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Subject to changes between
first and second reading.

Bill No. 139
Ordinance No. 24-327

Summary

An ordinance adding Article III District No. 2 to Chapter 3.50 to the Storey County Code creating Storey County Economic Diversification District No. 2 and providing for other properly related matters.

Title

An ordinance adding Article III District No. 2 to Chapter 3.50 to the Storey County Code creating Storey County Economic Diversification District No. 2 and providing for other properly related matters.

Chapter 3.50 ECONOMIC DIVERSIFICATION DISTRICT CREATION ORDINANCE

ARTICLE III DISTRICT NO. 2

3.50.310 Title.

This article is known as the "Economic Diversification District 2 Creation Ordinance." (Ord. No. 24-327, February 20, 2024)

3.50.320 Determinations of the board.

The board has determined that it intends to create one or more economic diversification districts for the purpose of encouraging local economic development. The board has also determined:

1. The pledge of any proceeds of an economic diversification district must not impair any existing contract for the sale of bonds, which were issued before September 11, 2014, the effective date of S.B. 1, 28th Special Sess. (Nev. 2014) known here as the Economic Diversification Act.
2. Any economic diversification district created must be located entirely within the boundaries of Storey County.

(Ord. No. 24-327, February 20, 2024)

3.50.325 Definitions.

1. Except as otherwise defined herein, the definitions contained in the Economic Diversification Act (NRS 271B) are incorporated into and adopted for use in this chapter.

2. **Expansion Improvements.** "Expansion Improvements" include real and personal property improvements made to Economic Diversification District 2 on or after the specified dates in this ordinance, and do not include any real property leased by a participant, and do not include any personal property used for the maintenance or replacement of any property or equipment abated under Economic Diversification District No. 1. The burden rests upon the lead participant (Tesla) to establish that improvements to real property and any personal property are expansion improvements.

(Ord. No. 24-327, February 20, 2024)

3.50.330 Creation of District No. 2.

The board, for the purposes of carrying out the encouragement of local economic development, creates an economic diversification district designated as the "Storey County Economic Diversification District No. 2 (Tesla)" ("District No. 2") for the purpose of facilitating the acquisition, improvement, development, and equipping of the "project," which consists of the improvements to and operations within the geographic boundaries of District No. 2, which are defined below and are represented in the site map attached to the Government Services Agreement executed on February 20, 2024.

1. **Gigafactory 1: Except as otherwise provided in Giga First Floor Expansion Area, Giga Second Floor Expansion Area, Giga Second Floor Expansion Area, Equipment Expansion Area, North Parking Lot Expansion Area, and South Parking Lot Expansion Area, the real and personal property making up Gigafactory1, the boundaries of which are defined below and illustrated in the Government Services Agreement, are not included in District No. 2 and are not abated. Gigafactory 1 and defined Expansion Areas are described as follows:**

- A- Gigafactory 1 is described as follows:

Commencing at the most northwest corner of Gigafactory being a location of 39.542431, -119.439904; thence in an easterly direction 985' to 39.542429, -119.436433; then southerly 1200' to 39.539147, -119.436392; then easterly 500' to 39.539154, -119.434620; then southerly 700' to 39.537233, -119.434629; then westerly 500' to 39.537217, -119.436400; then southerly 1,080' to 39.534254, -119.436321; then westerly 875' along the south wall of Gigafactory 1 to 39.534240, -119.439458; then southerly 160' to 39.533798, -119.439429; then westerly 270' to 39.533796, -119.440386; then southerly 370' to 39.532781, -119.440380; then westerly 600' to 39.532777, -119.442507; then northly 955' to 39.535399, -119.442533; then easterly 263' to the west side of Gigafactory 1 at 39.535403, -119.441601; then northerly 540' along the west side of Gigafactory 1 to the most westerly northwest corner of the building to 39.536882, -119.441614; then westerly 100' to 39.536882, -119.441976; then northerly 2,425' to 39.543541, -119.441897; then westerly 555' to 39.534570, -119.439929; then southerly 415' to the point of beginning, locations and bearings approximate using Eagle View Technologies imagery software for Storey County, Mosaic View May 2023- June 2023.

- B- **Giga First Floor Expansion Area and Giga Second Floor Expansion Area: Personal property and related expansion improvements purchased for use on or after July 1, 2024, are part of District No. 2 and are abated. Giga First Floor Expansion Area and Giga Second Floor Expansion Area are described as follows:**

Commencing at the West side of Gigafactory 1 building at 39.541822, -119.439824, running eastbound until 39.541723, -119.439352, then southbound to 39.539257, -119.439374, then westbound to 39.539158, -119.439867, and back north to the starting point. Giga First Floor Expansion Area is the first floor of the Gigafactory 1 building and Giga Second Floor Expansion Area is the second floor of the Gigafactory 1 building. This space includes the first and second floor areas that were built as manufacturing space, but are currently occupied by office or shared spaces. The total square footage of this area is approximately 94,379 square feet. ((Checking legal description and measure.))

