

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR  
SENATE PUBLIC AFFAIRS COMMITTEE SUBSTITUTE FOR  
SENATE BILL 219

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

AN ACT

RELATING TO HISTORIC PRESERVATION; PROVIDING PROCEDURES FOR THE  
APPLICATION OF THE HISTORIC DISTRICT AND LANDMARK ACT TO  
CONSTRUCTION OR RENOVATION OF STATE BUILDINGS.

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

**SECTION 1.** Section 3-22-6 NMSA 1978 (being Laws 2009,  
Chapter 23, Section 1) is amended to read:

"3-22-6. APPLICABILITY TO [~~STATE CAPITAL OUTLAY PROJECTS~~]  
CONSTRUCTION OR RENOVATION OF STATE BUILDINGS--LIMITATION.--

A. Recognizing the fragility of the state's  
historic heritage, the purpose of this section is to establish  
a procedure under which the state and its municipalities and  
counties will commit to collaborate in good faith and work  
jointly to preserve and protect the historic districts of New  
Mexico.

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1           B. Ordinances enacted by a municipality or county  
2 pursuant to the Historic District and Landmark Act shall apply  
3 to ~~[a state capital outlay project]~~ any construction or  
4 renovation of a state building only as provided in this section  
5 and only if the ordinances contain special provisions and  
6 standards applicable to state buildings, including provisions  
7 concerning the design, construction, alteration or demolition  
8 of the exterior features of state buildings. If requested by a  
9 resolution of the governing body of a municipality or county,  
10 the staff of the capitol buildings planning commission shall  
11 work jointly with the staff of the municipality or county in  
12 developing the provisions and standards required by this  
13 subsection.

14           C. The applicable state agency shall carry out ~~[a~~  
15 ~~capital outlay project]~~ the construction or renovation of a  
16 state building in a manner that is harmonious and generally  
17 compatible with the municipal or county ordinances.

18           D. Before commencing the design phase of ~~[a capital~~  
19 ~~outlay project]~~ the construction or renovation of a state  
20 building, the applicable state agency shall consult with the  
21 municipality or county as to the design standards in the  
22 ordinances and how those design standards would impact costs  
23 and the operation or manner in which the ~~[capital outlay~~  
24 ~~project]~~ construction or renovation of a state building will  
25 ultimately be expected to function; provided that, if the

1 municipality or county has an agency or other entity review  
2 projects within the area zoned as ~~[an]~~ a historic district or  
3 landmark, then the consultation shall be with that review  
4 agency or other entity. The state agency shall work  
5 collaboratively with the municipality or county or its review  
6 agency or other entity to arrive at compatibility with the  
7 design standards, considering reasonable costs and preserving  
8 essential functionality. If the municipality or county has  
9 identifiable community groups involved in historic  
10 preservation, the agency shall also make every reasonable  
11 effort to obtain input from members of those identified groups  
12 before commencing the design phase.

13 E. After the design phase and before soliciting a  
14 bid or a proposal for design-build or lease-purchase for ~~[a~~  
15 ~~capital outlay project]~~ the construction or renovation of a  
16 state building, the applicable state agency shall transmit its  
17 plans for review and comment to the municipality or county or  
18 its review agency or other entity and shall also conduct a  
19 public meeting to receive public input. Notice of the public  
20 meeting shall also be given to any identifiable community  
21 groups involved in historic preservation in the municipality or  
22 county.

23 F. Within sixty days after the public meeting, the  
24 municipality or county or its review agency or other entity,  
25 any identifiable historic preservation community group and any

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1 other interested party shall communicate recommendations and  
2 comments in writing to the state agency. The state agency  
3 shall consult with the municipality or county or its review  
4 agency or other entity to resolve any issues raised. If, at  
5 the end of the sixty-day period, unresolved issues remain, the  
6 municipality or county may, within five days after the end of  
7 the period, notify the applicable state agency that the issues  
8 remain unresolved and should be finally determined pursuant to  
9 Subsection G of this section; provided that, if notice is not  
10 timely given, the applicable state agency may, after  
11 incorporating those provisions to which the state agency and  
12 the municipality or county have agreed, proceed with the  
13 ~~[capital outlay project]~~ construction or renovation of a state  
14 building.

15 G. If notice is timely given by a municipality or  
16 county, pursuant to Subsection F of this section, that issues  
17 remain unresolved, those issues shall be decided pursuant to  
18 the following provisions:

19 (1) within five days after the notice, a  
20 state-local government historic review board shall be formed,  
21 consisting of eight members as follows:

22 (a) one member appointed by the capitol  
23 buildings planning commission, who shall chair the board and  
24 who shall vote only if there is a tie among the other board  
25 members present;

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1 (b) one member appointed by the cultural  
2 properties review committee;

3 (c) the state historic preservation  
4 officer or a designee of the officer;

5 (d) one member appointed by the agency  
6 or other entity that reviews projects within the area zoned as  
7 ~~[an]~~ a historic district or landmark; provided that, if the  
8 municipality or county has no such agency or other entity, the  
9 member shall be appointed by the governing body of the  
10 municipality or county;

11 (e) one member appointed by the agency  
12 or entity of the municipality or county that is concerned with  
13 historic preservation; provided that, if the municipality or  
14 county has no such agency or other entity, the member shall be  
15 appointed by the governing body of the municipality or county;  
16 and

17 (f) three public members who have a  
18 demonstrated interest in historic preservation appointed as  
19 follows: 1) one member appointed by the secretary of general  
20 services; 2) one member appointed by the governing body of the  
21 municipality or county; and 3) one public member appointed by  
22 the other two public members;

23 (2) the staff of the capitol buildings  
24 planning commission shall serve as the staff of the state-local  
25 government historic review board; and

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1 (3) the state-local government historic review  
2 board shall, at a public meeting, consider each of the  
3 unresolved issues and, within twenty days of its formation  
4 shall, for each issue, make a final decision that is harmonious  
5 and generally compatible with the municipal or county  
6 ordinance.

7 H. Appeals from the decisions of the state-local  
8 government historic review board shall be taken to the district  
9 court in the manner provided in Section 39-3-1.1 NMSA 1978.

10 I. The state agency shall not take any irrevocable  
11 action on the [~~capital project~~] construction or renovation of a  
12 state building in reliance on the plans until the procedures  
13 set forth in Subsections F and G of this section have been  
14 followed.

15 J. As used in this section:

16 (1) "construction or renovation" applies only  
17 to the exterior envelope of a state building, regardless of the  
18 source of funds for the project; and

19 (2) "state building" means an affixed  
20 structure with walls and a roof designed for enclosure or  
21 shelter that is owned or leased by the state or located on land  
22 owned by the state or held in trust by the state; provided that  
23 any lessee of lands held in trust by the state pursuant to the  
24 Enabling Act shall be subject to the state agency obligations."

25 SECTION 2. APPLICABILITY.--The provisions of this act

1 apply to any new construction or renovation of a state building  
2 that commences on or after July 1, 2019; provided that no  
3 contract for the design phase for the construction or  
4 renovation of the state building has been executed prior to  
5 July 1, 2019.

6 SECTION 3. EFFECTIVE DATE.--The effective date of the  
7 provisions of this act is July 1, 2019.

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