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HOUSE BILL 247

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

G. Andres Romero and Derrick J. Lente

AN ACT

RELATING TO PUBLIC FINANCE; EXCLUDING GREENFIELD AREAS FROM THE
TAX INCREMENT FOR DEVELOPMENT ACT.

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

SECTION 1. Section 5-15-3 NMSA 1978 (being Laws 2006,
Chapter 75, Section 3) is amended to read:

"5-15-3. DEFINITIONS.--As used in the Tax Increment for
Development Act:

A. "base gross receipts taxes" means:

(1) the total amount of gross receipts taxes
collected within a tax increment development district, as
estimated by the governing body that adopted a resolution to
form that district, in consultation with the taxation and
revenue department, in the calendar year preceding the
formation of the tax increment development district or, when an

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1 area is added to an existing district, the amount of gross
2 receipts taxes collected in the calendar year preceding the
3 effective date of the modification of the tax increment
4 development plan and designated by the governing body to be
5 available as part of the gross receipts tax increment; and

6 (2) any amount of gross receipts taxes that
7 would have been collected in such year if any applicable
8 additional gross receipts taxes imposed after that year had
9 been imposed in that year;

10 B. "base property taxes" means:

11 (1) the portion of property taxes produced by
12 the total of all property tax levied at the rate fixed each
13 year by each governing body levying a property tax on the
14 assessed value of taxable property within the tax increment
15 development area last certified for the year ending immediately
16 prior to the year in which a tax increment development plan is
17 approved for the tax increment development area, or, when an
18 area is added to an existing tax increment development area,
19 "base property taxes" means that portion of property taxes
20 produced by the total of all property tax levied at the rate
21 fixed each year by each governing body levying a property tax
22 upon the assessed value of taxable property within the tax
23 increment development area on the date of the modification of
24 the tax increment development plan and designated by the
25 governing body to be available as part of the property tax

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1 increment; and

2 (2) any amount of property taxes that would
3 have been collected in such year if any applicable additional
4 property taxes imposed after that year had been imposed in that
5 year;

6 C. "county option gross receipts taxes" means gross
7 receipts taxes imposed by counties pursuant to the County Local
8 Option Gross Receipts Taxes Act and designated by the governing
9 body of the county to be available as part of the gross
10 receipts tax increment;

11 D. "district" means a tax increment development
12 district;

13 E. "district board" means a board formed in
14 accordance with the provisions of the Tax Increment for
15 Development Act to govern a tax increment development district;

16 F. "enhanced services" means public services
17 provided by a municipality or county within the district at a
18 higher level or to a greater degree than otherwise available to
19 the land located in the district from the municipality or
20 county, including such services as public safety, fire
21 protection, street or sidewalk cleaning or landscape
22 maintenance in public areas; provided that "enhanced services"
23 does not include the basic operation and maintenance related to
24 infrastructure improvements financed by the district pursuant
25 to the Tax Increment for Development Act;

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1 G. "governing body" means the city council or city
2 commission of a city, the board of trustees or council of a
3 town or village or the board of county commissioners of a
4 county;

5 H. "greenfield area" means an area in which a
6 potential project may be considered:

7 (1) consisting of land, the majority of which
8 has not been previously developed and is not currently served
9 by municipal or county public infrastructure adequate to serve
10 the potential project development; or

11 (2) for which the potential project would
12 primarily rely on the development of new structures and the
13 infrastructure required to support them, rather than the
14 redevelopment of existing structures and their infrastructure;

15 [~~H.~~] I. "gross receipts tax increment" means the
16 gross receipts taxes collected within a tax increment
17 development district in excess of the base gross receipts taxes
18 collected for the duration of the existence of a tax increment
19 development district and distributed to the district in the
20 same manner as distributions are made under the provisions of
21 the Tax Administration Act;

22 [~~H.~~] J. "gross receipts tax increment bonds" means
23 bonds issued by a district in accordance with the Tax Increment
24 for Development Act, the pledged revenue for which is a gross
25 receipts tax increment;

