HOUSE BILL 186

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO TAXATION; REDUCING AUTHORIZED PROPERTY TAX RATES FOR CLASS A COUNTY HOSPITAL FUNDING AND FOR TRANSFERS TO THE COUNTY-SUPPORTED MEDICAID FUND.

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

SECTION 1. Section 4-48B-12 NMSA 1978 (being Laws 1981, Chapter 83, Section 12, as amended) is amended to read:

"4-48B-12. TAX LEVIES AUTHORIZED.--

A. The county commissioners are authorized to impose a mill levy and collect annual assessments against the net taxable value of the property in a county to pay the cost of operating and maintaining county hospitals or to pay to contracting hospitals in accordance with a health care facilities contract and in class A counties to pay for the county's transfer to the county-supported medicaid fund
pursuant to Section 27-10-4 NMSA 1978 as [follows: (1) in]
provided in this section.

B. The county commissioners of a class A [counties
as defined in Section 4-44-1 NMSA 1978, the] county may impose,
and after January 1, 2022 may collect, a mill levy [shall] not
to exceed a rate of [six dollars fifty cents ($6.50)] one
dollar seventy cents ($1.70), or any lower maximum amount
required by operation of the rate limitation provisions of
Section 7-37-7.1 NMSA 1978 upon a mill levy imposed pursuant to
this paragraph, on each one thousand dollars ($1,000) of net
taxable value of property allocated to the county; however, if
the county uses any portion, not to exceed [one dollar fifty
cents ($1.50)] thirty-nine cents ($.39), of the rate authorized
by this [paragraph] subsection to meet the requirement of
Section 27-10-4 NMSA 1978, the provisions of Section 7-37-7.1
NMSA 1978 do not apply to the portion of the rate necessary to
produce the revenues required; provided that the portion of the
rate does not exceed [one dollar fifty cents ($1.50); and
(2) in other counties, the] thirty-nine cents ($39).

C. The county commissioners of a county other than
a class A county may impose a mill levy [shall] not to exceed
four dollars twenty-five cents ($4.25), or any lower maximum
amount required by operation of the rate limitation provisions
of Section 7-37-7.1 NMSA 1978 upon a mill levy imposed pursuant
to this [paragraph] subsection, on each one thousand dollars
($1,000) of net taxable value of property allocated to the
county.

[B.] D. The mill levies provided in [Paragraph (1) and (2) of Subsection A of] this section shall be made at the
direction of the county commissioners, but only to the extent
that the county commissioners deem it necessary to operate and
maintain county hospitals, to pay the amounts required in the
performance of any health care facilities contracts made
pursuant to the Hospital Funding Act and to provide for a class
A county's transfer to the county-supported medicaid fund
pursuant to Section 27-10-4 NMSA 1978.

[C.] E. In the event that the mill levy provided
for in [Paragraph (1) of Subsection [A] B of this section is
not authorized by the electorate or the resulting mill levy
proceeds are not remitted to the entity operating the hospital
within a reasonable time period, any lease for operation of the
hospital between a county and a state educational institution
named in Article 12, Section 11 of the constitution of New
Mexico may, at the option of the state educational institution,
be terminated immediately. Except as provided in Subsection
[D] F of this section, in the event that the mill levy provided
for in [Paragraph (1) of Subsection [A] B of this section is
authorized, an amount not less than the amount that would be
produced by a mill levy at the rate of [four dollars ($4.00)]
.219020.2

- 3 -
one dollar five cents ($1.05), or any lower amount that would
be required by operation of the rate limitation provisions of
Section 7-37-7.1 NMSA 1978 upon this rate, on each one thousand
dollars ($1,000) of net taxable value of property allocated to
the county shall be provided from the proceeds of the mill levy
to the state educational institution operating the hospital for
hospital purposes unless the institution determines that the
amount is not necessary.

[D-] F. A class A county imposing the mill levy
provided for in [Paragraph (1) of] Subsection [A] B of this
section may enter into a mutual agreement with a state
educational institution named in Article 12, Section 11 of the
constitution of New Mexico operating the hospital permitting
the transfer to the county-supported medicaid fund by the
county pursuant to Section 27-10-4 NMSA 1978 of an amount not
to exceed the amount that would be produced by a mill levy at a
rate of [one dollar fifty cents ($1.50)] thirty-nine cents
($0.39) applied to the net taxable value of property allocated
to the county for the prior property tax year and also not to
exceed the amount that would be produced by imposition of the
county health care gross receipts tax.

[E-] G. The distribution of the mill levy
authorized at the rates specified in Subsection [A] B or C of
this section shall be made to county and contracting hospitals
as authorized in the Hospital Funding Act."
SECTION 2. Section 4-48B-15 NMSA 1978 (being Laws 1953,
Chapter 174, Section 2, as amended) is amended to read:

"4-48B-15. ELECTION ON SPECIAL LEVY.--

A. In the event the county commissioners of a county, other than a class A county, desire to provide the mill levy authorized in [Paragraph (2) of] Subsection [A] C of Section 4-48B-12 NMSA 1978, the county commissioners shall submit to the qualified electors of the county the question of levying those taxes not to exceed four dollars twenty-five cents ($4.25) on each one thousand dollars ($1,000) of net taxable value of property allocated to the county for a period of time not less than four years nor more than eight years.

