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SENATE BILL 63

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Mary Jane M. Garcia

AN ACT

RELATING TO LOCAL GOVERNMENTS; ENACTING THE LOCAL GOVERNMENT
TRANSPARENCY ACT; PROVIDING FOR THE DEVELOPMENT, OPERATION AND
MAINTENANCE OF WEB SITES THAT PROVIDE PUBLIC ACCESS TO CERTAIN
LOCAL GOVERNMENT FINANCIAL INFORMATION; MAKING AN
APPROPRIATION.

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

SECTION 1. ~~[NEW MATERIAL]~~ SHORT TITLE.--Sections 1
through 5 of this act may be cited as the "Local Government
Transparency Act".

SECTION 2. ~~[NEW MATERIAL]~~ DEFINITIONS.--As used in the
Local Government Transparency Act:

A. "division" means the local government division
of the department of finance and administration;

B. "expenditure" means a disbursement of federal,

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1 state or local government funds by a local government;

2 C. "federal funds" means money received by a local
3 government from the federal government or one of its branches,
4 departments, agencies, offices, officers or instrumentalities;

5 D. "local government" means

6 (1) a class A county; or

7 (2) an incorporated municipality with a
8 population, as shown by the most recent federal decennial
9 census, greater than fifteen thousand;

10 E. "revenue" means all money received by a local
11 government. "Revenue" includes money from taxes, fines, fees,
12 federal funds, state funds and other sources but does not
13 include money deposited into a suspense fund; and

14 F. "state funds" means money received by a local
15 government from the state or one of its branches, departments,
16 agencies, offices, officers or instrumentalities.

17 SECTION 3. [NEW MATERIAL] LOCAL GOVERNMENT PORTAL--
18 DEPARTMENT DUTIES.--

19 A. The division, with the assistance of the
20 department of information technology, shall develop, operate
21 and maintain a single internet web site that is free,
22 user-friendly, searchable and accessible to the public, known
23 as the "local government portal", to host financial information
24 for each local government for the purpose of governmental
25 transparency and accountability to taxpayers. The local

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1 government portal shall be maintained as a stand-alone internet
2 web site and as a link on the sunshine portal, maintained by
3 the department of information technology pursuant to the
4 Sunshine Portal Transparency Act.

5 B. No later than October 1, 2013, the division
6 shall create the architecture and the information exchange
7 process for the collection and electronic publication of the
8 financial information for each local government.

9 C. No later than July 1, 2014, the local government
10 portal shall be available for public access and shall include
11 updated information as required by Subsection D of this
12 section.

13 D. Except as provided in Subsection C or D of
14 Section 4 of the Local Government Transparency Act, the local
15 government portal shall provide, at a minimum, access to the
16 following information for each local government:

17 (1) the local government's cash balances by
18 account or fund;

19 (2) the annual operating budget with monthly
20 expenditures by category;

21 (3) contracts that a local government enters
22 into that have a total contract price that would require an
23 invitation for bids or a request for proposals under the
24 Procurement Code or, in the case of a home rule municipality,
25 under the municipality's procurement policies, naming the

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1 recipient, the purpose of the contract and the amounts
2 expended;

3 (4) the revenue that the local government
4 received in each month by source, such as type of tax, fee,
5 fine, administrative fee or other collection category;

6 (5) expenditures for capital projects,
7 identified by project location, type of project and funding
8 source;

9 (6) a directory of all employee positions,
10 showing each position's title and salary;

11 (7) a link to an open meeting tracker web site
12 upon which each local government shall post open meetings
13 pursuant to the notice provisions of the Open Meeting Act;

14 (8) a link to the local government's
15 ordinances or municipal code and, if applicable, charter;

16 (9) an annual summary within three months
17 after the end of the fiscal year, or as soon thereafter as the
18 information becomes available, of the local government's fiscal
19 health, including the budget, revenues and expenditures for the
20 previous fiscal year and projected revenues and operating
21 budgets for the current fiscal year; and

22 (10) additional information, as required by
23 rule of the division, that will assist the public in
24 understanding local government operations and the use of
25 taxpayer dollars.

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1 E. For a local government that maintains its own
2 web site pursuant to Subsection C of Section 4 of the Local
3 Government Transparency Act, the local government portal shall
4 contain a link to that web site.

5 F. Local governments shall provide updated
6 financial information as frequently as possible but at least
7 quarterly.

8 G. The division shall update the web site as new
9 information is received but at least monthly; include
10 information from the previous month or year, where relevant,
11 for comparison purposes; and maintain the web site as the
12 primary source of public information about the activity of New
13 Mexico's local governments.

14 SECTION 4. [NEW MATERIAL] RULES PROMULGATION--COMPLIANCE
15 REQUIRED--EXEMPTIONS.--

16 A. Pursuant to the State Rules Act, the division
17 shall promulgate rules to carry out the provisions of the Local
18 Government Transparency Act.

19 B. Unless exempted pursuant to Subsection C or D of
20 this section, all local governments, including home rule
21 municipalities, shall comply with the provisions of the Local
22 Government Transparency Act and rules promulgated by the
23 division pursuant to that act.

