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HOUSE BILL 373

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY
Danice Picraux

AN ACT

RELATING TO TAXATION; AUTHORIZING CERTAIN CLASS A COUNTIES TO
IMPOSE A LOCAL LIQUOR EXCISE TAX; AMENDING AND ENACTING
CERTAIN SECTIONS OF THE LOCAL LIQUOR EXCISE TAX ACT.

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

Section 1. Section 7-24-9 NMSA 1978 (being Laws 1989,
Chapter 326, Section 2) is amended to read:

"7-24-9. DEFINITIONS.--As used in the Local Liquor
Excise Tax Act:

A. "alcoholic beverages" means distilled or
rectified spirits, potable alcohol, brandy, whiskey, rum, gin
and aromatic bitters or any similar alcoholic beverage,
including blended or fermented beverages, dilutions or
mixtures of one or more of the foregoing containing more than
one-half of one percent alcohol, but excluding medicinal
bitters;

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1 ~~[B. "county" means a class B county having a~~
2 ~~population of more than fifty six thousand but less than~~
3 ~~seventy five thousand, according to the most recent federal~~
4 ~~decennial census or any subsequent decennial census, and~~
5 ~~having a net taxable value for rate setting purposes for the~~
6 ~~1988 or any subsequent property tax year of more than five~~
7 ~~hundred million dollars (\$500,000,000) but less than seven~~
8 ~~hundred million dollars (\$700,000,000);~~

9 ~~E.]~~ B. "department" means the taxation and revenue
10 department, the secretary of taxation and revenue or any
11 employee of the department exercising authority lawfully
12 delegated to that employee by the secretary;

13 ~~[D.]~~ C. "governing body" means the board of county
14 commissioners of a county;

15 ~~[E.]~~ D. "person" means any individual, estate,
16 trust, receiver, cooperative association, club, corporation,
17 company, firm, partnership, joint venture, syndicate or other
18 association; "person" also means, to the extent permitted by
19 law, any federal, state or other governmental unit or
20 subdivision or agency, department or instrumentality thereof;

21 ~~[F.]~~ E. "price" means the total amount of money or
22 the reasonable value of other consideration or both paid for
23 alcoholic beverages, inclusive of the amount of any tax paid
24 pursuant to the Liquor Excise Tax Act; and

25 ~~[G.]~~ F. "retailer" means any person having a place
of business within the county who sells, offers for sale or
possesses for the purpose of selling alcoholic beverages

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1 within the county."

2 Section 2. Section 7-24-10 NMSA 1978 (being Laws 1989,
3 Chapter 326, Section 3) is amended to read:

4 "7-24-10. AUTHORIZATION FOR CERTAIN CLASS B COUNTIES TO
5 IMPOSE LOCAL LIQUOR EXCISE TAX--RATE--USE OF PROCEEDS--
6 ELECTION REQUIRED.--

7 A. A class B county having a population of more
8 than fifty-six thousand but less than seventy-five thousand,
9 according to the most recent federal decennial census or any
10 subsequent decennial census, and having a net taxable value
11 for rate-setting purposes for the 1988 or any subsequent
12 property tax year of more than five hundred million dollars
13 (\$500,000,000) but less than seven hundred million dollars
14 (\$700,000,000) may impose a local liquor excise tax by
15 following the procedures of this section.

16 [~~A.~~] B. The majority of the members elected to the
17 governing body may enact an ordinance imposing on any
18 retailer an excise tax on the price paid by the retailer for
19 alcoholic beverages purchased by the retailer upon which the
20 tax imposed by this section has not been paid. The tax may
21 be imposed at a rate not to exceed five percent; provided
22 that any lower rate shall be an even multiple of one percent.
23 The tax imposed under this section and Section 7-24-10.2 NMSA
24 1978 may be referred to as the "local liquor excise tax".
25 Any tax imposed under this section shall be for a period of
not more than three years from the effective date of the
ordinance imposing the tax.

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1 ~~[B-]~~ C. The governing body at the time of enacting
2 an ordinance imposing the tax authorized in Subsection ~~[A]~~ B
3 of this section shall dedicate the revenue to fund
4 educational programs and prevention and treatment of
5 alcoholism and drug abuse within the county and for no other
6 purpose. After approval of the imposition of a local liquor
7 excise tax by the voters but before the effective date of the
8 ordinance, the governing body shall hold a public meeting for
9 the purpose of inviting comment on and suggestions for the
10 most appropriate programs on which to expend the revenue
11 produced by the tax. The governing body shall invite
12 representatives from the appropriate Indian tribes, nations
13 and pueblos to the meeting. If the governing body awards any
14 contract using funds derived from the local liquor excise
15 tax, it shall do so only through a selection process
16 requiring submission of sealed bids or proposals after public
17 notice of the opportunity to submit the sealed bids or
18 proposals.