B. In the event the county commissioners of a class A county desire to provide the mill levy authorized in [Paragraph (1) of] Subsection [A] B of Section 4-48B-12 NMSA 1978, the county commissioners shall submit to the qualified electors of the county the question of levying those taxes not to exceed six dollars fifty cents ($6.50) one dollar seventy cents ($1.70) on each one thousand dollars ($1,000) of net taxable value of property allocated to the county for a period of time not less than four years nor more than eight years.

C. The question may be submitted to the electors and voted upon as a separate question at any general election or at any special election called for that purpose by the county commissioners. The election upon the question of a mill
levy shall be called, held, conducted and canvassed in 
substantially the same manner as now or hereafter may be 
provided by law for general elections.

D. In the event the mill levy submitted under 
Subsection A or B of this section is voted upon favorably by 
the electors of the county, the mill levy shall become 
effective and be made for the ensuing fiscal year and those 
future years, not less than three nor more than seven, as 
stated in the question voted upon; provided that the question 
of continuing the mill levy shall thereafter be submitted to 
the electors at the general election immediately prior to the 
expiration of the period of assessment previously approved. 
The county commissioners shall decrease the rate of any mill 
levy imposed under the Hospital Funding Act if required by 
operation of the rate limitation provisions of Section 7-37-7.1 
NMSA 1978. Subject to the provisions of Subsection [D] E of 
Section 4-48B-12 NMSA 1978, the county commissioners may direct 
that the mill levy be decreased or not be made for any year if, 
in their judgment, sufficient funds for operation and 
maintenance of the hospital and transfer to the county- 
supported medicaid fund, if applicable, are available or will 
be obtained from other sources and if, relative to a county 
hospital operated by a state educational institution named in 
Article 12, Section 11 of the constitution of New Mexico, a 
decision to decrease the mill levy is agreed to by the state
educational institution.

E. In the event that the mill levy approved by the electors is less than the maximum mill levy authorized for the county by Subsection [A] B or C of Section 4-48B-12 NMSA 1978 and the county commissioners desire to increase the amount of the approved mill levy, the county commissioners shall submit, in accordance with Subsection C of this section, to the qualified electors of the county the questions of levying those additional taxes for a period of time consistent with the expiration of the mill levy previously approved; provided that the additional taxes, when added to the mill levy previously approved, may not exceed the mill levy maximum for the county provided in Subsection [A] B or C of Section 4-48B-12 NMSA 1978. In the event that the mill levy increase is voted upon favorably by the electors of the county, the increase shall become effective for the years stated in the question voted upon. Nothing in this subsection shall be construed as requiring an election to restore the mill levy to an amount no higher than the mill levy approved by the electors after a reduction in the mill levy made pursuant to Subsection D of this section."

SECTION 3. Section 7-37-7.1 NMSA 1978 (being Laws 1979, Chapter 268, Section 1, as amended) is amended to read:

"7-37-7.1. ADDITIONAL LIMITATIONS ON PROPERTY TAX RATES.--
A. Except as provided in Subsections D and E of this section, in setting the general property tax rates for residential and nonresidential property authorized in Subsection B of Section 7-37-7 NMSA 1978, the other rates and impositions authorized in Paragraphs (2) and (3) of Subsection C of Section 7-37-7 NMSA 1978, except the portion of the rate authorized in Paragraph (1) of Subsection A of Section 4-48B-12 NMSA 1978 used to meet the requirements of Section 27-10-4 NMSA 1978, and benefit assessments authorized by law to be levied upon net taxable value of property, assessed value or a similar term, neither the department of finance and administration nor any other entity authorized to set or impose a rate or assessment shall set a rate or impose a tax or assessment that will produce revenue from either residential or nonresidential property in a particular governmental unit in excess of the sum of a dollar amount derived by multiplying the appropriate growth control factor by the revenue due from the imposition on residential or nonresidential property, as appropriate, for the prior property tax year in the governmental unit of the rate, imposition or assessment for the specified purpose plus, for the calculation for the rate authorized for county operating purposes by Subsection B of Section 7-37-7 NMSA 1978 with respect to residential property, any applicable tax rebate adjustment. The calculation described in this subsection shall be separately made for

.219020.2

- 8 -
residential and nonresidential property. Except as provided in
Subsections D and E of this section, no tax rate or benefit
assessment that will produce revenue from either class of
property in a particular governmental unit in excess of the
dollar amount allowed by the calculation shall be set or
imposed. The rates imposed pursuant to Sections 7-32-4 and
7-34-4 NMSA 1978 shall be the rates for nonresidential property
that would have been imposed but for the limitations in this
section. As used in this section, "growth control factor" is a
percentage equal to the sum of "percent change I" plus V where:

\( V = \frac{(base \ year \ value + net \ new \ value)}{base \ year \ value} \)

expressed as a percentage, but if the percentage calculated is
less than one hundred percent, then V shall be set and used as
one hundred percent;

(2) "base year value" means the value for
property taxation purposes of all residential or nonresidential
property, as appropriate, subject to valuation under the
Property Tax Code in the governmental unit for the specified
purpose in the prior property tax year;

(3) "net new value" means the additional value
of residential or nonresidential property, as appropriate, for
property taxation purposes placed on the property tax schedule
in the current year resulting from the elements in

.219020.2
Subparagraphs (a) through (d) of this paragraph reduced by the value of residential or nonresidential property, as appropriate, removed from the property tax schedule in the current year and, if applicable, the reductions described in Subparagraph (e) of this paragraph:

(a) residential or nonresidential property, as appropriate, valued in the current year that was not valued at all in the prior year;

(b) improvements to existing residential or nonresidential property, as appropriate;

(c) additions to residential or nonresidential property, as appropriate, or values that were omitted from previous years' property tax schedules even if part or all of the property was included on the schedule, but no additions of values attributable to valuation maintenance programs or reappraisal programs shall be included;

(d) additions to nonresidential property due to increases in annual net production values of mineral property valued in accordance with Section 7-36-23 or 7-36-25 NMSA 1978 or due to increases in market value of mineral property valued in accordance with Section 7-36-24 NMSA 1978; and

(e) reductions to nonresidential property due to decreases in annual net production values of mineral property valued in accordance with Section 7-36-23 or 7-36-25 NMSA 1978.
7-36-25 NMSA 1978 or due to decreases in market value of
mineral property valued in accordance with Section 7-36-24 NMSA
1978; and

(4) "percent change I" means a percent not in
excess of five percent that is derived by dividing the annual
implicit price deflator index for state and local government
purchases of goods and services, as published in the United
States department of commerce monthly publication entitled
"survey of current business" or any successor publication, for
the calendar year next preceding the prior calendar year into
the difference between the prior year's comparable annual index
and that next preceding year's annual index if that difference
is an increase, and if the difference is a decrease, the
"percent change I" is zero. In the event that the annual
implicit price deflator index for state and local government
purchases of goods and services is no longer prepared or
published by the United States department of commerce, the
department shall adopt by regulation the use of any comparable
index prepared by any agency of the United States.

B. If, as a result of the application of the
limitation imposed under Subsection A of this section, a
property tax rate for residential or nonresidential property,
as appropriate, authorized in Subsection B of Section 7-37-7
NMSA 1978 is reduced below the maximum rate authorized in that
subsection, no governmental unit or entity authorized to impose
a tax rate under Paragraph (2) of Subsection C of Section 7-37-7 NMSA 1978 shall impose any portion of the rate representing the difference between a maximum rate authorized under Subsection B of Section 7-37-7 NMSA 1978 and the reduced rate resulting from the application of the limitation imposed under Subsection A of this section.

C. If the net new values necessary to make the computation required under Subsection A of this section are not available for any governmental unit at the time the calculation must be made, the department of finance and administration shall use a zero amount for net new values when making the computation for the governmental unit.

D. Any part of the maximum tax rate authorized for each governmental unit for residential and nonresidential property by Subsection B of Section 7-37-7 NMSA 1978 that is not imposed for a governmental unit for any property tax year for reasons other than the limitation required under Subsection A of this section may be authorized by the department of finance and administration to be imposed for that governmental unit for residential and nonresidential property for the following tax year subject to the restriction of Subsection D of Section 7-38-33 NMSA 1978.

E. If the base year value necessary to make the computation required under Subsection A of this section is not available for any governmental unit at the time the calculation
must be made, the department of finance and administration shall set a rate for residential and nonresidential property that will produce in that governmental unit a dollar amount that is not in excess of the property tax revenue due for all property for the prior property tax year for the specified purpose of that rate in that governmental unit.

F. For the purposes of this section:

   (1) "nonresidential property" does not include any property upon which taxes are imposed pursuant to the Oil and Gas Ad Valorem Production Tax Act, the Oil and Gas Production Equipment Ad Valorem Tax Act or the Copper Production Ad Valorem Tax Act; and

   (2) "tax rebate adjustment" means, for those counties that have an ordinance in effect providing the property tax rebate pursuant to the Income Tax Act for the property tax year and that have not imposed for the property tax year either a property tax, the revenue from which is pledged for payment of the income tax revenue reduction resulting from the provision of the property tax rebate, or a property transfer tax, the estimated amount of the property tax rebate to be allowed with respect to the property tax year, and for any other governmental unit or purpose, zero; provided that any estimate of property tax rebate to be allowed is subject to review for appropriateness and approval by the department of finance and administration."