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SENATE BILL 151

53RD LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2018

INTRODUCED BY

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AN ACT

RELATING TO ECONOMIC DEVELOPMENT; ENACTING THE ENHANCED ENTERPRISE ZONE ACT TO PROVIDE TAX COLLECTION ABATEMENT FOR THE DEVELOPMENT OR IMPROVEMENT OF PROPERTY WITHIN DESIGNATED ECONOMICALLY UNDERPERFORMING AREAS; PROVIDING POWERS AND DUTIES; ESTABLISHING REQUIREMENTS FOR PARTICIPATION; PROVIDING A DELAYED REPEAL.

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

SECTION 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--This act may be cited as the "Enhanced Enterprise Zone Act".

SECTION 2. ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the Enhanced Enterprise Zone Act:

A. "abatement period" means that term of years during which increased property taxes derived from development or redevelopment shall be assessed but not imposed;

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1 B. "department" means the economic development
2 department;

3 C. "economically depressed" or "economically
4 underperforming" means an area in which a substantial number of
5 parcels are determined by a local government to be dilapidated,
6 unsanitary, unsafe, in need of economic revitalization or
7 underutilized;

8 D. "enhanced enterprise zone" or "zone" means an
9 urban or rural geographic area with fixed boundaries designated
10 as an enhanced enterprise zone by a local government pursuant
11 to the Enhanced Enterprise Zone Act;

12 E. "jurisdiction" means a geographic area over
13 which a local government has authority and control as provided
14 by the constitution of New Mexico or by statute;

15 F. "local government" means a municipality or
16 county;

17 G. "municipality" means an incorporated city, town
18 or village, whether incorporated under general act, special act
19 or special charter;

20 H. "participant" means a person who owns or leases
21 property within the geographic area of an enhanced enterprise
22 zone that has been approved by a local government for inclusion
23 in the benefits of the enhanced enterprise zone;

24 I. "person" means an individual, corporation,
25 business trust, estate, trust, partnership, limited liability

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1 company, association, joint venture or any legal or commercial
2 entity; and

3 J. "revenue-producing enhanced enterprise" means
4 manufacturing activities; agricultural activities; cultural and
5 creative industries and activities; transportation activities;
6 residential property, excluding new single-family residential
7 construction in unimproved areas; public warehousing and
8 storage activities; airports and air transportation services;
9 railyard and rail transportation services; trucking and
10 distribution activities; wholesale trade activities; retail
11 activities; insurance carrier activities; research and
12 development activities; farm implement and heavy equipment
13 dealer activities; employment agency activities; computer
14 programming, data processing and other computer-related
15 activities; health services; office activities; any combination
16 of the foregoing activities; or other job-creating activities
17 as approved by a local government.

18 SECTION 3. [NEW MATERIAL] ESTABLISHMENT OF ENHANCED
19 ENTERPRISE ZONE--FINDINGS--PUBLIC HEARING--COUNTY
20 RATIFICATION--LANDOWNER PETITION.--

21 A. A local government may designate an area as an
22 enhanced enterprise zone upon a written finding pursuant to an
23 economic impact study that the area, as compared with other
24 areas within a jurisdiction, is economically depressed or is
25 economically underperforming, has a higher unemployment rate,

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1 has a higher rate of poverty or other distress factors unique
2 to the area or has a greater potential for economic
3 revitalization and will be improved if designated as an
4 enhanced enterprise zone. Enhanced enterprise zones may
5 include an area previously or currently designated as a
6 metropolitan redevelopment area or district. Property owners
7 may also petition a local government to create an enhanced
8 enterprise zone.

9 B. All enhanced enterprise zones shall be
10 established by local ordinance. The local ordinance shall
11 include an exact description of the boundaries of the proposed
12 zone, a statement of the zone's purpose and goals, the written
13 finding required by Subsection A of this section and the date
14 on which the designation of the zone will expire.

15 C. Prior to the enactment of an ordinance
16 establishing a zone, the local government shall hold a public
17 hearing to receive written or oral comments concerning the
18 effect of the enhanced enterprise zone designation. Notice of
19 a public hearing shall be given to all property owners in the
20 proposed zone and to each political subdivision whose
21 boundaries overlap the proposed zone. The notice shall be
22 published in a newspaper of general circulation at least thirty
23 days prior to the date of the hearing and shall state the time,
24 location, date and purpose of the hearing.

