

1 SENATE BILL 437
2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**
3 INTRODUCED BY
4 Pat Woods
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9 AN ACT
10

11 RELATING TO LOCAL ECONOMIC DEVELOPMENT; EXEMPTING CERTAIN
12 INFORMATION RELATED TO LOCAL ECONOMIC DEVELOPMENT FROM THE
13 INSPECTION OF PUBLIC RECORDS ACT; DEFINING "PROPRIETARY
14 TECHNICAL OR BUSINESS INFORMATION"; PROVIDING PENALTIES.
15

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

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

19 "5-10-3. DEFINITIONS.--As used in the Local Economic
20 Development Act:

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

24 B. "cultural facility" means a facility that is
25 owned by the state, a county, a municipality or a qualifying

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

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

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

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

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

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

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

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

14 I. "proprietary technical or business information"
15 means the confidential information of a qualifying entity
16 related to a local economic development project and includes:

17 (1) business trade secrets;

18 (2) a business's or person's commercial or
19 financial information, the disclosure of which would cause
20 substantial competitive harm or disadvantage to the business or
21 person;

22 (3) credit reports of a business's principals
23 and officers; and

24 (4) reports relating to a person's background
25 that contain information that is not publicly available or is

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1 protected by state or federal privacy laws;

2 ~~[F.]~~ J. "qualifying entity" means a corporation,
3 limited liability company, partnership, joint venture,
4 syndicate, association or other person that is one or a
5 combination of two or more of the following:

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

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

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

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

25 (5) a telecommunications sales enterprise that

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1 makes the majority of its sales to persons outside New Mexico;

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

4 (7) a business that is the developer of a
5 metropolitan redevelopment project; and

6 (8) a cultural facility; and

7 [~~J.~~] K. "regional government" means any combination
8 of municipalities and counties that enter into a joint powers
9 agreement to provide for economic development projects pursuant
10 to a plan adopted by all parties to the joint powers
11 agreement."

12 SECTION 2. A new section of the Local Economic
13 Development Act is enacted to read:

14 "[NEW MATERIAL] PROPRIETARY INFORMATION--CONFIDENTIALITY--
15 PENALTY.--

16 A. Information obtained by a municipality or county
17 from a qualifying entity that is proprietary technical or
18 business information or is related to the possible relocation
19 or expansion of a qualifying entity shall be confidential and
20 not subject to inspection pursuant to the Inspection of Public
21 Records Act.

22 B. It is unlawful for an employee of a municipality
23 or county, or a former employee of a municipality or county, to
24 reveal to a person other than another employee of the
25 municipality or county confidential information obtained by the

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1 municipality or county that is proprietary technical or
2 business information or is related to the possible relocation
3 or expansion of a qualifying entity, and that is not available
4 from public sources, except in response to an order of a court
5 of competent jurisdiction.

6 C. An employee or former employee of a municipality
7 or county who discloses information in violation of this
8 section is guilty of a misdemeanor and shall be sentenced in
9 accordance with the provisions of Section 31-19-1 NMSA 1978."

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