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HOUSE BILL 668

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

INTRODUCED BY

W. Ken Martinez

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.

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 determined by the 1990 federal decennial census;

(2) a class B county with a population of at

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1 least fifty-seven thousand people but less than sixty thousand
2 as determined by the 1990 federal decennial census; [or]

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

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

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

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

17 D. "judicial correctional facility" means a
18 facility for housing and use by judicial and corrections
19 agencies, including housing for persons confined in county
20 [~~corrections~~] correctional facilities; however, none of the
21 facilities are required to be located on the same or
22 contiguous parcels of land;

23 E. "municipality" means any incorporated city,
24 town or village, whether incorporated under general act,
25 special act or special charter;

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1 F. "person" means an individual or any other legal
2 entity;

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

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

11 I. "revenue bond" means a county correctional
12 facility gross receipts tax revenue bond. "

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

15 "7-20F-3. COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS
16 TAX--AUTHORITY TO IMPOSE--RATE--ORDINANCE REQUIREMENTS--
17 REFERENDUM --

18 A. For those counties described in Paragraphs (1)
19 through (3) of Subsection A of Section 7-20F-2 NMSA 1978, the
20 majority of the members elected to the county board may enact
21 an ordinance imposing on a county-wide basis an excise tax not
22 to exceed a rate of one-eighth of one percent of the gross
23 receipts of any person engaging in business in the county,
24 including all municipalities within the county; provided that
25 the voters of:

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

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

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

24 [~~B.~~] C. The tax imposed pursuant to [~~Subsection~~]
25 Subsections A and B of this section may be referred to as the

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1 "county correctional facility gross receipts tax". The county
2 correctional facility gross receipts tax shall be imposed only
3 once for the period necessary for payment of the principal and
4 interest on revenue bonds issued pursuant to the County
5 Correctional Facility Gross Receipts Tax Act, but the period
6 shall not exceed ten years from the effective date of the
7 ordinance imposing the tax.

8 ~~[C-]~~ D. Any ordinance imposing a county
9 correctional facility gross receipts tax pursuant to this
10 section shall:

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

13 (a) an aggregate amount of one-eighth
14 of one percent if imposed pursuant to Subsection A of this
15 section; or

16 (b) an aggregate amount of one percent
17 if imposed pursuant to Subsection B of this section;

18 (2) specify that the imposition of the tax
19 will begin on either July 1 or January 1, whichever occurs
20 first after the expiration of at least three months from the
21 date adopted by resolution of the county board or that the
22 department is notified personally or by mail by the county
23 that imposition of the county correctional facility gross
24 receipts tax has been approved by a majority of the registered
25 voters in the county voting on the question, whichever is

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1 applicable; and

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

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

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1 ~~[E-]~~ F. The governing body shall adopt a
2 resolution calling for an election within seventy-five days of
3 the date the ordinance is adopted on the question of imposing
4 the tax, and:

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

17 (2) in a class B county described in
18 Paragraph (3) of Subsection A of Section 7-20F-2 NMSA 1978,
19 the question to be submitted to the voters is: "Shall a
20 county correctional facility gross receipts tax be imposed to
21 repay bonds that will be issued by the New Mexico finance
22 authority in an amount sufficient to pay at least one-half of
23 the costs of designing, constructing, equipping, furnishing
24 and otherwise improving the new county correctional
25 facility?".

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1 ~~[F-]~~ G. The question shall be submitted to the
2 voters at any general election or special election called for
3 that purpose by the board.

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

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

13 ~~[I-]~~ J. Revenue produced by the imposition of a
14 county correctional facility gross receipts tax that is in
15 excess of the annual principal and interest due on bonds
16 secured by a pledge of the county correctional facility gross
17 receipts tax may be accumulated in a debt service reserve
18 account until an amount equal to the maximum amount permitted
19 pursuant to the provisions of the United States treasury
20 regulations is accumulated in the debt service reserve
21 account. After the debt service reserve account requirements
22 have been met, the excess revenue shall be accumulated in an
23 extraordinary mandatory redemption fund and annually used to
24 redeem the bonds prior to their stated maturity date.

25 ~~[J-]~~ K. When all outstanding bonds have been paid,

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1 whether from the debt service reserve, the redemption fund or
2 maturity, the ordinance shall be repealed if the county
3 correctional facility gross receipts tax revenue is no longer
4 required for the purposes for which it may be used pursuant to
5 the provisions of the County Correctional Facility Gross
6 Receipts Tax Act.

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

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