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HOUSE BILL 214

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Ray Begaye

AN ACT

RELATING TO TAXATION; AMENDING THE LOCAL HOSPITAL GROSS RECEIPTS TAX ACT TO ADD SAN JUAN COUNTY AS A COUNTY ELIGIBLE TO IMPOSE THE TAX; DECLARING AN EMERGENCY.

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

Section 1. Section 7-20C-2 NMSA 1978 (being Laws 1991, Chapter 176, Section 2, as amended) is amended to read:

"7-20C-2. DEFINITIONS. -- As used in the Local Hospital Gross Receipts Tax Act:

A. "county" means:

(1) a class B county having a population of less than twenty-five thousand according to the most recent federal decennial census and having a net taxable value for rate-setting purposes for the 1990 property tax year or any subsequent year of more than two hundred fifty million dollars

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1 (\$250, 000, 000);

2 (2) a class B county having a population of
3 less than forty-seven thousand but more than forty-four
4 thousand according to the 1990 federal decennial census and
5 having a net taxable value for rate-setting purposes for the
6 1992 property tax year of more than three hundred million
7 dollars (\$300, 000, 000) but less than six hundred million
8 dollars (\$600, 000, 000);

9 (3) a class B county having a population of
10 less than ten thousand according to the most recent federal
11 decennial census and having a net taxable value for rate-
12 setting purposes for the 1990 property tax year or any
13 subsequent year of more than one hundred million dollars
14 (\$100, 000, 000);

15 (4) a class B county having a population of
16 less than twenty-five thousand according to the 1990 federal
17 decennial census and having a net taxable value for rate-
18 setting purposes for the 1993 property tax year of more than
19 ninety-one million dollars (\$91, 000, 000) but less than one
20 hundred twenty-five million dollars (\$125, 000, 000);

21 (5) a class B county having a population of
22 more than seventeen thousand but less than twenty thousand
23 according to the 1990 federal decennial census and having a net
24 taxable value for rate-setting purposes for the 1993 property
25 tax year of more than one hundred fifty-three million dollars

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1 (\$153,000,000) but less than one hundred fifty-six million
2 dollars (\$156,000,000);

3 (6) a class B county having a population of
4 more than fifteen thousand according to the 1990 federal
5 decennial census and having a net taxable value for rate-
6 setting purposes for the 1996 property tax year of more than
7 one hundred fifty million dollars (\$150,000,000) but less than
8 one hundred seventy-five million dollars (\$175,000,000); ~~[or]~~

9 (7) an H class county; or

10 (8) a class A county having a population of
11 less than one hundred fifteen thousand according to the 2000
12 federal decennial census or any subsequent federal decennial
13 census and having a net taxable value for rate-setting purposes
14 for the 2001 property tax year or any subsequent year of more
15 than three billion dollars (\$3,000,000,000);

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

20 C. "governing body" means the board of county
21 commissioners of a county;

22 D. "health care facilities contract" means an
23 agreement between a hospital or health clinic not owned by the
24 county and a county imposing the tax authorized by the Local
25 Hospital Gross Receipts Tax Act that obligates the county to

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1 pay to the hospital revenue generated by the tax authorized in
2 that act as consideration for the agreement by the hospital or
3 health clinic to use the funds only for nonsectarian purposes
4 and to make health care services available for the benefit of
5 the county;

6 E. "hospital facility revenues" means all or a
7 portion of the revenues derived from a lease of a hospital
8 facility acquired, constructed or equipped pursuant to and
9 operated in accordance with the Local Hospital Gross Receipts
10 Tax Act;

11 F. "local hospital gross receipts tax" means the
12 tax authorized to be imposed under the Local Hospital Gross
13 Receipts Tax Act;

14 G. "person" means an individual or any other legal
15 entity; and

16 H. "state gross receipts tax" means the gross
17 receipts tax imposed under the Gross Receipts and Compensating
18 Tax Act. "

19 Section 2. Section 7-20C-3 NMSA 1978 (being Laws 1991,
20 Chapter 176, Section 3, as amended) is amended to read:

21 "7-20C-3. LOCAL HOSPITAL GROSS RECEIPTS TAX--AUTHORITY TO
22 IMPOSE--ORDINANCE REQUIREMENTS. --

23 A. A majority of the members elected to the
24 governing body of a county may enact an ordinance imposing an
25 excise tax on [any] a person engaging in business in the county

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1 for the privilege of engaging in business. This tax is to be
2 referred to as the "local hospital gross receipts tax". The
3 rate of the tax shall be:

4 (1) one half of one percent of the gross
5 receipts of the person engaging in business if the tax is
6 initially imposed before January 1, 1993;

7 (2) one eighth of one percent of the gross
8 receipts of the person engaging in business if the tax is
9 initially imposed after January 1, 1993; and

10 (3) a rate not to exceed one half of one
11 percent of the gross receipts of the person engaging in
12 business if the tax is imposed after July 1, 1996 in a county
13 described in Paragraph (4), (6), ~~[or]~~ (7) or (8) of Subsection
14 A of Section 7-20C-2 NMSA 1978; provided the tax may be imposed
15 in any number of increments of one-eighth percent not to exceed
16 an aggregate rate of one half of one percent of gross receipts.

