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HOUSE BILL 37

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

INTRODUCED BY

Miguel P. Garcia

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; EXCLUDING THE ACQUISITION OF
WATER RIGHTS FROM THE PERMISSIBLE USES OF LOCAL ECONOMIC
DEVELOPMENT ACT FUNDS.

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. "broadband telecommunications network
facilities" means the electronics, equipment, transmission
facilities, fiber-optic cables and any other item directly

1 related to a system capable of transmission of internet
2 protocol or other formatted data at current federal
3 communications commission minimum speed standard, all of which
4 will be owned and used by a provider of internet access
5 services;

6 C. "cultural facility" means a facility that is
7 owned by the state, a county, a municipality or a qualifying
8 entity that serves the public through preserving, educating and
9 promoting the arts and culture of a particular locale,
10 including theaters, museums, libraries, galleries, cultural
11 compounds, educational organizations, performing arts venues
12 and organizations, fine arts organizations, studios and media
13 laboratories and live-work housing facilities;

14 D. "department" means the economic development
15 department;

16 E. "economic development project" or "project"
17 means:

18 (1) the provision of direct or indirect
19 assistance to a qualifying entity by a local or regional
20 government and includes the purchase, lease, grant,
21 construction, reconstruction, improvement or other acquisition
22 or conveyance of land, buildings or other infrastructure;
23 rights-of-way infrastructure, including trenching and conduit,
24 for the placement of new broadband telecommunications network
25 facilities; public works improvements essential to the location

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1 or expansion of a qualifying entity; payments for professional
2 services contracts necessary for local or regional governments
3 to implement a plan or project; the provision of direct loans
4 or grants for land, buildings or infrastructure; technical
5 assistance to cultural facilities; loan guarantees securing the
6 cost of land, buildings or infrastructure in an amount not to
7 exceed the revenue that may be derived from the municipal
8 infrastructure gross receipts tax or the county infrastructure
9 gross receipts tax; grants for public works infrastructure
10 improvements essential to the location or expansion of a
11 qualifying entity; grants or subsidies to cultural facilities;
12 purchase of land for a publicly held industrial park or a
13 publicly owned cultural facility; and the construction of a
14 building for use by a qualifying entity; but

15 (2) does not mean the direct or indirect
16 provision of water rights to a qualifying entity by a local or
17 regional government and does not include the purchase, lease,
18 grant or other acquisition or conveyance of water rights;

19 F. "governing body" means the city council, city
20 commission or board of trustees of a municipality or the board
21 of county commissioners of a county;

22 G. "local government" means a municipality or
23 county;

24 H. "municipality" means an incorporated city, town
25 or village;

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1 I. "person" means an individual, corporation,
2 association, partnership or other legal entity;

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

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

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

18 (3) a business, including a restaurant or
19 lodging establishment, in which all or part of the activities
20 of the business involves the supplying of services to the
21 general public or to governmental agencies or to a specific
22 industry or customer, but, other than as provided in Paragraph
23 (5) or (9) of this subsection, not including businesses
24 primarily engaged in the sale of goods or commodities at
25 retail;

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

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

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

7 (7) a business that is the developer of a
8 metropolitan redevelopment project;

9 (8) a cultural facility; and

10 (9) a retail business;

11 K. "regional government" means any combination of
12 municipalities and counties that enter into a joint powers
13 agreement to provide for economic development projects pursuant
14 to a plan adopted by all parties to the joint powers agreement;
15 and

16 L. "retail business" means a business that is
17 primarily engaged in the sale of goods or commodities at retail
18 and that is located in a municipality with a population,
19 according to the most recent federal decennial census, of:

20 (1) ten thousand or less; or

21 (2) more than ten thousand but less than
22 thirty-five thousand if:

23 (a) the economic development project is
24 not funded or financed with state government revenues; and

25 (b) the business created through the

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1 project will not directly compete with an existing business
2 that is: 1) in the municipality; and 2) engaged in the sale of
3 the same or similar goods or commodities at retail."

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