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HOUSE BILL 273

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

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AN ACT

RELATING TO FINANCE; AMENDING THE LOCAL ECONOMIC DEVELOPMENT
ACT TO INCLUDE CHILD CARE FACILITIES AS QUALIFYING ENTITIES.

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 by Laws 2021, Chapter 3,
Section 1 and by Laws 2021, Chapter 135, Section 1) 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

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1 facilities, fiber-optic cables and any other item directly
2 related to a system capable of transmission of internet
3 protocol or other formatted data at current federal
4 communications commission baseline speed standard, all of which
5 will be owned and used by a provider of internet access
6 services;

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

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

17 E. "economic development project" or "project"
18 means the project of a qualifying entity for which public
19 support may be provided pursuant to the Local Economic
20 Development Act;

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

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

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1 H. "municipality" means an incorporated city, town
2 or village;

3 I. "new full-time economic base job" means a job:

4 (1) that is primarily performed in New Mexico;

5 (2) that is held by an employee who is hired
6 to work an average of at least thirty-two hours per week for at
7 least forty-eight weeks per year;

8 (3) that is:

9 (a) involved, directly or in a
10 supervisory capacity, with the production of: 1) a service;
11 provided that the majority of the revenue generated from the
12 service is from sources outside the state, unless the employer
13 is a child care facility, including both family-home-based and
14 center-based programs, licensed by the early childhood
15 education and care department to provide care to infants,
16 toddlers and children; or 2) tangible or intangible personal
17 property for sale; or

18 (b) held by an employee who is employed
19 at a regional, national or international headquarters operation
20 or at an operation that primarily provides services for other
21 operations of the qualifying entity that are located outside
22 the state; and

23 (4) that is not directly involved with natural
24 resources extraction or processing, on-site services where the
25 customer is present for the delivery of the service, unless the

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1 employer is a child care facility, including both family-home-
2 based and center-based programs, licensed by the early
3 childhood education and care department to provide care to
4 infants, toddlers and children, retail, construction or
5 agriculture except for value-added processing performed on
6 agricultural products that would then be sold for wholesale or
7 retail consumption;

8 J. "person" means an individual, corporation,
9 association, partnership or other legal entity;

10 K. "public support" means the provision of
11 assistance by the state to a local or regional government or
12 the provision of direct or indirect assistance to a qualifying
13 entity by a local or regional government for an economic
14 development project. "Public support":

15 (1) includes the provision of:

16 (a) land, buildings or other
17 infrastructure, by purchase, lease, grant, construction,
18 reconstruction, improvement or other acquisition or conveyance;

19 (b) the placement of new broadband
20 telecommunications network facilities; provided that the
21 facilities shall not serve a public facility or location that
22 already meets federal communications commission baseline speed
23 standards;

24 (c) rights-of-way infrastructure,
25 including trenching and conduit, for the placement of new

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1 broadband telecommunications network facilities;

2 (d) public works improvements essential
3 to the location or expansion of a qualifying entity;

4 (e) payments for professional services
5 contracts necessary for local or regional governments to
6 implement a plan or provide public support for a project;

7 (f) direct loans or grants for land,
8 buildings or infrastructure;

9 (g) technical assistance to cultural
10 facilities;

11 (h) loan guarantees securing the cost of
12 land, buildings or infrastructure in an amount not to exceed
13 the revenue that may be derived from an increment of the: 1)
14 municipal gross receipts tax imposed at a rate not to exceed
15 one-fourth percent and dedicated by the ordinance imposing the
16 increment for projects; or 2) county gross receipts tax imposed
17 at a rate not to exceed one-eighth percent and dedicated by the
18 ordinance imposing the increment for projects;

19 (i) grants for public works
20 infrastructure improvements essential to the location or
21 expansion of a qualifying entity and grants or subsidies to
22 cultural facilities;

23 (j) land for a publicly held industrial
24 park or a publicly owned cultural facility, by purchase; and

25 (k) the construction of a building for

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1 use by a qualifying entity; but

2 (2) does not include the purchase, lease,
3 grant or other acquisition or conveyance of water rights;

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

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

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

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

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1 retail;

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

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

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

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

10 (8) a cultural facility; ~~and~~

11 (9) a retail business; and

12 (10) a child care facility, including both
13 family-home-based and center-based programs, licensed by the
14 early childhood education and care department to provide care
15 to infants, toddlers and children;

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

21 N. "retail business" means a business that is
22 primarily engaged in the sale of goods or commodities at retail
23 and that is located:

24 (1) in a municipality with a population,
25 according to the most recent federal decennial census, of:

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(a) fifteen thousand or less; or
(b) more than fifteen thousand if the
economic development project is not funded or financed with
state government revenues; or
(2) in an unincorporated area of a county."