

AN ACT

RELATING TO PUBLIC PROCUREMENT; EXEMPTING CERTAIN CONTRACTS FOR THE LEASE OR OPERATION OF HOSPITALS FROM THE PROCUREMENT CODE; PROVIDING FOR TERMINATION OF LEASES OF THOSE HOSPITALS.

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

Section 1. Section 3-44-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-45-1, as amended) is amended to read:

"3-44-1. HOSPITALS--AUTHORITY. -- A municipality may:

- A. control and regulate hospitals;
- B. construct hospitals and medical dispensaries;
- C. contribute to the support of any county

hospital located within the municipality;

- D. own, maintain and operate hospitals;
- E. charge for hospital services rendered;
- F. lease the hospital, sanitarium or other

institution upon such terms and conditions as the governing body may determine to any person, corporation or association for the operation and maintenance of the hospital, provided that the lease may be terminated by the governing body of the municipality without cause upon one hundred eighty days' notice after the first three years of the lease;

G. contract with the human services department or the board of county commissioners for the care of sick or indigent persons;

H. accept grants for constructing, equipping and maintaining the hospital; and

I. perform any act or adopt any regulation necessary or expedient to carry out the provisions of this section. "

Section 2. Section 3-44-3 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-45-3) is amended to read:

"3-44-3. JOINT COUNTY-MUNICIPAL HOSPITALS. --If a county-municipal hospital is authorized, the board of county commissioners and the governing body of the municipality may jointly:

A. lease the hospital upon such terms and conditions as they may determine to a person, firm, corporation, association or the county or municipality for the operation and maintenance of the hospital, provided that the lease may be terminated by the board of county commissioners and the governing body of the municipality without cause upon one hundred eighty days' notice after the first three years of the lease;

B. enter into an agreement with the state human services department for the care of sick or indigent persons;

C. accept gifts, endowments or grants-in-aid for the purpose of constructing, equipping and maintaining the hospital or endowing rooms or wards for sick, needy or indigent persons; or

D. perform any act or adopt any regulation necessary or expedient to carry out the purposes of Sections 3-44-2 through 3-44-4 NMSA 1978. "

Section 3. Section 3-44-5 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-45-5, as amended) is amended to read:

"3-44-5. HOSPITALS--SPECIAL CHARTER TOWNS--AUTHORITY. -

A. Any town incorporated, organized and operating under a special act of the legislature may, by resolution or ordinance:

(1) own, maintain and operate hospitals, sanitariums and other institutions for the care of sick or indigent persons;

(2) issue negotiable bonds for the construction of a hospital, sanitarium or other institution; or

(3) upon such conditions and terms as the governing body of the town may determine:

(a) delegate the operation and maintenance of the hospital, sanitarium or other institution to any person, corporation or association as it selects; or

(b) lease the hospital, sanitarium or other hospital to any person, corporation or association for the care of sick or indigent persons, provided that the lease may be terminated by the governing body of the town without

cause upon one hundred eighty days' notice after the first three years of the lease.

B. The provisions of Sections 3-54-1 through 3-54-3 NMSA 1978 relating to the leasing of municipal property are not applicable to this section."

Section 4. A new section of Chapter 3, Article 44 NMSA 1978 is enacted to read:

"HOSPITALS--EXPENDITURE OF PUBLIC FUNDS.--The use of public funds for the operation and maintenance of a hospital pursuant to a lease authorized by Chapter 3, Article 44 NMSA 1978 is deemed to be funding to the hospital as a public institution, and the hospital facility and lessee thereof are subject to the laws of this state regarding the expenditure of public money."

Section 5. Section 4-48A-9 NMSA 1978 (being Laws 1978, Chapter 29, Section 9, as amended) is amended to read:

"4-48A-9. BOARD OF TRUSTEES--POWERS.--The board of trustees may:

A. acquire, construct, operate or maintain one or more hospital facilities in the special hospital district for the purposes for which the special hospital district was created;

B. receive and expend all funds accruing to the special hospital district pursuant to any provision of the Special Hospital District Act through the sale of bonds or

the levy of taxes, paid from any source on account of patients accommodated at the hospital, from any gift or bequest or from any federal, state or private grant;

C. enter into contracts, including contracts with the federal government and the departments and agencies thereof or the state government and the departments, institutions and agencies thereof, for the treatment of or the hospitalization of patients under the jurisdiction of such entities;

D. adopt and use a seal to authenticate its official transactions;

E. sue and be sued;

F. adopt rules and regulations for the governing of the special hospital district;

G. employ and fix the compensation of an executive director of the special hospital district and such other staff and clerical personnel it deems necessary;