- C- **Equipment Expansion Area: Personal property and related expansion improvements**

purchased for use on or after July 1, 2024, are part of District No. 2 and are abated. Equipment Expansion Area is described as follows:

Commencing at the northeast corner of Gigafactory 1 being 39.542443, -119.438214, thence in a southerly direction along the east side of Gigafactory 1 750' to 39.540388, -119.438165 and the point of beginning; thence easterly 500' to 39.540400, -119.436402; then southerly 400' to 39.539295, -119.436393; then westerly 500' to the east side of Gigafactory 1 at 39.539287, -119.438148; then northerly 400' along the east side of Gigafactory 1 to the point of beginning, locations and bearings approximate using Eagle View Technologies imagery software for Storey County, Mosaic View May 2023 - June 2023.

- D- **North Parking Lot Expansion Area:** Personal property and related expansion improvements purchased for use on or after July 1, 2024, are part of District No. 2 and are abated. The area of North Parking Lot Expansion Area is described as follows:

Commencing at northwest corner of Gigafactory 1 at 39.542430, -119.439911; then 2,020 feet southerly along west side of Gigafactory 1 to point 2 at 39.536892, -119.439847; then 600 feet westerly 269.69 degrees to a point at 39.536882, -119.441976; then 2,425 feet northerly 53 degrees to a point at 39.543541, -119.441897; then 555 feet easterly 88.96 degrees to a point at 39.534570, -119.439929; then 415 feet southerly to the point of beginning, all measurements, locations and bearings approximate using Eagle View Technologies imagery software for Storey County, Mosaic View May 2023 – June 2023.

- E- **South Parking Lot Expansion Area:** Personal property and related expansion improvements purchased for use on or after July 1, 2024, are part of District No. 2 and are abated. The area of South Parking Lot Expansion Area is described as follows:

Commencing at the southwest corner of Gigafactory 1 at 39.534236, -119.441587; then 610 feet easterly along the south wall of Gigafactory 1 to a point at 39.534240, -119.439458; then 160 feet southerly 180.43 degrees to a point at 39.533798, -119.439429; then 270 feet westerly 269.75 degrees to a point at 39.533796, -119.440386; then 370 feet southerly 179.73 degrees to a point at 39.532781, -119.440380; then 600 feet westerly 269.89 degrees to a point at 39.532777, -119.442507; then 955 feet northerly 359.56 degrees to a point at 39.535399, -119.442533; then 263 feet easterly to west side of Gigafactory 1 building 89.65 degrees to a point at 39.535403, -119.441601; then 425 feet southerly to the point of beginning, all measurements, locations and bearings approximate using Eagle View Technologies imagery software for Storey County, Mosaic View May 2023 – June 2023.

2. **EDD2 Main:** Expansion improvements made to real property, and personal property and related expansion improvements purchased for use, on or after December 1, 2023, are part of District No. 2 and are abated, except for Gigafactory 1 as described above. Real and personal property existing on or before November 30, 2023, is not part of District No. 2 and is not abated. EDD2 Main is described as follows:

Parcel 2021-01 of Lot Consolidation Doc. No. 133436, filed in the Office of County Recorder of Storey County, State of Nevada, on February 3, 2021, as File No. 133436, of Official Records.

3. **EDD2 Milan: Personal property and related expansion improvements purchased for use on or after December 1, 2023, are part of District No. 2 and are abated. Real and personal property existing on or before November 30, 2023, is not part of District No. 2 and is not abated, even if Tesla purchases the real property. EDD2 Milan is described as follows:**

Parcel 2007-105 of Record of Survey Map No. 107226, filed in the Office of the County Recorder of Storey County, State of Nevada on July 25, 2007, as File No. 107226, of Official Records. (APN 005-111-08, 385 Milan)

Parcel 2009-1 of Record of Survey Map No. 111108, filed in the Office of the County Recorder of Storey County, State of Nevada on May 4, 2009, as File No. 111108, of Official Records. (APN 005-111-22, 550 Milan)

Parcel 2011-6 of Record of Survey Map No. 115249, filed in the Office of the County Recorder of Storey County, State of Nevada on June 6, 2011, as File No. 115249, of Official Records. (APN 005-111-31, 555 Milan)

Parcel 2009-2, 700 Milan, Map#111108, APN 005-111-26, Legal - doc #111109 pages 9-10.

4. **EDD2 Viewshed: Expansion improvements made to real property, and personal property and related expansion improvements purchased for use, on or after July 1, 2024, are part of District No. 2 and are abated. Real and personal property existing on or before June 30, 2024, is not part of District No. 2 and is not abated. EDD2 Viewshed is described as follows:**

Parcel 2014-16 of Record of Survey Map No. 120639, filed in the Office of the County Recorder of Storey County, State of Nevada on July 17, 2014, as File No. 120639, of Official Records.