24 C. A local government is not required to submit
25 information required by the Local Government Transparency Act

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1 and shall not be included in the local government portal if:

2 (1) the local government maintains its own web
3 site with substantially the same information as required of the
4 local government portal; and

5 (2) information on the web site is updated at
6 least quarterly.

7 D. Upon the request in writing by a local
8 government, the director of the division may exempt, for a
9 period of up to twelve months, the local government from any or
10 all of the requirements of the Local Government Transparency
11 Act if the director finds that compliance by the local
12 government would be technically impracticable.

13 SECTION 5. ~~[NEW MATERIAL]~~ PROTECTION OF CONFIDENTIAL
14 INFORMATION.--Nothing in the Local Government Transparency Act
15 shall require disclosure of information that is confidential by
16 state or federal law.

17 SECTION 6. Section 10-16D-3 NMSA 1978 (being Laws 2010,
18 Chapter 34, Section 3, as amended) is amended to read:

19 "10-16D-3. SUNSHINE PORTAL--DEPARTMENT DUTIES.--

20 A. The department, with the department of finance
21 and administration, shall develop, operate and maintain a
22 single internet web site that is free, user-friendly,
23 searchable and accessible to the public, known as the "sunshine
24 portal", to host the state's financial information for the
25 purpose of governmental transparency and accountability to

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1 taxpayers.

2 B. No later than October 1, 2010, the department
3 shall create the architecture and the information exchange
4 process for the collection and electronic publication of the
5 state's financial information.

6 C. No later than July 1, 2011, the sunshine portal
7 shall be available for public access and include updated
8 information as required by Subsection D of this section.

9 D. The sunshine portal shall provide, at a minimum,
10 access to the following information:

11 (1) the state's cash balances by account or
12 fund;

13 (2) a monthly summary of the state's
14 investment accounts;

15 (3) annual operating budgets for each state
16 agency with monthly expenditures by category;

17 (4) contracts that a state agency enters into
18 for the lease, sale or development of state land and state
19 contracts that have a total contract price of more than twenty
20 thousand dollars (\$20,000), naming the recipient of the
21 contract, the purpose of the contract and the amounts expended;

22 (5) the revenue that the state received in the
23 preceding month by source, such as type of tax, fee, fine,
24 administrative fee or other collection category;

25 (6) special appropriations received outside

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1 the general appropriation act by each state agency and the
2 purpose of those appropriations;

3 (7) approved budget adjustment requests by
4 state agency and affected budget category;

5 (8) quarterly consensus revenue estimates;

6 (9) reversions and cash balances by state
7 agency and fund;

8 (10) appropriations for capital projects,
9 identified by project location, type of project and funding
10 source;

11 (11) a directory of all employee positions,
12 other than exempt employee positions, identified only by state
13 agency, position title and salary;

14 (12) a directory of all exempt employee
15 positions, identified by state agency, position title, salary
16 and the name of the individual that holds the position;

17 (13) information relating to local education
18 providers compiled and published by the public education
19 department pursuant to Section 10-16D-6 NMSA 1978;

20 (14) a link to an open meeting tracker web
21 site upon which each state agency shall post open meetings
22 scheduled for the current month and the next month, including
23 the time and place of the meeting, the subject of the meeting
24 and an agenda;

25 (15) a link to the web site maintained by the

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1 regulation and licensing department for the purpose of
2 accessing information relating to occupational licenses;

3 (16) a link to the state auditor's web site
4 for the purpose of accessing financial audits;

5 (17) a link to New Mexico's statutes;

6 (18) a link to the New Mexico Administrative
7 Code;

8 (19) a link to the secretary of state's web
9 sites for lobbyist regulation;

10 (20) an annual summary within three months
11 after the end of the fiscal year, or as soon thereafter as the
12 information becomes available, of the state's fiscal health,
13 including the state budget, revenues and expenditures for the
14 previous fiscal year and projected revenues and operating
15 budgets for the current fiscal year; ~~and~~

16 (21) additional information, as required by
17 rule of the department of finance and administration, that will
18 assist the public in understanding state government operations
19 and the use of taxpayer dollars; and

20 (22) a link to the local government portal,
21 maintained by the local government division of the department
22 of finance and administration pursuant to the Local Government
23 Transparency Act.

24 E. State agencies shall provide updated financial
25 information as frequently as possible but at least monthly.

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1 F. The department shall update the web site as new
2 information is received but at least monthly, include
3 information from the previous month or year, where relevant,
4 for comparison purposes and maintain the web site as the
5 primary source of public information about the activity of the
6 state government."

7 SECTION 7. APPROPRIATION.--One hundred thousand dollars
8 (\$100,000) is appropriated from the general fund to the local
9 government division of the department of finance and
10 administration for expenditure in fiscal years 2013 and 2014 to
11 develop, operate and maintain the local government portal. Any
12 unexpended or unencumbered balance remaining at the end of
13 fiscal year 2014 shall revert to the general fund.