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1 ~~[J-]~~ K. "local government" means a municipality or
2 county;

3 ~~[K-]~~ L. "municipal option gross receipts taxes"
4 means those gross receipts taxes imposed by municipalities
5 pursuant to the Municipal Local Option Gross Receipts Taxes Act
6 and designated by the governing body of the municipality to be
7 available as part of the gross receipts tax increment;

8 ~~[L-]~~ M. "municipality" means an incorporated city,
9 town or village;

10 ~~[M-]~~ N. "owner" means a person owning real property
11 within the boundaries of a district;

12 ~~[N-]~~ O. "person" means an individual, corporation,
13 association, partnership, limited liability company or other
14 legal entity;

15 ~~[O-]~~ P. "project" means a tax increment development
16 project;

17 ~~[P-]~~ Q. "property tax increment" means all property
18 tax collected on real property within the designated tax
19 increment development area that is in excess of the base
20 property tax until termination of the district and distributed
21 to the district in the same manner as distributions are made
22 under the provisions of the Tax Administration Act;

23 ~~[Q-]~~ R. "property tax increment bonds" means bonds
24 issued by a district in accordance with the Tax Increment for
25 Development Act, the pledged revenue for which is a property

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1 tax increment;

2 [R-] S. "public improvements" means on-site
3 improvements and off-site improvements that directly or
4 indirectly benefit a tax increment development district or
5 facilitate development within a tax increment development area
6 and that are dedicated to the governing body in which the
7 district lies. "Public improvements" [~~include~~] includes:

8 (1) sanitary sewage systems, including
9 collection, transport, treatment, dispersal, effluent use and
10 discharge;

11 (2) drainage and flood control systems,
12 including collection, transport, storage, treatment, dispersal,
13 effluent use and discharge;

14 (3) water systems for domestic, commercial,
15 office, hotel or motel, industrial, irrigation, municipal or
16 fire protection purposes, including production, collection,
17 storage, treatment, transport, delivery, connection and
18 dispersal;

19 (4) highways, streets, roadways, bridges,
20 crossing structures and parking facilities, including all areas
21 for vehicular use for travel, ingress, egress and parking;

22 (5) trails and areas for pedestrian,
23 equestrian, bicycle or other non-motor vehicle use for travel,
24 ingress, egress and parking;

25 (6) pedestrian and transit facilities, parks,

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1 recreational facilities and open space areas for the use of
2 members of the public for entertainment, assembly and
3 recreation;

4 (7) landscaping, including earthworks,
5 structures, plants, trees and related water delivery systems;

6 (8) public buildings, public safety facilities
7 and fire protection and police facilities;

8 (9) electrical generation, transmission and
9 distribution facilities;

10 (10) natural gas distribution facilities;

11 (11) lighting systems;

12 (12) cable or other telecommunications lines
13 and related equipment;

14 (13) traffic control systems and devices,
15 including signals, controls, markings and signage;

16 (14) school sites and facilities with the
17 consent of the governing board of the public school district
18 for which the facility is to be acquired, constructed or
19 renovated;

20 (15) library and other public educational or
21 cultural facilities;

22 (16) equipment, vehicles, furnishings and
23 other personal property related to the items listed in this
24 subsection;

25 (17) inspection, construction management,

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1 planning and program management and other professional services
2 costs incidental to the project;

3 (18) workforce housing; and

4 (19) any other improvement that the governing
5 body determines to be for the use or benefit of the public;

6 [~~S-~~] T. "resident qualified elector" means a person
7 who resides within the boundaries of a tax increment
8 development district or proposed tax increment development
9 district and who is qualified to vote in the general elections
10 held in the state pursuant to Section 1-1-4 NMSA 1978;

11 [~~F-~~] U. "state gross receipts tax" means the gross
12 receipts tax imposed pursuant to the Gross Receipts and
13 Compensating Tax Act, but does not include that portion
14 distributed to municipalities pursuant to Sections 7-1-6.4 and
15 7-1-6.46 NMSA 1978 or to counties pursuant to Section 7-1-6.47
16 NMSA 1978;

