

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

SENATE BILL 392

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Mary Jane M. Garcia

AN ACT

RELATING TO LOCAL GOVERNMENTS; ENACTING THE LOCAL GOVERNMENT
TRANSPARENCY ACT; PROVIDING FOR THE DEVELOPMENT, OPERATION AND
MAINTENANCE OF WEB SITES THAT PROVIDE PUBLIC ACCESS TO CERTAIN
LOCAL GOVERNMENT FINANCIAL INFORMATION.

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

SECTION 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--Sections 1
through 5 of this act may be cited as the "Local Government
Transparency Act".

SECTION 2. ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the
Local Government Transparency Act:

A. "division" means the local government division
of the department of finance and administration;

B. "expenditure" means a disbursement of federal,
state or local government funds by a local government;

underscored material = new
[bracketed material] = delete

1 C. "federal funds" means money received by a local
2 government from the federal government or one of its branches,
3 departments, agencies, offices, officers or instrumentalities;

4 D. "local government" means
5 (1) a class A county; or
6 (2) an incorporated municipality with a
7 population, as shown by the most recent federal decennial
8 census, greater than fifteen thousand;

9 E. "revenue" means all money received by a local
10 government. "Revenue" includes money from taxes, fines, fees,
11 federal funds, state funds and other sources but does not
12 include money deposited into a suspense fund; and

13 F. "state funds" means money received by a local
14 government from the state or one of its branches, departments,
15 agencies, offices, officers or instrumentalities.

16 SECTION 3. [NEW MATERIAL] LOCAL GOVERNMENT PORTAL--
17 DEPARTMENT DUTIES.--

18 A. The division, with the assistance of the
19 department of information technology, shall develop, operate
20 and maintain a single internet web site that is free,
21 user-friendly, searchable and accessible to the public, known
22 as the "local government portal", to host financial information
23 for each local government for the purpose of governmental
24 transparency and accountability to taxpayers. The local
25 government portal shall be maintained as a stand-alone internet

.183693.4

underscoring material = new
~~[bracketed material] = delete~~

1 web site and as a link on the sunshine portal, maintained by
2 the department of information technology pursuant to the
3 Sunshine Portal Transparency Act.

4 B. No later than October 1, 2012, the division
5 shall create the architecture and the information exchange
6 process for the collection and electronic publication of the
7 financial information for each local government.

8 C. No later than July 1, 2013, the local government
9 portal shall be available for public access and shall include
10 updated information as required by Subsection D of this
11 section.

12 D. Except as provided in Subsection C of Section 4
13 of the Local Government Transparency Act, the local government
14 portal shall provide, at a minimum, access to the following
15 information for each local government:

16 (1) the local government's cash balances by
17 account or fund;

18 (2) the annual operating budget with monthly
19 expenditures by category;

20 (3) contracts that a local government enters
21 into that have a total contract price of more than twenty
22 thousand dollars (\$20,000), naming both the recipient and
23 purpose of the contract and the amounts expended;

24 (4) the revenue that the local government
25 received in each month by source, such as type of tax, fee,

.183693.4

underscoring material = new
[bracketed material] = delete

1 fine, administrative fee or other collection category;

2 (5) expenditures for capital projects,
3 identified by project location, type of project and funding
4 source;

5 (6) a directory of all employee positions,
6 showing each position's title and salary;

7 (7) a link to an open meeting tracker web site
8 upon which each local government shall post open meetings
9 scheduled for the current month and the next month, including
10 the time and place of the meeting, the subject of the meeting
11 and an agenda;

12 (8) a link to the local government's
13 ordinances and, if applicable, charter;

14 (9) an annual summary within three months
15 after the end of the fiscal year, or as soon thereafter as the
16 information becomes available, of the local government's fiscal
17 health, including the budget, revenues and expenditures for the
18 previous fiscal year and projected revenues and operating
19 budgets for the current fiscal year; and

20 (10) additional information, as required by
21 rule of the division, that will assist the public in
22 understanding local government operations and the use of
23 taxpayer dollars.

24 E. For a local government that maintains its own
25 web site pursuant to Subsection C of Section 4 of the Local

.183693.4

underscored material = new
[bracketed material] = delete

1 Government Transparency Act, the local government portal shall
2 contain a link to that web site.

3 F. Local governments shall provide updated
4 financial information as frequently as possible but at least
5 quarterly.

6 G. The division shall update the web site as new
7 information is received but at least monthly; include
8 information from the previous month or year, where relevant,
9 for comparison purposes; and maintain the web site as the
10 primary source of public information about the activity of New
11 Mexico's local governments.

