

SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
SENATE BILL 219

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

AN ACT

RELATING TO HISTORIC PRESERVATION; PROVIDING PROCEDURES FOR THE  
APPLICATION OF THE HISTORIC DISTRICT AND LANDMARK ACT TO ALL  
PROJECTS INVOLVING THE CONSTRUCTION OR RENOVATION OF STATE-  
OWNED FACILITIES.

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

SECTION 1. Section 3-22-6 NMSA 1978 (being Laws 2009,  
Chapter 23, Section 1) is amended to read:

"3-22-6. APPLICABILITY TO [~~STATE CAPITAL OUTLAY PROJECTS~~]  
CONSTRUCTION OR RENOVATION OF STATE-OWNED FACILITIES--  
LIMITATION.--

A. Recognizing the fragility of the state's  
historic heritage, the purpose of this section is to establish  
a procedure under which the state and its municipalities and  
counties will commit to collaborate in good faith and work

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underscoring material = new  
[bracketed material] = delete

1 jointly to preserve and protect the historic districts of New  
2 Mexico.

3 B. Ordinances enacted by a municipality or county  
4 pursuant to the Historic District and Landmark Act shall apply  
5 to ~~[a state capital outlay project]~~ any construction or  
6 renovation of a state-owned facility only as provided in this  
7 section and only if the ordinances contain special provisions  
8 and standards applicable to state buildings, including  
9 provisions concerning the design, construction, alteration or  
10 demolition of the exterior features of state buildings. If  
11 requested by a resolution of the governing body of a  
12 municipality or county, the staff of the capitol buildings  
13 planning commission shall work jointly with the staff of the  
14 municipality or county in developing the provisions and  
15 standards required by this subsection.

16 C. The applicable state agency shall carry out ~~[a~~  
17 ~~capital outlay project]~~ the construction or renovation of a  
18 state-owned facility in a manner that is harmonious and  
19 generally compatible with the municipal or county ordinances.

20 D. Before commencing the design phase of ~~[a capital~~  
21 ~~outlay project]~~ the construction or renovation of a state-owned  
22 facility, the applicable state agency shall consult with the  
23 municipality or county as to the design standards in the  
24 ordinances and how those design standards would impact costs  
25 and the operation or manner in which the ~~[capital outlay~~

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1 ~~project]~~ construction or renovation of a state-owned facility  
2 will ultimately be expected to function; provided that, if the  
3 municipality or county has an agency or other entity review  
4 projects within the area zoned as ~~[an]~~ a historic district or  
5 landmark, then the consultation shall be with that review  
6 agency or other entity. The state agency shall work  
7 collaboratively with the municipality or county or its review  
8 agency or other entity to arrive at compatibility with the  
9 design standards, considering reasonable costs and preserving  
10 essential functionality. If the municipality or county has  
11 identifiable community groups involved in historic  
12 preservation, the agency shall also make every reasonable  
13 effort to obtain input from members of those identified groups  
14 before commencing the design phase.

15 E. After the design phase and before soliciting a  
16 bid or a proposal for design-build or lease-purchase for ~~[a~~  
17 ~~capital outlay project]~~ the construction or renovation of a  
18 state-owned facility, the applicable state agency shall  
19 transmit its plans for review and comment to the municipality  
20 or county or its review agency or other entity and shall also  
21 conduct a public meeting to receive public input. Notice of  
22 the public meeting shall also be given to any identifiable  
23 community groups involved in historic preservation in the  
24 municipality or county.

25 F. Within sixty days after the public meeting, the

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1 municipality or county or its review agency or other entity,  
2 any identifiable historic preservation community group and any  
3 other interested party shall communicate recommendations and  
4 comments in writing to the state agency. The state agency  
5 shall consult with the municipality or county or its review  
6 agency or other entity to resolve any issues raised. If, at  
7 the end of the sixty-day period, unresolved issues remain, the  
8 municipality or county may, within five days after the end of  
9 the period, notify the applicable state agency that the issues  
10 remain unresolved and should be finally determined pursuant to  
11 Subsection G of this section; provided that, if notice is not  
12 timely given, the applicable state agency may, after  
13 incorporating those provisions to which the state agency and  
14 the municipality or county have agreed, proceed with the  
15 ~~[capital outlay project]~~ construction or renovation of a state-  
16 owned facility.

17 G. If notice is timely given by a municipality or  
18 county, pursuant to Subsection F of this section, that issues  
19 remain unresolved, those issues shall be decided pursuant to  
20 the following provisions:

21 (1) within five days after the notice, a  
22 state-local government historic review board shall be formed,  
23 consisting of eight members as follows:

24 (a) one member appointed by the capitol  
25 buildings planning commission, who shall chair the board and

1 who shall vote only if there is a tie among the other board  
2 members present;

3 (b) one member appointed by the cultural  
4 properties review committee;

5 (c) the state historic preservation  
6 officer or a designee of the officer;

7 (d) one member appointed by the agency  
8 or other entity that reviews projects within the area zoned as  
9 ~~[an]~~ a historic district or landmark; provided that, if the  
10 municipality or county has no such agency or other entity, the  
11 member shall be appointed by the governing body of the  
12 municipality or county;

13 (e) one member appointed by the agency  
14 or entity of the municipality or county that is concerned with  
15 historic preservation; provided that, if the municipality or  
16 county has no such agency or other entity, the member shall be  
17 appointed by the governing body of the municipality or county;  
18 and

19 (f) three public members who have a  
20 demonstrated interest in historic preservation appointed as  
21 follows: 1) one member appointed by the secretary of general  
22 services; 2) one member appointed by the governing body of the  
23 municipality or county; and 3) one public member appointed by  
24 the other two public members;

25 (2) the staff of the capitol buildings

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1 planning commission shall serve as the staff of the state-local  
2 government historic review board; and

3 (3) the state-local government historic review  
4 board shall, at a public meeting, consider each of the  
5 unresolved issues and, within twenty days of its formation  
6 shall, for each issue, make a final decision that is harmonious  
7 and generally compatible with the municipal or county  
8 ordinance.

9 H. Appeals from the decisions of the state-local  
10 government historic review board shall be taken to the district  
11 court in the manner provided in Section 39-3-1.1 NMSA 1978.

12 I. The state agency shall not take any irrevocable  
13 action on the [~~capital project~~] construction or renovation of a  
14 state-owned facility in reliance on the plans until the  
15 procedures set forth in Subsections F and G of this section  
16 have been followed.

17 J. As used in this section:

18 (1) "construction or renovation" applies only  
19 to the exterior envelope of a state-owned facility, regardless  
20 of the source of funds for the project; and

21 (2) "state-owned" includes a facility leased  
22 for an initial term of five years or a facility on land held in  
23 trust for the state."

24 SECTION 2. APPLICABILITY.--The provisions of this act  
25 apply to any new construction or renovation project that

1 commences on or after July 1, 2019; provided that no contract  
2 for the design of a construction or renovation project has been  
3 executed prior to July 1, 2019.

4 SECTION 3. EFFECTIVE DATE.--The effective date of the  
5 provisions of this act is July 1, 2019.

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