25 D. Enhanced enterprise zones within a municipality

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1 shall be ratified by a resolution of the board of county
2 commissioners of the county in which the zone to be created is
3 located. An enhanced enterprise zone within a municipality may
4 be rejected by a county only for good cause as reflected by the
5 written record of the board of county commissioners.

6 E. A property owner petition to create an enhanced
7 enterprise zone shall be signed by a majority of not less than
8 fifty-one percent of the total landowners or fifty-one percent
9 of the real property owners in the geographic area proposed for
10 designation as an enhanced enterprise zone. A lessee of
11 property may also request inclusion in an enhanced enterprise
12 zone with the prior written permission of the lessor.

13 F. Subsequent to the designation of a geographic
14 area as an enhanced enterprise zone, the local government may
15 expand the boundaries of the zone upon receipt of a proposed
16 development improvement plan from an owner of property
17 contiguous to the zone. In the discretion of a local
18 government, real property may be considered contiguous to the
19 zone if physical contiguity is interrupted by a public
20 thoroughfare, railroad or other public use.

21 SECTION 4. [NEW MATERIAL] ENHANCED ENTERPRISE ZONE
22 BOARD--POWERS AND DUTIES.--

23 A. An enhanced enterprise zone shall be governed by
24 the governing body that adopted an ordinance to form the zone
25 or by a five-member board appointed by that governing body.

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1 B. An enhanced enterprise zone board shall monitor
2 the stated purpose of the zone and have other powers and duties
3 as may be established by the local government.

4 C. If a metropolitan redevelopment district has
5 been established in a jurisdiction, the local government may
6 designate the metropolitan redevelopment board to act as the
7 enhanced enterprise zone board.

8 D. If an enhanced enterprise zone board is created
9 by a municipality, one member of the board shall represent the
10 county in which the zone is located.

11 SECTION 5. [NEW MATERIAL] ENHANCED ENTERPRISE ZONE
12 EVALUATIONS--REPORTING REQUIREMENTS.--

13 A. A local government that has designated an area
14 as an enhanced enterprise zone shall, no more than five years
15 after the designation was made, reevaluate the area to
16 determine whether the enhanced enterprise zone has made
17 substantial progress in the accomplishment of its stated goals.
18 After such review, the local government may take any action
19 necessary to amend the enhanced enterprise zone criteria or
20 purpose, including repeal of the ordinance that established the
21 enhanced enterprise zone.

22 B. A local government shall report the
23 establishment of an enhanced enterprise zone and all
24 evaluations of an enhanced enterprise zone to the department by
25 August 31 each year for the previous fiscal year ended June 30.

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1 An initial report shall include a geographic description of the
2 enhanced enterprise zone, a list of the initial participants
3 and the proposed uses to be developed or improved by each
4 participant in the zone. Reports in subsequent years shall
5 include updates on the progress of the development or
6 improvement by each participant in the enhanced enterprise
7 zone, any resulting increased economic activity of the
8 participants in the zone and any further information about the
9 zone as the department may request or require.

10 SECTION 6. [NEW MATERIAL] ECONOMIC DEVELOPMENT DEPARTMENT
11 ASSISTANCE.--The department shall assist any local government
12 upon request with the establishment, management or evaluation
13 of an enhanced enterprise zone or any development or
14 improvement needs of participants in the zone.

15 SECTION 7. [NEW MATERIAL] ABATEMENT OF COLLECTION OF
16 INCREASED PROPERTY TAXES.--

17 A. A participant shall be afforded a property tax
18 abatement of increased property taxes attributed to
19 improvements or developments made as a participant in an
20 enhanced enterprise zone. The abatement shall provide that
21 property taxes due subsequent to a person's acceptance as a
22 participant in an enhanced enterprise zone will remain equal to
23 the amount due prior to the creation of the zone, except for
24 new mill levies that may be imposed or adjustments to existing
25 mill levies for yield control.

