

HOUSE BUSINESS AND INDUSTRY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 581

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

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; ADDING A BUSINESS THAT IS A
QUALIFIED ENTITY FOR THE PURPOSES OF THE LOCAL ECONOMIC
DEVELOPMENT ACT; REMOVING THE PROHIBITION ON PUBLIC SUPPORT OF
ECONOMIC DEVELOPMENT PROJECTS IN RURAL AREAS INVOLVING RETAIL
SALES.

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

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 project" or "project"
11 means the provision of direct or indirect assistance to a
12 qualifying entity by a local or regional government and
13 includes the purchase, lease, grant, construction,
14 reconstruction, improvement or other acquisition or conveyance
15 of land, buildings or other infrastructure; public works
16 improvements essential to the location or expansion of a
17 qualifying entity; payments for professional services contracts
18 necessary for local or regional governments to implement a plan
19 or project; the provision of direct loans or grants for land,
20 buildings or infrastructure; technical assistance to cultural
21 facilities; loan guarantees securing the cost of land,
22 buildings or infrastructure in an amount not to exceed the
23 revenue that may be derived from the municipal infrastructure
24 gross receipts tax or the county infrastructure gross receipts
25 tax; grants for public works infrastructure improvements

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1 essential to the location or expansion of a qualifying entity;
 2 grants or subsidies to cultural facilities; purchase of land
 3 for a publicly held industrial park or a publicly owned
 4 cultural facility; and the construction of a building for use
 5 by a qualifying entity;

6 E. "governing body" means the city council, city
 7 commission or board of trustees of a municipality or the board
 8 of county commissioners of a county;

9 F. "local government" means a municipality or
 10 county;

11 G. "municipality" means an incorporated city, town
 12 or village;

13 H. "person" means an individual, corporation,
 14 association, partnership or other legal entity;

15 I. "qualifying entity" means a corporation, limited
 16 liability company, partnership, joint venture, syndicate,
 17 association or other person that is one or a combination of two
 18 or more of the following:

19 (1) an industry for the manufacturing,
 20 processing or assembling of agricultural or manufactured
 21 products;

22 (2) a commercial enterprise for storing,
 23 warehousing, distributing or selling products of agriculture,
 24 mining or industry, but, other than as provided in Paragraph
 25 (5), ~~(6)~~ (6) or (9) of this subsection, not including any

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1 enterprise for sale of goods or commodities at retail or for
2 distribution to the public of electricity, gas, water or
3 telephone or other services commonly classified as public
4 utilities;

5 (3) a business in which all or part of the
6 activities of the business involves the supplying of services
7 to the general public or to governmental agencies or to a
8 specific industry or customer, but, other than as provided in
9 Paragraph (5) or (9) of this subsection, not including
10 businesses primarily engaged in the sale of goods or
11 commodities at retail;

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

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

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

18 (7) a business that is the developer of a
19 metropolitan redevelopment project; [~~and~~]

20 (8) a cultural facility; and

21 (9) a retail business;

22 J. "regional government" means any combination of
23 municipalities and counties that enter into a joint powers
24 agreement to provide for economic development projects pursuant
25 to a plan adopted by all parties to the joint powers agreement;

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1 and

2 K. "retail business" means a business that is
3 primarily engaged in the sale of goods or commodities at retail
4 and that is located in a municipality with a population of ten
5 thousand or less."

6 SECTION 2. Section 5-10-4 NMSA 1978 (being Laws 1993,
7 Chapter 297, Section 4, as amended) is amended to read:

8 "5-10-4. ECONOMIC DEVELOPMENT PROJECTS--RESTRICTIONS ON
9 PUBLIC EXPENDITURES OR PLEDGES OF CREDIT.--

10 A. No local or regional government shall provide
11 public support for economic development projects as permitted
12 pursuant to Article 9, Section 14 of the constitution of
13 New Mexico except as provided in the Local Economic Development
14 Act or as otherwise permitted by law.

