

1 SENATE BILL 357

2 57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

3 INTRODUCED BY

4 Carrie Hamblen and Anthony L. Thornton and Christine Chandler
5 and Nicholas A. Paul
6
7
8
9

10 AN ACT

11 RELATING TO UTILITIES; CREATING THE ESSENTIAL SERVICES
12 DEVELOPMENT ACT TO ALLOW STATE SUPPORT FOR INFRASTRUCTURE
13 PROJECTS THAT ALLOW ACCESS TO INTERNET, ENERGY, WATER AND
14 WASTEWATER SERVICES PRIMARILY FOR RESIDENTIAL PURPOSES.
15

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

17 SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be
18 cited as the "Essential Services Development Act".

19 SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the
20 Essential Services Development Act:

21 A. "broadband telecommunications network
22 facilities" means the electronics, equipment, transmission
23 facilities, fiber-optic cables and any other item directly
24 related to a system capable of transmission of internet
25 protocol or other formatted data at current federal

.229009.1

underscoring material = new
[bracketed material] = delete

1 communications commission baseline speed standard, all of which
2 will be owned and used by a provider of internet access
3 services;

4 B. "division" means the local government division
5 of the department of finance and administration;

6 C. "essential services project" or "project" means
7 an infrastructure project that allows access to internet,
8 energy, water and wastewater services primarily for residential
9 purposes;

10 D. "governing body" means the city council, city
11 commission or board of trustees of a municipality or the board
12 of county commissioners of a county;

13 E. "local government" means a municipality or
14 county;

15 F. "municipality" means an incorporated city, town
16 or village;

17 G. "person" means an individual, corporation,
18 association, partnership or other legal entity;

19 H. "public support" means the provision of
20 assistance by the state to provide direct or indirect
21 assistance to support an essential services project, including
22 for the provision of:

23 (1) land, buildings or other infrastructure by
24 purchase, lease, grant, construction, reconstruction,
25 improvement or other acquisition or conveyance;

.229009.1

underscoring material = new
~~[bracketed material] = delete~~

1 (2) the placement of new broadband
2 telecommunications network facilities; provided that the
3 facilities shall not serve a public facility or location that
4 already meets federal communications commission baseline speed
5 standards;

6 (3) rights-of-way infrastructure, including
7 trenching and conduit, for the placement of new broadband
8 telecommunications network facilities;

9 (4) public works improvements essential to the
10 location or expansion of a qualifying entity;

11 (5) payments for professional services
12 contracts necessary to implement an essential services plan or
13 provide public support for an essential services project;

14 (6) direct loans or grants for land, buildings
15 or infrastructure;

16 (7) loan guarantees securing the cost of land,
17 buildings or infrastructure; and

18 (8) grants for public works infrastructure
19 improvements; and

20 I. "regional government" means any combination of
21 municipalities and counties that enter into a joint powers
22 agreement to provide public support for economic development
23 projects pursuant to a plan adopted by all parties to the joint
24 powers agreement.

25 SECTION 3. [NEW MATERIAL] PUBLIC SUPPORT SHALL BE

.229009.1

underscored material = new
~~[bracketed material] = delete~~

1 SPECIFICALLY AUTHORIZED BY LAW--ONLY THE STATE MAY PROVIDE
2 PUBLIC SUPPORT.--

3 A. Public support for an essential services project
4 shall be specifically authorized by law. The law shall include
5 provisions to safeguard public money and other resources,
6 including allowing the division to recover money and other
7 resources from a local or regional government if the essential
8 services project is not completed to the satisfaction of the
9 division or otherwise does not meet the requirements provided
10 in the Essential Services Development Act.

11 B. A local government is not authorized to provide
12 public support for essential services projects pursuant to
13 Subsection H of Section 14 of Article 9 of the constitution of
14 New Mexico.

15 SECTION 4. [NEW MATERIAL] TECHNICAL ASSISTANCE FROM THE
16 DIVISION.--At the request of a local or regional government,
17 the division shall provide technical assistance in the
18 development of an essential services plan or project.

19 SECTION 5. [NEW MATERIAL] ESSENTIAL SERVICES DEVELOPMENT
20 PLAN--CONTENTS--PUBLICATION.--

21 A. Prior to receiving public support, a local or
22 regional government seeking to pursue an essential services
23 project shall adopt a development plan to implement the
24 project. Any plan or plan amendment shall be adopted by
25 ordinance of the governing body of the local government or each

.229009.1

underscoring material = new
~~[bracketed material] = delete~~

1 local government of a regional government proposing the plan or
2 plan amendment.