19 ~~[C-]~~ D. The governing body enacting an ordinance
20 imposing the local liquor excise tax shall submit the
21 question of imposing the tax to the qualified voters of the
22 county at a regular or special election.

23 ~~[D-]~~ E. Only those voters who are registered
24 within the county shall be permitted to vote. The election
25 shall be called, conducted and canvassed in substantially the
same manner as provided by law for general elections.

~~[E-]~~ F. If at an election called pursuant to this

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1 section a majority of the voters voting on the question
2 [~~vote~~] votes in the affirmative on the question, then the
3 ordinance imposing the local liquor excise tax shall be
4 approved. If at such an election a majority of the voters
5 voting on the question [~~fail~~] fails to approve the question,
6 then the ordinance shall be disapproved and the question
7 required to be submitted by Subsection [B] C of this section
8 shall not be submitted to the voters for a period of at least
9 one year from the date of the election.

10 [~~F-~~] G. Any ordinance enacted under the provisions
11 of this section [~~which~~] that imposes a local liquor excise
12 tax or changes the rate of tax imposed shall include an
13 effective date, which is the first day of any month [~~which~~]
14 that begins no earlier than ninety days after the date of the
15 election. A certified copy of any ordinance imposing a local
16 liquor excise tax shall be mailed or personally delivered to
17 the department within five days after the ordinance is
18 certified to have been approved by the voters.

19 [~~G-~~] H. Any ordinance repealing the imposition of
20 a tax under the provisions of this section shall contain an
21 effective date which is the first day of any month beginning
22 no earlier than sixty days from the date the ordinance
23 repealing the tax is adopted by the governing body. A
24 certified copy of any ordinance repealing a local liquor
25 excise tax shall be mailed or personally delivered to the
department within five days of the date the ordinance is
adopted."

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1 Section 3. Section 7-24-10.1 NMSA 1978 (being Laws
2 1992, Chapter 35, Section 1) is amended to read:
3 "7-24-10.1. USE OF TAX PROCEEDS BY CLASS B COUNTIES--
4 LOCAL LIQUOR EXCISE TAX COMMITTEE--JOINT POWERS AGREEMENT--
5 COMMUNITY PARTICIPATION.--
6 A. Prior to ~~[the]~~ an election on the question of
7 imposing a local liquor excise tax pursuant to ~~[the Local~~
8 ~~Liquor Excise Tax Act]~~ Section 7-24-10 NMSA 1978, the
9 governing body ~~[of a county]~~ shall enter into a joint powers
10 agreement with the governing body of the most populated
11 municipality and the governing bodies of any other
12 municipalities in the county that choose to be parties to the
13 agreement to provide for the use and administration of the
14 tax proceeds. The agreement shall provide for the
15 establishment and appointment of a local liquor excise tax
16 committee to provide advice, assist in preventing duplication
17 and supplanting of program funding and make recommendations
18 to the governing body of ~~[a]~~ the county and the municipal
19 governing bodies that are parties to the agreement on the use
20 of the tax proceeds and may include agreements that:
21 (1) clearly specify the use of the proceeds
22 of the proposed local liquor excise tax, including the
23 identification of specific local programs, agencies or
24 entities that will be funded from the tax proceeds; and
25 (2) determine the allocation of election
expenses among the parties to the agreement.
B. Prior to ~~[any]~~ the agreement by the governing

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1 body of a county and the municipal governing bodies for use
2 of the proposed local liquor excise tax proceeds, the local
3 liquor excise tax committee established pursuant to the
4 ~~[joint powers agreement in]~~ provisions of Subsection A of
5 this section shall conduct a public hearing for the purpose
6 of inviting public comment on use of the proposed local
7 liquor excise tax proceeds. The committee shall make every
8 effort to provide public notice of the hearing and to invite
9 a broad cross-section of community representatives and groups
10 to comment on community needs. Following the hearing, the
11 committee shall make its funding recommendations to the
12 governing body of ~~[a]~~ the county and the municipal governing
13 bodies."

14 Section 4. A new section of the Local Liquor Excise Tax
15 Act, Section 7-24-10.2 NMSA 1978, is enacted to read:

16 "7-24-10.2. [NEW MATERIAL] AUTHORIZATION FOR CERTAIN
17 CLASS A COUNTIES TO IMPOSE LOCAL LIQUOR EXCISE TAX--RATE--
18 ELECTION REQUIRED.--

19 A. A class A county having a population of three
20 hundred thousand or more, according to the most recent
21 federal decennial census or any subsequent decennial census,
22 may impose a local liquor excise tax by following the
23 procedures of this section.