17 [~~H-~~] V. "sustainable development" means land
18 development that achieves sustainable economic and social goals
19 in ways that can be supported for the long term by conserving
20 resources, protecting the environment and ensuring human health
21 and welfare using mixed-use, pedestrian-oriented, multimodal
22 land use planning;

23 [~~V-~~] W. "tax increment development area" means the
24 land included within the boundaries of a tax increment
25 development district;

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1 ~~[W.]~~ X. "tax increment development district" means
2 a district formed for the purposes of carrying out tax
3 increment development projects;

4 ~~[X.]~~ Y. "tax increment development plan" means a
5 plan for the undertaking of a tax increment development
6 project;

7 ~~[Y.]~~ Z. "tax increment development project" means
8 activities undertaken within a tax increment development area
9 to enhance the sustainability of the local, regional or
10 statewide economy; to support the creation of jobs, schools and
11 workforce housing; and to generate tax revenue for the
12 provision of public improvements and may include:

13 (1) acquisition of land within a designated
14 tax increment development area or a portion of that tax
15 increment development area;

16 (2) demolition and removal of buildings and
17 improvements and installation, construction or reconstruction
18 of streets, utilities, parks, playgrounds and improvements
19 necessary to carry out the objectives of the Tax Increment for
20 Development Act;

21 (3) installation, construction or
22 reconstruction of streets, water utilities, sewer utilities,
23 parks, playgrounds and other public improvements necessary to
24 carry out the objectives of the Tax Increment for Development
25 Act;

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1 (4) disposition of property acquired or held
2 by a tax increment development district as part of the
3 undertaking of a tax increment development project at the fair
4 market value of such property for uses in accordance with the
5 Tax Increment for Development Act;

6 (5) payments for professional services
7 contracts necessary to implement a tax increment development
8 plan or project;

9 (6) borrowing to purchase land, buildings or
10 infrastructure in an amount not to exceed the revenue stream
11 that may be derived from the gross receipts tax increment or
12 the property tax increment estimated to be received by a tax
13 increment development district; and

14 (7) grants for public improvements essential
15 to the location or expansion of a business;

16 [~~Z.~~] AA. "taxing entity" means the governing body
17 of a political subdivision of the state, the gross receipts tax
18 increment or property tax increment of which may be used for a
19 tax increment development project; and

20 [~~AA.~~] BB. "workforce housing" means decent, safe
21 and sanitary dwellings, apartments, single-family dwellings or
22 other living accommodations that are affordable for persons or
23 families earning less than eighty percent of the median income
24 within the county in which the tax increment development
25 project is located; provided that an owner-occupied housing

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1 unit is affordable to a household if the expected sales price
2 is reasonably anticipated to result in monthly housing costs
3 that do not exceed thirty-three percent of the household's
4 gross monthly income; provided that:

5 (1) determination of mortgage amounts and
6 payments are to be based on down payment rates and interest
7 rates generally available to lower- and moderate-income
8 households; and

9 (2) a renter-occupied housing unit is
10 affordable to a household if the unit's monthly housing costs,
11 including rent and basic utility and energy costs, do not
12 exceed thirty-three percent of the household's gross monthly
13 income."

14 SECTION 2. A new section of the Tax Increment for
15 Development Act is enacted to read:

16 "[NEW MATERIAL] EXCLUSION.--The provisions of the Tax
17 Increment for Development Act shall not apply to greenfield
18 areas; provided that a tax increment development district may
19 be formed for a greenfield area if a governing body prior to
20 July 1, 2018 has adopted a resolution ordering that a tax
21 increment development district be formed for the greenfield
22 area and for which, prior to July 1, 2018, the state board of
23 finance adopted a resolution dedicating a gross receipts tax
24 increment attributable to the imposition of the state gross
25 receipts tax within the district for the purpose of securing

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1 gross receipts tax increment bonds."

2 SECTION 3. EFFECTIVE DATE.--The effective date of the
3 provisions of this act is July 1, 2018.

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