

1 SENATE CORPORATIONS AND TRANSPORTATION COMMITTEE SUBSTITUTE FOR
2 SENATE BILL 437

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11 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

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AN ACT

RELATING TO LOCAL ECONOMIC DEVELOPMENT; EXEMPTING CERTAIN
INFORMATION RELATED TO LOCAL ECONOMIC DEVELOPMENT FROM THE
INSPECTION OF PUBLIC RECORDS ACT; DEFINING "ECONOMIC
DEVELOPMENT CORPORATION", "INCENTIVE INFORMATION" AND
"PROPRIETARY TECHNICAL OR BUSINESS INFORMATION".

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 corporation" means a
11 corporation designated as a local economic development
12 corporation by the department or a local government's governing
13 body;

14 [~~D.~~] E. "economic development project" or "project"
15 means the provision of direct or indirect assistance to a
16 qualifying entity by a local or regional government and
17 includes the purchase, lease, grant, construction,
18 reconstruction, improvement or other acquisition or conveyance
19 of land, buildings or other infrastructure; public works
20 improvements essential to the location or expansion of a
21 qualifying entity; payments for professional services contracts
22 necessary for local or regional governments to implement a plan
23 or project; the provision of direct loans or grants for land,
24 buildings or infrastructure; technical assistance to cultural
25 facilities; loan guarantees securing the cost of land,

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1 buildings or infrastructure in an amount not to exceed the
 2 revenue that may be derived from the municipal infrastructure
 3 gross receipts tax or the county infrastructure gross receipts
 4 tax; grants for public works infrastructure improvements
 5 essential to the location or expansion of a qualifying entity;
 6 grants or subsidies to cultural facilities; purchase of land
 7 for a publicly held industrial park or a publicly owned
 8 cultural facility; and the construction of a building for use
 9 by a qualifying entity;

10 ~~[E.]~~ F. "governing body" means the city council,
 11 city commission or board of trustees of a municipality or the
 12 board of county commissioners of a county;

13 G. "incentive information" means information about
 14 financial or other incentives offered to a business or person
 15 by an economic development corporation related to a local
 16 economic development project;

17 ~~[F.]~~ H. "local government" means a municipality or
 18 county;

19 ~~[G.]~~ I. "municipality" means an incorporated city,
 20 town or village;

21 ~~[H.]~~ J. "person" means an individual, corporation,
 22 association, partnership or other legal entity;

23 K. "proprietary technical or business information"
 24 means the confidential information of a qualifying entity
 25 related to a local economic development project and includes:

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- 1 (1) business trade secrets;
2 (2) a business' or person's commercial or
3 financial information, the disclosure of which would cause
4 substantial competitive harm or disadvantage to the business or
5 person;
6 (3) credit reports of a business' principals
7 and officers; and
8 (4) reports relating to a person's background
9 that contain information that is not publicly available or is
10 protected by state or federal privacy laws;

11 [~~F.~~] L. "qualifying entity" means a corporation,
12 limited liability company, partnership, joint venture,
13 syndicate, association or other person that is one or a
14 combination of two or more of the following:

- 15 (1) an industry for the manufacturing,
16 processing or assembling of agricultural or manufactured
17 products;
18 (2) a commercial enterprise for storing,
19 warehousing, distributing or selling products of agriculture,
20 mining or industry, but, other than as provided in Paragraph
21 (5) or (6) of this subsection, not including any enterprise for
22 sale of goods or commodities at retail or for distribution to
23 the public of electricity, gas, water or telephone or other
24 services commonly classified as public utilities;
25 (3) a business in which all or part of the

1 activities of the business involves the supplying of services
 2 to the general public or to governmental agencies or to a
 3 specific industry or customer, but, other than as provided in
 4 Paragraph (5) of this subsection, not including businesses
 5 primarily engaged in the sale of goods or commodities at
 6 retail;

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

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

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

13 (7) a business that is the developer of a
 14 metropolitan redevelopment project; and

15 (8) a cultural facility; and

16 [~~J.~~] M. "regional government" means any combination
 17 of municipalities and counties that enter into a joint powers
 18 agreement to provide for economic development projects pursuant
 19 to a plan adopted by all parties to the joint powers
 20 agreement."

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

23 "[NEW MATERIAL] PROPRIETARY INFORMATION--INCENTIVE
 24 INFORMATION--CONFIDENTIALITY.--

25 A. Proprietary technical or business information or

underscored material = new
 [bracketed material] = delete

1 information related to the possible relocation or expansion of
2 a qualifying entity obtained by an economic development
3 corporation or the department from a qualifying entity shall be
4 confidential and not subject to inspection pursuant to the
5 Inspection of Public Records Act.

6 B. Incentive information shall be confidential and
7 not subject to inspection pursuant to the Inspection of Public
8 Records Act until an ordinance related to a local economic
9 development project, to which the incentive information
10 relates, is introduced to a governing body."

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