HOUSE BILL 37

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

INTRODUCED BY

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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

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

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

D. "department" means the economic development
department;

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

(1) the provision of direct or indirect
assistance to a qualifying entity by a local or regional
government and includes the purchase, lease, grant,
construction, reconstruction, improvement or other acquisition
or conveyance of land, buildings or other infrastructure;
rights-of-way infrastructure, including trenching and conduit,
for the placement of new broadband telecommunications network
facilities; public works improvements essential to the location
or expansion of a qualifying entity; payments for professional services contracts necessary for local or regional governments to implement a plan or project; the provision of direct loans or grants for land, buildings or infrastructure; technical assistance to cultural facilities; loan guarantees securing the cost of land, buildings or infrastructure in an amount not to exceed the revenue that may be derived from the municipal infrastructure gross receipts tax or the county infrastructure gross receipts tax; grants for public works infrastructure improvements essential to the location or expansion of a qualifying entity; grants or subsidies to cultural facilities; purchase of land for a publicly held industrial park or a publicly owned cultural facility; and the construction of a building for use by a qualifying entity; but

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

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

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

H. "municipality" means an incorporated city, town or village;
I. "person" means an individual, corporation, association, partnership or other legal entity;

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

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

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

(3) a business, including a restaurant or lodging establishment, in which all or part of the activities of the business involves the supplying of services to the general public or to governmental agencies or to a specific industry or customer, but, other than as provided in Paragraph (5) or (9) of this subsection, not including businesses primarily engaged in the sale of goods or commodities at retail;
(4) an Indian nation, tribe or pueblo or a federally chartered tribal corporation;

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

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

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

(8) a cultural facility; and

(9) a retail business;

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

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

(1) ten thousand or less; or

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

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

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