

HOUSE BILL 374

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO ECONOMIC DEVELOPMENT PROJECTS;  
HCEDC→**AMENDING**←HCEDC HCEDC→**REMOVING**←HCEDC MUNICIPAL  
POPULATION REQUIREMENTS FOR CERTAIN PROJECTS THAT THE ECONOMIC  
DEVELOPMENT DEPARTMENT MAY PARTICIPATE IN WITH LOCAL OR  
REGIONAL GOVERNMENTS.

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

SECTION 1. Section 5-10-15 NMSA 1978 (being Laws 2020,  
Chapter 74, Section 2, as amended) is amended to read:

.224556.3AIC March 2, 2023 (10:46am)

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"5-10-15. STATE PARTICIPATION IN ECONOMIC DEVELOPMENT  
PROJECTS--PROJECT PARTICIPATION AGREEMENT--DUTIES AND  
REQUIREMENTS--ECONOMIC DEVELOPMENT DEPARTMENT.--

A. The department may participate with local or regional governments in economic development projects that:

(1) provide for:

(a) the purchase, lease, grant, construction, reconstruction, improvement or other acquisition or conveyance of land, buildings or other infrastructure;

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

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

(d) payments for professional services contracts necessary for local or regional governments to implement a plan or project;

(e) the provision of direct loans or grants for land, buildings or infrastructure;

(f) loan guarantees securing the cost of land, buildings or infrastructure;

(g) grants for public works infrastructure improvements essential to the location or expansion of a qualifying entity and grants or subsidies to cultural facilities;

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(h) the purchase of land for a publicly held industrial park or a publicly owned cultural facility;

(i) technical assistance to cultural facilities; or

(j) the construction, rehabilitation or remodeling of a building for use by a qualifying entity; and

(2) that also:

(a) provide new full-time economic base jobs;

(b) are primarily engaged in the sale of goods or commodities at retail if: 1) the department has determined that the retail project would not substantially compete with a specific business already in operation in the state; and 2) the business is located outside a class A county and is located in a municipality with a population of fifteen thousand or less according to the most recent federal decennial census or is located within the unincorporated portion of a county; or

(c) provide extensions or improvements to infrastructure, excluding buildings, on government owned land not obtained through the issuance of industrial revenue bonds pursuant to the Industrial Revenue Bond Act or the County Industrial Revenue Bond Act in a municipality HCEDC→with a population of less than [sixty] two hundred thousand according to the most recent federal decennial census←HCEDC or in an

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unincorporated area not located within ten miles of the external boundaries of a municipality HCEDC→with a population of [sixty] two hundred thousand or more according to the most recent federal decennial census←HCEDC ; provided that the project shall not include a participating qualifying entity; and provided further that the department shall prioritize participation in a project pursuant to this subparagraph based on: 1) the likelihood of creating jobs; 2) the economic impact on the local economy; and 3) contributions from the local or regional government or other New Mexico governmental entity, the federal government or private entities; but

(3) do not include the purchase, lease, grant or other acquisition or conveyance of water rights.

B. If the department participates in an economic development project in which a qualifying entity participates, the department, the local or regional government and the qualifying entity shall enter into a project participation agreement pursuant to this section.

C. If the department participates in an economic development project that does not include a qualifying entity, the department shall not enter into a project participation agreement pursuant to this section, but shall enter into an intergovernmental agreement with the participating local or regional government.

D. The project participation agreement shall

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require that public support provided for the economic development project shall be in exchange for a substantive contribution from the qualifying entity as determined by the department.

E. The qualifying entity shall provide security to the state and each local or regional government or any other New Mexico governmental entity providing public support for the economic development project. The security shall secure the qualifying entity's obligations based on terms stated in the project participation agreement with the department and the local or regional government and shall reflect a proportional decline in security as the substantive contribution requirements are met by the qualifying entity. The department at the discretion of the secretary of economic development may release at any time the security for that portion of the public support provided by the state.

F. If a qualifying entity fails to perform its substantive contribution, the state, local, regional or other participating New Mexico governmental entity may enforce the project participation agreement to recover its proportional share of that portion of the public support for which the qualifying entity failed to provide a substantive contribution; provided that the recovery shall be:

(1) limited to the amount of public support provided by the governmental entity enforcing the project

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participation agreement, unless otherwise authorized by another participating governmental entity; and

(2) proportional to the failed performance of the substantive contribution and shall take into account all previous substantive contributions for the economic development project performed by the qualifying entity, based on the terms stated in the project participation agreement.

G. The project participation agreement shall at a minimum set out:

(1) the contributions to be made by the qualifying entity, the state and the local or regional government or other New Mexico governmental entity;

(2) the security provided to the state and each local or regional government or other New Mexico governmental entity by the qualifying entity in the form of a letter of credit, lien, mortgage or other indenture and the pledge of the qualifying entity's financial or material participation and cooperation to guarantee the qualifying entity's performance pursuant to the project participation agreement;

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

(4) provisions for performance review and actions to be taken upon a determination that project

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performance is unsatisfactory; and

(5) provisions allowing the department and the local or regional government or other New Mexico governmental entity to recover that portion of the public support for which the qualifying entity failed to provide a substantive contribution as determined by the department."

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