--
5 PUBLICATION.--

6 A. Every local or regional government seeking to
7 pursue economic development projects shall adopt an economic
8 development plan or a comprehensive plan that includes an
9 economic development component, and an economic development
10 plan or comprehensive plan may include an analysis of the role
11 of arts and cultural activities in economic development. The
12 plan may be specific to a single economic development goal or
13 strategy or may include several goals or strategies, including
14 any goals or strategies relating to economic development
15 through arts and cultural activities. Any plan or plan
16 amendment shall be adopted by ordinance of the governing body
17 of the local government or each local government of a regional
18 government proposing the plan or plan amendment.

19 B. The economic development plan or ordinance
20 adopting the plan shall include a requirement that a qualifying
21 entity shall conduct a housing study of the counties and
22 municipalities to be affected by the implementation of the
23 proposed economic development project prior to submitting an
24 application for public support of the qualifying entity's
25 economic development project; provided that the qualifying

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1 entity conducting the housing study shall not solely rely on a
2 cost burden analysis.

3 [B-] C. The economic development plan or the
4 ordinance adopting the plan may:

5 (1) describe the local or regional
6 government's economic development and community goals,
7 including any economic development goals with an arts and
8 cultural component, and assign priority to and strategies for
9 achieving those goals;

10 (2) describe the types of qualifying entities
11 and economic activities that will qualify for public support;

12 (3) describe the criteria to be used to
13 determine eligibility for public support and a qualifying
14 entity to participate in an economic development project;

15 (4) describe the manner in which a qualifying
16 entity may submit an application for public support pursuant to
17 Section 5-10-8 NMSA 1978, including the type of information
18 required from the qualifying entity sufficient to ensure its
19 solvency and ability to perform its contractual obligations,
20 its commitment to remain in the community and its commitment to
21 the stated economic development goals of the local or regional
22 government;

23 (5) describe the process the local or regional
24 government will use to verify the information submitted on an
25 application for public support pursuant to Section 5-10-8 NMSA

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1 1978;

2 (6) if an economic development project is
3 determined to be unsuccessful or if a qualifying entity seeks
4 to leave the area, describe the methods the local or regional
5 government will use to terminate the local or regional
6 government's public support and recoup its investment;

7 (7) identify revenue sources, including those
8 of the local or regional government, that will be used to
9 provide public support for economic development projects;

10 (8) identify other resources the local or
11 regional government is prepared to offer qualifying entities,
12 including specific land or buildings it is willing to lease,
13 sell or grant a qualifying entity; community infrastructure it
14 is willing to build, extend or expand, including roads, water,
15 sewers or other utilities; and professional services contracts
16 by local or regional governments necessary to provide these
17 resources;

18 (9) detail the minimum benefit the local or
19 regional government requires from a qualifying entity,
20 including the number and types of jobs to be created; the
21 proposed payroll; repayment of loans, if any; purchase by the
22 qualifying entity of local or regional government-provided
23 land, buildings or infrastructure; the public to private
24 investment ratio; and direct local tax base expansion;

25 (10) describe the safeguards of public

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1 resources that will be ensured, including specific ways the
2 local or regional government can recover any costs, land,
3 buildings or other thing of value if a qualifying entity ceases
4 operation, relocates or otherwise defaults or reneges on its
5 contractual or implied obligations to the local or regional
6 government; and

7 (11) if a regional government, describe the
8 joint powers agreement, including whether it can be terminated
9 and, if so, how the contractual or other obligations, risks and
10 any property will be assigned or divided among the local
11 governments who are party to the agreement.

12 [~~G.~~] D. The economic development plan shall be
13 printed and made available to the residents within the local or
14 regional government area."

15 SECTION 3. Section 5-10-8 NMSA 1978 (being Laws 1993,
16 Chapter 297, Section 8, as amended) is amended to read:

17 "5-10-8. APPLICATIONS FOR PUBLIC SUPPORT.--

18 A. After the adoption of an economic development
19 plan by a local or regional government, a qualifying entity
20 shall submit to the local or regional government an application
21 for public support of a qualifying entity's economic
22 development project.

23 B. A qualifying entity shall conduct a housing
24 study of the counties and municipalities to be affected by the
25 implementation of the proposed economic development project

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1 prior to submitting an application for public support of the
2 qualifying entity's economic development project; provided that
3 the qualifying entity conducting the housing study shall not
4 solely rely on a cost burden analysis.

5 ~~[B.]~~ C. The application shall:

6 (1) be on a form and require such information
7 as the local or regional government deems necessary; and

8 (2) include the findings of the housing study
9 conducted pursuant to Subsection B of this section."

10 SECTION 4. Section 5-10-9 NMSA 1978 (being Laws 1993,
11 Chapter 297, Section 9, as amended) is amended to read:

12 "5-10-9. PROJECT EVALUATION--DEPARTMENT.--

13 A. The local or regional government shall review
14 each application for public support submitted pursuant to
15 Section 5-10-8 NMSA 1978, and any public support shall be
16 approved by ordinance.

17 B. The local or regional government's evaluation of
18 an application shall be based on the provisions of the economic
19 development plan, the financial and management stability of the
20 qualifying entity, the demonstrated commitment of the
21 qualifying entity to the community, the findings of the housing
22 study, a cost-benefit analysis of the project and any other
23 information the local or regional government believes is
24 necessary for a full review of the economic development project
25 application.

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C. The local or regional government may negotiate with a qualifying entity on the type or amount of public support to be provided or on the scope of the economic development project."