H. employ a hospital administrator for hospital facilities under its control and approve or disapprove the recommendations of such administrator pertaining to compensation and employment benefits for hospital employees;

I. exercise all powers necessary and requisite for the accomplishment of the purposes for which the special hospital district is created;

J. issue bonds in the manner provided by law for

the issuance of special hospital district revenue bonds for the construction, purchase, renovation, remodeling, equipping or re-equipping of hospital facilities under its control and purchasing the necessary land therefor;

K. charge for hospital services rendered;

L. lease a hospital to any person, corporation or association for the operation and maintenance of the hospital upon such terms and conditions as the board of trustees may determine, provided that the lease may be terminated by the board of trustees without cause upon one hundred eighty days' notice after the first three years of the lease;

M enter into an agreement with another county or counties, another county or counties and another political subdivision or any other person, corporation or association that provides that the parties to the agreement shall join together for the purpose of making some or all purchases necessary for the operation of hospitals owned or operated by the parties; and to designate one of the parties as the central purchasing office, as defined in the Procurement Code, for the others, to make purchases for the parties to the agreement as they shall deem necessary and to comply with the provisions of the Procurement Code; and

N. expend public money to recruit health care personnel to serve the sick of the special hospital district. "

Section 6. Section 4-48B-4 NMSA 1978 (being Laws 1981, Chapter 83, Section 4) is amended to read:

"4-48B-4. ANNUAL REPORT.--Each contracting hospital shall prepare an annual accounting and report to the county or counties, or county or counties and another political subdivision with which the contracting hospital contracts, accounting for the expenditure of mill levy funds for the past year, an annual plan explaining the planned use of such funds for the succeeding year and other reports as the county or counties, or county or counties and another political subdivision, from time to time shall reasonably require."

Section 7. Section 4-48B-5 NMSA 1978 (being Laws 1947, Chapter 148, Section 1, as amended) is amended to read:

"4-48B-5. POWER OF COUNTIES.--All counties shall have the following powers:

- A. to purchase, own, maintain and operate hospitals;
- B. to purchase the land necessary to construct hospitals;
- C. to control and regulate county hospitals;
- D. to construct county hospitals;
- E. to issue general obligation bonds and revenue bonds in the manner provided in the Hospital Funding Act for the construction, purchase, renovation, remodeling, equipping or re-equipping of a county hospital or a jointly owned

county-municipal hospital and purchasing the land necessary therefor or for any combination of the foregoing purposes;

F. to charge for hospital services rendered and to reduce any charge made for care of a patient in whole or part when the charges are determined to be disputed in good faith or uncollectible;

G. to lease a hospital to any person, corporation or association for the operation and maintenance of the hospital upon terms and conditions as the county commissioners may determine;

H. to contract with the state, another county or counties, the federal government or its agencies, another political subdivision or a public or private corporation, organization or association for the care of the sick of the county;

I. to receive all funds appropriated from whatever source or paid by or on behalf of any patient of the hospital;

J. notwithstanding any other provision of law, to enter into leases, management or operating contracts, health care facilities contracts and other agreements authorized by the Hospital Funding Act for periods in excess of one year; provided that:

(1) the contract, lease or agreement may be terminated by the county without cause upon one hundred

eighty days' notice after the first three years of the contract; and

(2) Paragraph (1) of this subsection shall not apply during the portion of a lease term in which a lessee is obligated under the lease to make debt service payments on revenue bonds that finance all or part of the hospital or equipment for the hospital;

K. to authorize the hospital governing board of a county hospital to exercise all powers that the county is granted by the Hospital Funding Act except the powers to issue bonds, call a mill levy election and levy the annual assessments for the mill levy authorized by the Hospital Funding Act;

L. to enter into a health care facilities contract with one or more hospitals that agree to provide facilities to the sick of the county;

M. to call a mill levy election as authorized by the Hospital Funding Act and to collect and distribute the proceeds of the mill levy pursuant to that act;

N. to distribute the proceeds of the mill levy authorized by the Hospital Funding Act to one or more county hospitals and one or more contracting hospitals or any combination thereof that provide facilities for the sick of the county, whether located within or without the county wherein the mill levy is collected;

O. to accept grants for constructing, equipping, operating and maintaining a county hospital;

P. to enter into an agreement with a municipality for constructing, equipping, operating and maintaining a jointly owned county-municipal hospital;

Q. to enter into an agreement with another county or counties, another county or counties and another political subdivision, an agency of the federal government or any other person, corporation, organization or association that provides that the parties to the agreement shall join together or form a legal entity for the purpose of making some or all purchases necessary for the operation of public hospitals or public and private hospitals subject to provisions of or exemptions from the Procurement Code;