12 SECTION 4. [NEW MATERIAL] RULES PROMULGATION--COMPLIANCE
13 REQUIRED--EXEMPTIONS.--

14 A. Pursuant to the State Rules Act, the division
15 shall promulgate rules to carry out the provisions of the Local
16 Government Transparency Act.

17 B. Unless exempted pursuant to Subsection C of this
18 section, all local governments, including home rule
19 municipalities, shall comply with the provisions of the Local
20 Government Transparency Act and rules promulgated by the
21 division pursuant to that act.

22 C. A local government is not required to submit
23 information required by the Local Government Transparency Act
24 and shall not be included in the local government portal if:

25 (1) the local government maintains its own web

.183693.4

underscored material = new
~~[bracketed material]~~ = delete

1 site with substantially the same information as required of the
2 local government portal; and

3 (2) information on the web site is updated at
4 least quarterly.

5 SECTION 5. [NEW MATERIAL] PROTECTION OF CONFIDENTIAL
6 INFORMATION.--Nothing in the Local Government Transparency Act
7 shall require disclosure of information that is confidential by
8 state or federal law.

9 SECTION 6. Section 10-16D-3 NMSA 1978 (being Laws 2010,
10 Chapter 34, Section 3) is amended to read:

11 "10-16D-3. SUNSHINE PORTAL--DEPARTMENT DUTIES.--

12 A. The department, with the department of finance
13 and administration, shall develop, operate and maintain a
14 single internet web site that is free, user-friendly,
15 searchable and accessible to the public, known as the "sunshine
16 portal", to host the state's financial information for the
17 purpose of governmental transparency and accountability to
18 taxpayers.

19 B. No later than October 1, 2010, the department
20 shall create the architecture and the information exchange
21 process for the collection and electronic publication of the
22 state's financial information.

23 C. No later than July 1, 2011, the sunshine portal
24 shall be available for public access and include updated
25 information as required by Subsection D of this section.

.183693.4

underscored material = new
[bracketed material] = delete

1 D. The sunshine portal shall provide, at a minimum,
2 access to the following information:

3 (1) the state's cash balances by account or
4 fund;

5 (2) a monthly summary of the state's
6 investment accounts under the control of the state investment
7 council;

8 (3) annual operating budgets for each state
9 agency with monthly expenditures by category;

10 (4) contracts that a state agency enters into
11 for the lease, sale or development of state land or if they
12 have a total value of more than twenty thousand dollars
13 (\$20,000), naming both the recipient and purpose of the
14 contract;

15 (5) the revenue that the state received in the
16 preceding month by source, such as type of tax, fee, fine,
17 administrative fee or other collection category;

18 (6) special appropriations received outside
19 the general appropriation act by each state agency and the
20 purpose of those appropriations;

21 (7) approved budget adjustment requests by
22 state agency and affected budget category;

23 (8) reversions and cash balances by state
24 agency and fund;

25 (9) appropriations for capital projects,

.183693.4

1 identified by project location, type of project and funding
2 source;

3 (10) a directory of all employee positions,
4 other than exempt employee positions, identified only by state
5 agency, position title and salary;

6 (11) a directory of all exempt employee
7 positions, identified by state agency, position title, salary
8 and the name of the individual that holds the position;

9 (12) a link to an open meeting tracker web
10 site upon which each state agency shall post open meetings
11 scheduled for the current month and the next month, including
12 the time and place of the meeting, the subject of the meeting
13 and an agenda;

14 (13) a link to the local government portal,
15 maintained by the local government division of the department
16 of finance and administration pursuant to the Local Government
17 Transparency Act;

18 [~~(13)~~] (14) a link to New Mexico's statutes;

19 [~~(14)~~] (15) a link to the New Mexico
20 Administrative Code;

21 [~~(15)~~] (16) a link to the secretary of state's
22 web sites for lobbyist regulation;

23 [~~(16)~~] (17) an annual summary within three
24 months after the end of the fiscal year of the state's fiscal
25 health, including the state budget, revenues and expenditures

.183693.4

underscoring material = new
~~[bracketed material] = delete~~

1 for the previous fiscal year and projected revenues and
2 operating budgets for the current fiscal year; and
3 [~~(17)~~] (18) additional information, as
4 required by rule of the department of finance and
5 administration, that will assist the public in understanding
6 state government operations and the use of taxpayer dollars.

7 E. State agencies shall provide updated financial
8 information as frequently as possible but at least monthly.

9 F. The department shall update the web site as new
10 information is received but at least monthly, include
11 information from the previous month or year, where relevant,
12 for comparison purposes and maintain the web site as the
13 primary source of public information about the activity of the
14 state government."