24 B. Upon the vote of a majority of the members
25 elected to the governing body or upon a petition filed with
the county clerk and signed by no less than fifteen percent
of the registered voters in the county, the governing body

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1 shall enact an ordinance imposing on each retailer an excise
2 tax on the price paid by the retailer for alcoholic beverages
3 purchased by the retailer upon which the tax imposed by this
4 section has not been paid. The tax may be imposed at a rate
5 not to exceed three percent; provided that any lower rate
6 shall be an even multiple of one percent. The tax imposed by
7 this section and Section 7-24-10 NMSA 1978 may be referred to
8 as the "local liquor excise tax". Any tax imposed pursuant
9 to this section shall be for a period of not more than five
10 years from the effective date of the ordinance imposing the
11 tax.

12 C. No ordinance imposing a local liquor excise tax
13 pursuant to this section shall take effect until after an
14 election is held and a majority of the registered voters of
15 the county voting in the election vote in favor of imposing
16 the tax. The question of imposing the local liquor excise
17 tax shall be submitted to the registered voters of the county
18 at any general election or a special election called by the
19 governing body for that purpose within ninety days after the
20 date the ordinance imposing the tax is adopted.

21 D. If, at an election called pursuant to this
22 section, a majority of the voters voting on the question
23 votes in the affirmative on the question, then the ordinance
24 imposing the local liquor excise tax shall be approved. If,
25 at the election, a majority of the voters voting on the
question fails to approve the question, then the ordinance
shall be disapproved and the governing body shall not enact

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1 another ordinance imposing the tax for a period of at least
2 one year from the date of the election.

3 E. An ordinance imposing a local liquor excise tax
4 pursuant to the provisions of this section shall include an
5 effective date of either July 1 or January 1, whichever date
6 occurs first after the expiration of at least three months
7 from the date the results of the election are certified to be
8 in favor of its adoption. A certified copy of any ordinance
9 imposing a local liquor excise tax shall be mailed or
10 personally delivered to the department within five days after
11 the ordinance is certified to have been approved by the
12 voters."

13 Section 5. A new section of the Local Liquor Excise Tax
14 Act, Section 7-24-10.3 NMSA 1978, is enacted to read:

15 "7-24-10.3. [NEW MATERIAL] USE OF TAX PROCEEDS BY CLASS
16 A COUNTIES--LOCAL LIQUOR EXCISE TAX COMMITTEE.--

17 A. All proceeds from the local liquor excise tax
18 imposed by class A county pursuant to Section 7-24-10.2 NMSA
19 1978 shall be deposited in a separate fund created by the
20 governing body and shall not be deposited in the county
21 general fund. Income earned on the separate fund shall be
22 credited to the fund. The fund shall be expended only for
23 the following purposes:

- 24 (1) funding an alcohol detoxification and
25 treatment facility located within the county and operated
jointly by the county and the most populated incorporated
municipality within the county; and

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1 (2) funding new or expanded programs for
2 education and prevention and treatment of the misuse or abuse
3 of alcohol or other drugs.

4 B. In funding programs and facilities pursuant to
5 Subsection A of this section, the county and the most
6 populated incorporated municipality in the county may
7 contract for the provision of treatment with the university
8 of New Mexico medical center or any other qualified provider.

9 C. Prior to an election on the question of
10 imposing a local liquor excise tax pursuant to Section
11 7-24-10.2 NMSA 1978, the governing body shall appoint a local
12 liquor excise tax committee, including representatives of the
13 Class A county and the most populated incorporated
14 municipality within the county, to provide advice, assist in
15 preventing duplication and supplanting of program funding and
16 make recommendations to the county and the incorporated
17 municipalities within the county on the use of tax proceeds,
18 including recommendations that clearly specify the use of the
19 proceeds of the proposed local liquor excise tax, including
20 the identification of specific local programs, agencies or
21 entities that will be funded from the tax proceeds.

22 D. As used in this section:
23 (1) "programs for education and prevention"
24 means efforts designed to promote avoidance of the misuse or
25 abuse of alcohol or other drugs and includes school-based
education programs, community-based education programs, early
intervention services, court ordered remedial services, peer

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1 support services, community mobilization and prevention
2 projects and special projects to serve high-risk populations;
3 and

4 (2) "treatment" means organized, clinically
5 appropriate intervention designed to rehabilitate those who
6 misuse or abuse alcohol or other drugs and to provide support
7 services for the victim of that misuse or abuse. "Treatment"
8 includes outpatient counseling, aftercare and relapse
9 intervention, family counseling, residential treatment,
10 mental health treatment, inpatient treatment, detoxification,
11 social and medical services, vocational services, education
12 and special projects to serve groups in need of expanded
13 treatment resources."

14 Section 6. EFFECTIVE DATE.--The effective date of the
15 provisions of this act is July 1, 2000.