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SENATE BILL 188

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Lidi o G. Rainaldi

AN ACT

RELATING TO TAXATION; AMENDING THE COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS TAX ACT TO AUTHORIZE AN ADDITIONAL CLASS OF COUNTIES TO IMPOSE A COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS TAX; EXPANDING THE USES OF THE REVENUE TO INCLUDE A COURTHOUSE AND COUNTY ADMINISTRATIVE OFFICE FACILITY.

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

Section 1. Section 7-20F-2 NMSA 1978 (being Laws 1993, Chapter 303, Section 2, as amended) is amended to read:

"7-20F-2. DEFINITIONS. --As used in the County Correctional Facility Gross Receipts Tax Act:

A. "county" means:

(1) a class A county, the population of which does not exceed one hundred fifty thousand people as

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1 determined by the 1990 federal decennial census;

2 (2) a class B county with a population of at
3 least fifty-seven thousand people but less than sixty thousand
4 as determined by the 1990 federal decennial census; [or]

5 (3) a class B county with a population of at
6 least forty-five thousand people but less than forty-seven
7 thousand as determined by the 1990 federal decennial census;

8 or

9 (4) a class B county with a population of at
10 least sixty thousand people but less than sixty-three thousand
11 as determined by the 1990 federal decennial census;

12 B. "county board" means the board of county
13 commissioners of a county;

14 C. "department" means the taxation and revenue
15 department, the secretary of taxation and revenue or any
16 employee of the department exercising authority lawfully
17 delegated to that employee by the secretary;

18 D. "judicial-correctional facility" means a
19 facility for housing and use by judicial and corrections
20 agencies, including housing for persons confined in county
21 corrections facilities; however, none of the facilities are
22 required to be located on the same or contiguous parcels of
23 land. A "judicial-correctional facility" also includes a
24 courthouse and any other county facility used as a county
25 administrative office;

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1 E. "municipality" means any incorporated city,
2 town or village, whether incorporated under general act,
3 special act or special charter;

4 F. "person" means an individual or any other legal
5 entity;

6 G. "pledged revenues" means the revenue, net
7 income or net revenues authorized to be pledged to the payment
8 of revenue bonds issued pursuant to the provisions of the
9 County Correctional Facility Gross Receipts Tax Act;

10 H. "refunding bond" means a refunding revenue bond
11 issued pursuant to the provisions of the County Correctional
12 Facility Gross Receipts Tax Act to refund revenue bonds issued
13 pursuant to the provisions of that act; and

14 I. "revenue bond" means a county correctional
15 facility gross receipts tax revenue bond. "

16 Section 2. Section 7-20F-3 NMSA 1978 (being Laws 1993,
17 Chapter 303, Section 3, as amended) is amended to read:

18 "7-20F-3. COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS
19 TAX--AUTHORITY TO IMPOSE--RATE--ORDINANCE REQUIREMENTS--
20 REFERENDUM --

21 A. For those counties described in Paragraphs (1)
22 through (3) of Subsection A of Section 7-20F-2 NMSA 1978, the
23 majority of the members elected to the county board may enact
24 an ordinance imposing on a county-wide basis an excise tax not
25 to exceed a rate of one-eighth of one percent of the gross

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1 receipts of any person engaging in business in the county,
2 including all municipalities within the county; provided that
3 the voters of:

4 (1) a class A county described in Paragraph
5 (1) of Subsection A of Section 7-20F-2 NMSA 1978 or a class B
6 county described in Paragraph (2) of Subsection A of Section
7 7-20F-2 NMSA 1978 have approved the issuance of general
8 obligation bonds of the county sufficient to pay at least
9 one-half of the costs of the construction and equipping of the
10 new county judicial-correctional facility for which the county
11 correctional facility gross receipts tax revenue is dedicated;
12 or

13 (2) a class B county described in Paragraph
14 (3) of Subsection A of Section 7-20F-2 NMSA 1978 have approved
15 the issuance of bonds by the New Mexico finance authority
16 sufficient to pay at least one-half of the costs of designing,
17 constructing, equipping, furnishing and otherwise improving
18 the new county correctional facility for which the county
19 correctional facility gross receipts tax revenue is dedicated.

20 B. For those counties described in Paragraph (4)
21 of Subsection A of Section 7-20F-2 NMSA 1978, the majority of
22 the members elected to the county board may enact an ordinance
23 imposing on a county-wide basis an excise tax not to exceed a
24 rate of one-fourth of one percent of the gross receipts of any
25 person engaging in business in the county, including all

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1 municipalities within the county.

2 ~~[B-]~~ C. The tax imposed pursuant to ~~[Subsection]~~
3 Subsections A and B of this section may be referred to as the
4 "county correctional facility gross receipts tax". The county
5 correctional facility gross receipts tax shall be imposed only
6 once for the period necessary for payment of the principal and
7 interest on revenue bonds issued pursuant to the County
8 Correctional Facility Gross Receipts Tax Act, but the period
9 shall not exceed ten years from the effective date of the
10 ordinance imposing the tax.