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1 B. The abatement period shall not exceed ten years.
2 At the end of the abatement period, the abatement on collection
3 of taxes on the increased valuation amount shall be reduced by
4 approximately one-third per year such that three years
5 following the end of the abatement period, the property tax
6 shall be due on the full assessed value of the real or personal
7 property.

8 C. Nothing in this section shall be construed to
9 affect the distribution of property tax revenues to the various
10 state and local entities as provided by law. The county
11 assessor shall continue to assess properties in the enhanced
12 enterprise zone during the abatement period in accordance with
13 the county's usual assessment practices.

14 D. If a property in an enhanced enterprise zone
15 changes ownership during the abatement period, the new owner
16 shall continue to receive the benefits of participation in the
17 enhanced enterprise zone; provided that the new owner reaffirms
18 the development and improvement plan submitted by the previous
19 owner. If a lessee is receiving the benefits of participation
20 in an enhanced enterprise zone and the leasehold changes during
21 the abatement period, a new lessee, or the lessor if there is
22 not a new lessee, shall continue to receive the benefits of
23 participation in the enhanced enterprise zone; provided that
24 the new lessee or lessor reaffirms the development and
25 improvement plan submitted by the previous lessee.

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1 E. A participant shall only lose the benefits of
2 abatement provided in this section upon the expiration of the
3 enhanced enterprise zone or as provided by Section 9 of the
4 Enhanced Enterprise Zone Act.

5 **SECTION 8. [NEW MATERIAL] PARTICIPANTS--REQUIRED**
6 **SUBMISSIONS--DEVELOPMENT AND IMPROVEMENT PLANS.--**

7 A. No person shall be accepted as a participant in
8 an enhanced enterprise zone without submission of a development
9 or improvement plan that includes, at a minimum:

10 (1) the person's name, address and property
11 interest in the zone. If the person is a lessee of property in
12 the zone, the person shall demonstrate in the development or
13 improvement plan that the lessor has provided written
14 permission of the person's participation;

15 (2) a complete and detailed description of the
16 person's proposed participation, including a description of all
17 proposed developments or improvements to the person's property;

18 (3) how the proposed developments or
19 improvements will create jobs, promote industry or trade or
20 enhance economic activity;

21 (4) a schedule for initiation and completion
22 of the developments or improvements and the date that the
23 developments or improvements will be completed;

24 (5) the estimated number of new jobs that will
25 be created and the date by when the jobs will be created; and

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1 (6) other information as required by the
2 department or local government.

3 B. A local government may designate additional
4 participant criteria as warranted by the circumstances in the
5 local government's jurisdiction.

6 C. Participation in an enhanced enterprise zone
7 shall be recorded in the records of the county clerk.

8 SECTION 9. [NEW MATERIAL] DEADLINES FOR COMPLETION--
9 CLAWBACK.--

10 A. A participant shall complete all developments or
11 improvements within eighteen months after the participant's
12 development or improvement plan is approved by the local
13 government. The local government may grant an extension of
14 time for good cause. An extension of no more than six months
15 may be granted on no more than two occasions.

16 B. If a participant fails to develop or improve the
17 participant's property within the time allotted by the local
18 government, the participant may be removed from active enhanced
19 enterprise zone status and all property taxes shall be due and
20 payable at the current value, without any abatement, as
21 determined by the county assessor.

22 SECTION 10. [NEW MATERIAL] DELAYED REPEAL--EFFECT OF
23 DELAYED REPEAL ON EXISTING ENHANCED ENTERPRISE ZONES.--

24 A. Effective July 1, 2033, Sections 1 through 9 of
25 this act are repealed.

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1 B. Enhanced enterprise zones existing on June 30,
2 2033 shall continue until the date scheduled for the zone's
3 expiration as stated in the zone's enabling ordinance. No
4 participant in an enhanced enterprise zone existing on June 30,
5 2033 shall lose the benefits of being a participant until
6 expiration of the zone or as provided by Section 9 of the
7 Enhanced Enterprise Zone Act as it existed on June 30, 2033.

8 C. In 2030, the legislative finance committee shall
9 undertake a study of the effectiveness of the Enhanced
10 Enterprise Zone Act and make appropriate recommendations.

11 **SECTION 11. EFFECTIVE DATE.**--The effective date of the
12 provisions of this act is July 1, 2018.