3 B. The plan or the ordinance adopting the plan
4 shall:

5 (1) describe the local or regional
6 government's essential services development goals or
7 strategies;

8 (2) describe the types of essential services
9 projects that will qualify for public support under the plan;

10 (3) describe the criteria to be used to
11 determine eligibility for public support for an essential
12 services project;

13 (4) describe the manner in which a person or
14 entity may submit an application for public support pursuant to
15 Section 7 of the Essential Services Development Act;

16 (5) describe the process the local or regional
17 government will use to verify the information submitted on an
18 application for public support;

19 (6) detail the need for the essential services
20 projects contemplated in the plan and the benefit that the
21 projects will bring to the local or regional government;

22 (7) describe the safeguards of public
23 resources that will be ensured; and

24 (8) if a regional government, describe the
25 joint powers agreement, including whether it can be terminated

.229009.1

underscored material = new
[bracketed material] = delete

1 and, if so, how the contractual or other obligations, risks and
2 any property will be assigned or divided among the local
3 governments that are party to the agreement.

4 C. The plan shall be made available to the
5 residents within the local or regional government area.

6 SECTION 6. [NEW MATERIAL] REGIONAL PLANS--JOINT POWERS
7 AGREEMENT--REGIONAL GOVERNMENT.--

8 A. Two or more municipalities, two or more counties
9 or one or more municipalities and counties may enter into a
10 joint powers agreement pursuant to the Joint Powers Agreements
11 Act to develop a regional essential services development plan,
12 which may consist of existing local plans. The parties to the
13 agreement shall be deemed a regional government for the
14 purposes of the Essential Services Development Act.

15 B. The joint powers agreement shall provide for
16 appointment of a project manager who shall be responsible for
17 the management of projects and money from public support. The
18 agreement may provide for a regional body consisting of
19 representatives from the governing bodies of each local
20 government that is a party to the agreement and may determine
21 the powers and duties of that body in implementing the regional
22 government's plan and providing public support for essential
23 services projects.

24 SECTION 7. [NEW MATERIAL] APPLICATIONS FOR PUBLIC
25 SUPPORT.--

.229009.1

underscoring material = new
~~[bracketed material] = delete~~

1 A. After the adoption of an essential services
2 development plan by a local or regional government, the local
3 or regional government may begin accepting applications for
4 public support of the local or regional government's essential
5 services project. The application shall be on a form and in a
6 manner as prescribed by the local or regional government.

7 B. The local or regional government shall review
8 each application and any project determined to be eligible for
9 public support shall be approved by ordinance.

10 C. The local or regional government's evaluation of
11 an application shall be based on the provisions of the
12 essential services development plan and any other information
13 the local or regional government believes is necessary for a
14 full review of the application.

15 D. The local or regional government may negotiate
16 with an applicant on the type or amount of public support to be
17 provided or on the scope of the essential services project.

18 SECTION 8. [NEW MATERIAL] DEPOSIT PUBLIC SUPPORT MONEY IN
19 SPECIAL FUND.--

20 A. A regional or local government that receives
21 money from public support for an essential services project
22 shall create a special fund into which the money from the
23 public support shall be deposited and shall be expended only
24 for essential services project purposes. Separate accounts
25 shall be established for each essential services project.

.229009.1

underscoring material = new
~~[bracketed material] = delete~~

1 B. In the case of a regional government, money from
2 public support may be expended only as provided by the regional
3 government's essential services development plan and joint
4 powers agreement.

5 **SECTION 9. [NEW MATERIAL] PLAN AND PROJECT TERMINATION--**
6 **DEPOSIT OF UNEXPENDED FUNDS IN GENERAL FUND.--**

7 A. At any time after approval of an essential
8 services development plan, the governing body of the local
9 government or the governing body of each local government in a
10 regional government may enact an ordinance terminating the plan
11 and dissolving or terminating any public support for essential
12 services projects.

13 B. Any unexpended and unencumbered balance
14 remaining in a local or regional government's special fund or
15 account upon repeal of an essential services plan and
16 termination of public support for or dissolution of a project
17 shall be returned to the state treasurer, who shall deposit the
18 returned amount in the general fund.

19 **SECTION 10. [NEW MATERIAL] STATE PARTICIPATION IN**
20 **ESSENTIAL SERVICES PROJECTS--PROJECT PARTICIPATION AGREEMENT--**
21 **DUTIES AND REQUIREMENTS.--**

22 A. If public support is provided for an essential
23 services project, the division shall enter into a project
24 participation agreement with the local or regional government
25 pursuant to this section.

.229009.1

underscoring material = new
~~[bracketed material] = delete~~

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

B. A project participation agreement shall set out,
at a minimum:

(1) a description of the public support to be
provided for the essential services project;

(2) a schedule for project development and
completion, including measurable goals and time limits for
those goals;

(3) provisions for performance review and
actions to be taken upon a determination that project
performance is unsatisfactory; and

(4) a description of how the local or regional
government will safeguard public money or other resources
provided as public support for the essential services project.