5. **EDD2 New West: Expansion improvements made to real property, and personal property and related expansion improvements purchased for use, on or after December 1, 2023, are part of District No. 2 and are abated. Real and personal property existing on or before November 30, 2023, is not part of District No. 2 and is not abated. EDD2 New West is described as follows:**

Parcel 2014-34 of Record of Survey Map No. 121588, filed in the Office of the County Recorder of Storey County, State of Nevada on February 2, 2015, as File No. 121588, of Official Records. (005-091-42, 2200 Electric)

Parcel 2015-34 of Record of Survey Map No. 123219, filed in the Office of the County Recorder of Storey County, State of Nevada on November 25, 2015, as File No. 123219, of Official Records. (005-091-47)

Parcel 2015-36 of Record of Survey Map No. 123219, filed in the Office of the County Recorder of Storey County, State of Nevada on November 25, 2015, as File No. 123219, of Official Records. (005-091-49)

Parcel 2015-3836 of Record of Survey Map No. 123221, filed in the Office of the County Recorder of Storey County, State of Nevada on November 25, 2015, as File No. 123221, of Official Records. (005-091-52)

6. **EDD2 Electric. Expansion improvements made to real property, and personal property and related expansion improvements purchased for use, on or after December 1, 2023, are part of District No. 2 and are abated. Real and personal property existing on or before November 30, 2023, is not part of District No. 2 and is not abated. EDD2 Electric is described as follows:**

Parcel 2023-1 of Deed of Reconveyance Doc. No. 137576, filed in the Office of the County Recorder of Storey County, State of Nevada on April 12, 2023, as File No. 137576. (portion of Electric Ave)

7. **Test Area: Test Area is not included in District No. 2 and is not abated. Test Area is described as follows:**

Commencing at 39.541683, -119.458756, then 400 feet easterly 90.98 degrees to a point at 39.541665, -119.457336; then 175 feet southerly 179.6 degrees to a point at 39.541184, -119.457330; then 400 feet westerly 271.24 degrees to a point at 39.541206, -119.458748; then 175 feet northerly 359.29 degrees to the point of beginning, all measurements, locations and bearings approximate using Eagle View Technologies imagery software for Storey County, Mosaic View May 2023 – June 2023.

8. **Other Improvements: All roads, buildings, structures, driveways, sidewalks, and paved vehicle and equipment staging areas and improvements existing on or before the dates specified for each area above are not included in District No. 2 and are not abated.**

(Ord. No. 24-327, February 20, 2024)

3.50.340 Determinations of the board concerning District No. 2.

The board has determined the following with respect to District No. 2:

1. The pledge of any proceeds of District No. 2 will not impair any existing contract for the sale of bonds, which were issued before September 11, 2014, the effective date of the Economic Diversification Act. District No. 2 is located entirely within the boundaries of Storey County.

(Ord. No. 24-327, February 20, 2024)

3.50.350 Pledge of amount equal to District No. 2 proceeds.

For the purposes of carrying out the acquisition, improvement, development and equipping of the project within District No. 2 and the funding of certain expenses related to the project, Storey County determines to pledge and does hereby irrevocably pledge to grant to the lead participant an amount equal to the proceeds of all sales and use taxes imposed on or owed by each participant in the project with regard to tangible personal property purchased for use in District No. 2, or stored, used or otherwise consumed in District No. 2 by a participant in a transaction occurring on or after _____, which is ...or after July 1, 2024, subject to sales and/or use tax in Storey County, other than the amount of any local sales and use taxes for which a participant has received an abatement pursuant to an Economic Diversification Act application approved by the Governor's Office of Economic Development ("District No. 2 Revenues") (such grant of District No. 2 Revenues shall be referred to herein as the "reimbursement payments"). Storey County is prohibited from pledging any District No. 2 Revenues to any party other than the lead participant. ((Verifying with GOED))

(Ord. No. 24-327, February 20, 2024)

3.50.360 Pledge payable out of District No. 2 proceeds.

The reimbursement payments shall be paid to the lead participant solely from District No. 2 Revenues received by Storey County from the State of Nevada Department of Taxation. Storey County's obligation to make reimbursement payments is not a general obligation of Storey County but is limited to such District No. 2 Revenues. Nothing contained in this chapter shall be deemed to constitute a pledge of the general credit, general funds, or general moneys of Storey County. ((Verifying with GOED))

(Ord. No. 24-327, February 20, 2024)

3.50.370 Eligible expenses for reimbursement.

The reimbursement payments may be used to defray any of the following costs incurred by, on behalf of, or for the benefit of the lead participant or by any participant in District No. 2 (without mentioning minor details) on or after July 1, 2024: ((Verifying with GOED/Taxation))

1. Any real property, site preparation, infrastructure and building construction, and real property improvements, together with any and all machinery, equipment, and other items of tangible personal property necessary, useful or desirable in connection with the project.
2. The costs of the project including, but not limited to, expenses for architects, engineers, attorneys and other consultants and other costs of the project.
3. Any other costs currently allowed under the Nevada statutes, including, but not limited to, any additional expenses qualified under the Economic Diversification Act.