15 B. The total amount of public money expended and
16 the value of credit pledged in the fiscal year in which that
17 money is expended by a local government for economic
18 development projects pursuant to Article 9, Section 14 of the
19 constitution of New Mexico and the Local Economic Development
20 Act shall not exceed ten percent of the annual general fund
21 expenditures of the local government in that fiscal year. The
22 limits of this subsection shall not apply to:

23 (1) the value of any land or building
24 contributed to any project pursuant to a project participation
25 agreement;

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underscored material = new
[bracketed material] = delete

1 (2) revenue generated through the imposition
2 of the municipal infrastructure gross receipts tax pursuant to
3 the Municipal Local Option Gross Receipts Taxes Act for
4 furthering or implementing economic development plans and
5 projects as defined in the Local Economic Development Act or
6 projects as defined in the Statewide Economic Development
7 Finance Act; provided that no more than the greater of fifty
8 thousand dollars (\$50,000) or ten percent of the revenue
9 collected shall be used for promotion and administration of or
10 professional services contracts related to the implementation
11 of any such economic development plan adopted by the governing
12 body;

13 (3) revenue generated through the imposition
14 of a county infrastructure gross receipts tax pursuant to the
15 County Local Option Gross Receipts Taxes Act for furthering or
16 implementing economic development plans and projects as defined
17 in the Local Economic Development Act or projects as defined in
18 the Statewide Economic Development Finance Act; provided that
19 no more than the greater of fifty thousand dollars (\$50,000) or
20 ten percent of the revenue collected shall be used for
21 promotion and administration of or professional services
22 contracts related to the implementation of any such economic
23 development plan adopted by the governing body;

24 (4) the proceeds of a revenue bond issue to
25 which municipal infrastructure gross receipts tax revenue is

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1 pledged;

2 (5) the proceeds of a revenue bond issue to
 3 which county infrastructure gross receipts tax revenue is
 4 pledged; or

5 (6) funds donated by private entities to be
 6 used for defraying the cost of a project.

7 C. A regional or local government that generates
 8 revenue for economic development projects to which the limits
 9 of Subsection B of this section do not apply shall create an
 10 economic development fund into which such revenues shall be
 11 deposited. The economic development fund and income from the
 12 economic development fund shall be deposited as provided by
 13 law. Money in the economic development fund may be expended
 14 only as provided in the Local Economic Development Act or the
 15 Statewide Economic Development Finance Act.

16 D. In order to expend money from an economic
 17 development fund for arts and cultural district purposes, [~~or~~]
 18 cultural facilities or retail businesses, the governing body of
 19 a municipality or county that has imposed a municipal or county
 20 local option infrastructure gross receipts tax for furthering
 21 or implementing economic development plans and projects, as
 22 defined in the Local Economic Development Act, or projects, as
 23 defined in the Statewide Economic Development Finance Act, by
 24 referendum of the majority of the voters voting on the question
 25 approving the ordinance imposing the municipal or county

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1 infrastructure gross receipts tax before [~~June 30, 2007~~] July
2 1, 2013 shall be required to adopt a resolution. The
3 resolution shall call for an election to approve arts and
4 cultural districts as a qualifying purpose and cultural
5 facilities or retail businesses as a qualifying entity before
6 any revenue generated by the municipal or county local option
7 gross receipts tax for furthering or implementing economic
8 development plans and projects, as defined in the Local
9 Economic Development Act, or projects, as defined in the
10 Statewide Economic Development Finance Act, can be expended
11 from the economic development fund for arts and cultural
12 district purposes, [~~or~~] cultural facilities or retail
13 businesses.

14 E. The governing body shall adopt a resolution
15 calling for an election within seventy-five days of the date
16 the ordinance is adopted on the question of approving arts and
17 cultural districts as a qualifying purpose and cultural
18 facilities or retail businesses as a qualifying entity eligible
19 to utilize revenue generated by the Municipal Local Option
20 Gross Receipts Taxes Act or the County Local Option Gross
21 Receipts Taxes Act for furthering or implementing economic
22 development plans and projects as defined in the Local Economic
23 Development Act or projects as defined in the Statewide
24 Economic Development Finance Act.

25 F. The question shall be submitted to the voters of

1 the municipality or county as a separate question at a regular
 2 municipal or county election or at a special election called
 3 for that purpose by the governing body. A special municipal
 4 election shall be called, conducted and canvassed as provided
 5 in the Municipal Election Code. A special county election
 6 shall be called, conducted and canvassed in substantially the
 7 same manner as provided by law for general elections.

8 G. If a majority of the voters voting on the
 9 question approves the ordinance adding arts and cultural
 10 districts and cultural facilities or retail businesses as an
 11 approved use of the local option municipal or county economic
 12 development infrastructure gross receipts tax fund, the
 13 ordinance shall become effective on July 1 or January 1,
 14 whichever date occurs first after the expiration of three
 15 months from the date of the adopted ordinance. The ordinance
 16 shall include the effective date."

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

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