11 ~~[C-]~~ D. Any ordinance imposing a county
12 correctional facility gross receipts tax pursuant to this
13 section shall:

14 (1) impose the tax in any number of
15 increments of one-sixteenth of one percent not to exceed:

16 (a) an aggregate amount of one-eighth
17 of one percent if imposed pursuant to Subsection A of this
18 section; or

19 (b) an aggregate amount of one-fourth
20 of one percent if imposed pursuant to Subsection B of this
21 section;

22 (2) specify that the imposition of the tax
23 will begin on either July 1 or January 1, whichever occurs
24 first after the expiration of at least three months from the
25 date that the adopted ordinance is mailed or delivered to the

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1 department or from the date that the department is notified
2 personally or by mail by the county that imposition of the
3 county correctional facility gross receipts tax has been
4 approved by a majority of the registered voters in the county
5 voting on the question, whichever is applicable; and

6 (3) dedicate the revenue from the county
7 correctional facility gross receipts tax for the purpose of
8 constructing, purchasing, furnishing, equipping,
9 rehabilitating, expanding or improving a judicial-correctional
10 or a county correctional facility or the grounds of a
11 judicial-correctional or county correctional facility,
12 including [~~but not limited to~~] acquiring and improving parking
13 lots, landscaping or any combination of the foregoing or to
14 payment of principal and interest on revenue bonds or
15 refunding bonds issued pursuant to the provisions of the
16 County Correctional Facility Gross Receipts Tax Act.

17 [~~D.~~] E. For those counties described in Paragraphs
18 (1) through (3) of Subsection A of Section 7-20F-2 NMSA 1978,
19 an ordinance imposing a county correctional facility gross
20 receipts tax pursuant to this section shall not become
21 effective until after an election is held and a simple
22 majority of the qualified electors of the county voting in the
23 election votes in favor of imposing the tax. For those
24 counties described in Paragraph (4) of Subsection A of Section
25 7-20F-2 NMSA 1978, the ordinance imposing a county

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1 correctional facility gross receipts tax pursuant to this
2 section shall become effective without an election, and the
3 provisions of Subsections F through I of this section do not
4 apply.

5 [E-] F. The governing body shall adopt a
6 resolution calling for an election within seventy-five days of
7 the date the ordinance is adopted on the question of imposing
8 the tax, and:

9 (1) in a class A county described in
10 Paragraph (1) of Subsection A of Section 7-20F-2 NMSA 1978 or
11 a class B county described in Paragraph (2) of Subsection A of
12 Section 7-20F-2 NMSA 1978, if a property tax at a rate
13 necessary to comply with the provisions of Subsection A of
14 this section has not been approved by the voters of the
15 county, the question submitted to the voters shall be the
16 question of imposing a county correctional facility gross
17 receipts tax and a property tax at a rate necessary for the
18 issuance of general obligation bonds of the county sufficient
19 to comply with the provisions of the County Correctional
20 Facility Gross Receipts Tax Act; or

21 (2) in a class B county described in
22 Paragraph (3) of Subsection A of Section 7-20F-2 NMSA 1978,
23 the question to be submitted to the voters is: "Shall a
24 county correctional facility gross receipts tax be imposed to
25 repay bonds that will be issued by the New Mexico finance

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1 authority in an amount sufficient to pay at least one-half of
2 the costs of designing, constructing, equipping, furnishing
3 and otherwise improving the new county correctional
4 facility?".

5 [F-] G. The question shall be submitted to the
6 voters at any general election or special election called for
7 that purpose by the board.

8 [G-] H. The election upon the question shall be
9 called, held, conducted and canvassed in substantially the
10 same manner as may be provided by law for general elections.

11 [H-] I. If the question of imposing the county
12 correctional facility gross receipts tax and a property tax,
13 if the question includes a property tax, fails, the board
14 shall not again propose imposition of a county correctional
15 facility gross receipts tax for a period of one year after the
16 election.

17 [I-] J. Revenue produced by the imposition of a
18 county correctional facility gross receipts tax that is in
19 excess of the annual principal and interest due on bonds
20 secured by a pledge of the county correctional facility gross
21 receipts tax may be accumulated in a debt service reserve
22 account until an amount equal to the maximum amount permitted
23 pursuant to the provisions of the United States treasury
24 regulations is accumulated in the debt service reserve
25 account. After the debt service reserve account requirements

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1 have been met, the excess revenue shall be accumulated in an
2 extraordinary mandatory redemption fund and annually used to
3 redeem the bonds prior to their stated maturity date.

4 [~~J-~~] K. When all outstanding bonds have been paid,
5 whether from the debt service reserve, the redemption fund or
6 maturity, the ordinance shall be repealed if the county
7 correctional facility gross receipts tax revenue is no longer
8 required for the purposes for which it may be used pursuant to
9 the provisions of the County Correctional Facility Gross
10 Receipts Tax Act.

11 [~~K-~~] L. The repeal of an ordinance imposing a
12 county correctional facility gross receipts tax shall state
13 that the repeal shall be effective on January 1 or July 1,
14 whichever occurs first following the date the department is
15 notified personally or by mail by the county of the repeal."

16 Section 3. EFFECTIVE DATE. --The effective date of the
17 provisions of this act is July 1, 2001.