(Ord. No. 24-327, February 20, 2024)

3.50.380 Department of taxation agreement for distribution of District No. 2 revenues.

After adoption of this chapter, the board must enter into an agreement with the State of Nevada Department of Taxation specifying the dates and procedure for distribution to Storey County of all District No. 2 Revenues pledged pursuant to this chapter. The distributions to Storey County must:

1. Be made not less frequently than monthly; and Cease at the end of the fiscal year in which the 20th anniversary of the adoption of this Article occurs.

(Ord. No. 24-327, February 20, 2024)

3.50.390 Lead participant reimbursement agreement.

Upon adoption of this Article, Storey County is authorized and directed to enter into a "reimbursement agreement" with the lead participant in the project to reimburse those eligible costs of acquiring, improving, developing, and equipping the project as described in Section 3.50.370. The board determines that the reimbursement agreement contains such terms that are desirable for Storey County.

1. The reimbursement agreement must include that any reimbursement payments are secured by a pledge of, and be payable from, any and all money pledged and received by Storey County from the Nevada Department of Taxation pursuant to the Economic Diversification Act with respect to District No. 2.
2. The reimbursement agreement must provide for the reimbursement payments to be made to the lead participant not later than 15 days after the date on which the money is received by Storey County from the State of Nevada Department of Taxation.
3. The reimbursement agreement is not subject to the limitations of subsection 1 of NRS 354.626 and shall be binding on Storey County beyond the fiscal year in which it is made since the reimbursement agreement pertains solely to one or more of the participants in the project.
4. The reimbursement agreement may not be secured by or payable from the general fund of Storey County, the power of Storey County to levy ad valorem property taxes, or any source other than any money pledged pursuant to the Economic Diversification Act and received by Storey County from the State of Nevada Department of Taxation with respect to District No. 2, or any combination thereof. Further, no bond, note or other agreement issued or entered into pursuant to the Economic Diversification Act may ever become a general obligation of Storey County or a charge against its general credit or taxing powers, nor may any such bond, note or other agreement become a debt of Storey County for purposes of any limitation on indebtedness.
5. The reimbursement agreement will automatically terminate at the end of the fiscal year in which the 20th anniversary of the adoption of this article occurs.
6. With respect to such reimbursement agreement, the board:
 - a) Shall require the review by an independent auditor of each claim for reimbursement submitted by the lead participant to Storey County. The cost of the auditor must be paid for by the lead participant.
 - b) Shall not provide any reimbursement if Storey County obtains an opinion from independent bond counsel stating that its applicability would impair an existing contract for the sale of bonds that were issued before Sept. 11, 2014, the effective date of the Economic Diversification Act.

(Ord. No. 24-327, February 20, 2024)

3.50.3100 Report to legislature.

In accordance with the Economic Diversification Act, the board directs the county manager or the comptroller on behalf of the board on or before September 1 of each year during the term of the reimbursement agreement, to prepare and submit to the director of the legislative counsel bureau for submission to the legislature, or to the legislative commission when the legislature is not in regular session, an annual report containing:

1. A statement of the status of the project located in District No. 2 together with any changes in that status since the last annual report; and
2. An assessment of the financial impact of District No. 2 on the provision of local governmental services, including, without limitation, services for police protection and fire protection.

(Ord. No. 24-327, February 20, 2024)

3.50.3110 Governmental services agreement.

This chapter shall not be effective until the date on which Storey County enters into an agreement with one or more of the owners of any interest in property within District No. 2, pursuant to which that owner would agree to make payments to Storey County or to another local government that provides services in District No. 2, or to both, to defray, in whole or in part, the cost of local governmental services during the term of the use of any money pledged pursuant to this chapter (the "governmental services agreement"). The governmental services agreement must specify the amount to be paid by the owner of the property interest, which may be stated as a specified amount per year or as an amount based upon any formula upon which Storey County and owner agree.

(Ord. No. 24-327, February 20, 2024)

3.50.3120 Participant Notice.

The lead participant shall provide written notice to the County of any participant added to the "project" concurrently with the notice provided to the state pursuant to NRS 360.945(3)(c). Such notice shall also include the description of the plan by which the participants collectively make the total capital investment as required by NRS 360.945(3)(d).

(Ord. No. 24-327, February 20, 2024)