R. to enter into an agreement with another county or counties, another political subdivision, an agency of the federal government or any other person, corporation, organization or association that provides that parties to the agreement shall join together or form a legal entity for the purpose of creating a network of health care providers or jointly operating a common health care service, subject to provisions of or exemptions from the Procurement Code;

S. to expend public money to recruit health care personnel to serve the sick of the county; and

T. to perform any other act or adopt any

regulation necessary or expedient to carry out the provisions of the Hospital Funding Act. "

Section 8. Section 13-1-98 NMSA 1978 (being Laws 1984, Chapter 65, Section 71, as amended) is amended to read:

"13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE. -- The provisions of the Procurement Code shall not apply to:

A. procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;

B. procurement of tangible personal property or services for the governor's mansion and grounds;

C. printing and duplicating contracts involving materials that are required to be filed in connection with proceedings before administrative agencies or state or federal courts;

D. purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;

E. purchases of books and periodicals from the publishers or copyright holders thereof;

F. travel or shipping by common carrier or by private conveyance or to meals and lodging;

G. purchase of livestock at auction rings or to

the procurement of animals to be used for research and experimentation or exhibit;

H. contracts with businesses for public school transportation services;

I. procurement of tangible personal property or services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978, by the corrections industries division of the corrections department pursuant to regulations adopted by the corrections commission, which shall be reviewed by the purchasing division of the general services department prior to adoption;

J. minor purchases not exceeding five thousand dollars (\$5,000) consisting of magazine subscriptions, conference registration fees and other similar purchases where prepayments are required;

K. municipalities having adopted home rule charters and having enacted their own purchasing ordinances;

L. the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants;

M. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978;

N. contracts for maintenance of grounds and facilities at highway rest stops and other employment opportunities, excluding those intended for the direct care and support of persons with handicaps, entered into by state agencies with private, nonprofit, independent contractors who provide services to persons with handicaps;

O. contracts and expenditures for services to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;

P. contracts for retirement and other benefits pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

Q. contracts with professional entertainers;

R. contracts and expenditures for litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process servers and witness fees, but not including attorney contracts; and

S. contracts entered into by a local public body with a person, firm, organization, corporation, association or a state educational institution named in Article 12, Section 11 of the constitution of New Mexico for the operation and maintenance of a hospital pursuant to Chapter 3, Article 44 NMSA 1978, for the lease or operation of a county hospital pursuant to the Hospital Funding Act or for

the operation and maintenance of a hospital pursuant to the Special Hospital District Act. "

Section 9. Section 13-6-2 NMSA 1978 (being Laws 1979, Chapter 195, Section 3, as amended by Laws 1989, Chapter 211, Section 7 and also by Laws 1989, Chapter 380, Section 3) is amended to read:

"13-6-2. SALE OF PROPERTY BY STATE AGENCIES OR LOCAL PUBLIC BODIES--AUTHORITY TO SELL OR DISPOSE OF PROPERTY-- APPROVAL OF APPROPRIATE APPROVAL AUTHORITY. --

A. Any state agency, local public body, school district or state educational institution is empowered to sell or otherwise dispose of real or personal property belonging to the state agency, local public body, school district or state educational institution. Except as provided in Section 13-6-2.1 NMSA 1978 requiring state board of finance approval for certain transactions, sale or disposition of real or personal property having a current resale value of more than five thousand dollars (\$5,000) may be made by any state agency, local public body, school district or state educational institution if the sale or disposition has been approved by the state budget division of the department of finance and administration for state agencies, the local government division of the department of finance and administration for local public bodies, the state department of public education for school districts and the

commission on higher education for state educational institutions.

B. Prior approval of the appropriate approval authority is not required if the property is to be used as a trade-in or exchange pursuant to the provisions of the Procurement Code.

C. The appropriate approval authority may condition the approval of the sale or other disposition of any real or personal property upon the property being offered for sale to a state agency, local public body, school district or state educational institution.

D. The appropriate approval authority shall have the power to credit any payment received from the sale of any such real or personal property to the governmental body making the sale. The state agency, local public body, school district or state educational institution may convey all or any interest in the real or personal property without warranty.

E. This section shall not apply to any computer software or hardware of any state agency.

F. The provisions of this section shall not be applicable as to those institutions specifically enumerated in Article 12, Section 11 of the constitution of New Mexico, the state land office, the state highway commission or leases of county hospitals with any person pursuant to the Hospital

Funding Act. "