17 B. The local hospital gross receipts tax imposed
18 initially before January 1, 1993 shall be imposed only once for
19 the period necessary for payment of the principal and interest
20 on revenue bonds issued to accomplish the purpose for which the
21 revenue is dedicated, but the period shall not exceed ten years
22 from the effective date of the ordinance imposing the tax. The
23 local hospital gross receipts tax imposed after July 1, 1996 in
24 a county described in Paragraph (4) or (8) of Subsection A of
25 Section 7-20C-2 NMSA 1978 shall be imposed only once for the

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1 period necessary for payment of the principal and interest on
2 revenue bonds issued to accomplish the purpose for which the
3 revenue is dedicated, but the period shall not exceed forty
4 years from the effective date of the ordinance imposing the
5 tax.

6 C. No local hospital gross receipts tax authorized
7 in Subsection A of this section shall be imposed initially
8 after January 1, 1993 in a county described in Paragraph (2),
9 (3) or (5) Subsection A of Section 7-20C-2 NMSA 1978 unless:

10 (1) in a county described in Paragraph (2) of
11 Subsection A of Section 7-20C-2 NMSA 1978, the voters of the
12 county have approved the issuance of general obligation bonds
13 of the county sufficient to pay at least one half of the costs
14 of the county hospital facility or county twenty-four-hour
15 urgent care or emergency facility for which the local hospital
16 gross receipts tax revenues are dedicated, including the costs
17 of all acquisition, renovation and equipping of the facility;
18 or

19 (2) in a county described in Paragraph (3) or
20 (5) of Subsection A of Section 7-20C-2 NMSA 1978, the county
21 will not have in effect at the same time a county hospital
22 emergency gross receipts tax and the voters of the county have
23 approved the imposition of a property tax at a rate of one
24 dollar (\$1.00) on each one thousand dollars (\$1,000) of taxable
25 value of property in the county for the purpose of operation

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1 and maintenance of a hospital owned by the county and operated
2 and maintained either by the county or by another party
3 pursuant to a lease with the county.

4 D. The governing body of a county enacting an
5 ordinance imposing a local hospital gross receipts tax shall
6 dedicate the revenue from the tax as provided in this
7 subsection. In any election held, the ballot shall clearly
8 state the purpose to which the revenue will be dedicated and
9 the revenue shall be used by the county for that purpose. The
10 [~~revenues~~] revenue shall be dedicated as follows:

11 (1) prior to January 1, 1993, the governing
12 body, at the time of enacting an ordinance imposing the rate of
13 the tax authorized in Subsection A of this section, shall
14 dedicate the revenue for acquisition of land for and the
15 design, construction, equipping and furnishing of a county
16 hospital facility to be operated by the county or operated and
17 maintained by another party pursuant to a lease with the
18 county;

19 (2) if the governing body of a county
20 described in Paragraph (2), (3) or (5) of Subsection A of
21 Section 7-20C-2 NMSA 1978 is enacting the ordinance imposing
22 the tax after July 1, 1993, the governing body shall dedicate
23 the revenue for acquisition, renovation and equipping of a
24 building for a county hospital facility or a county twenty-
25 four-hour urgent care or emergency facility or for operation

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1 and maintenance of that facility, whether operated and
2 maintained by the county or by another party pursuant to a
3 lease or management contract with the county, for the period of
4 time the tax is imposed not to exceed ten years;

5 (3) if the governing body of a county
6 described in Paragraph (4) or (8) of Subsection A of Section
7 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax
8 after July 1, 1995, the governing body shall dedicate the
9 revenue for acquisition of land or buildings for and the
10 renovation, design, construction, equipping or furnishing of a
11 county hospital facility or health clinic to be operated by the
12 county or operated and maintained by another party pursuant to
13 a health care facilities contract, lease or management contract
14 with the county;

15 (4) if the governing body of a county
16 described in Paragraph (6) of Subsection A of Section 7-20C-2
17 NMSA 1978 is enacting the ordinance imposing the tax after July
18 1, 1997, the governing body shall dedicate the revenue for
19 either or a combination of the following:

20 (a) acquisition of land or buildings for
21 and the design, construction, renovation, equipping or
22 furnishing of a hospital facility or health clinic owned by the
23 county or a hospital or health clinic with whom the county has
24 entered into a health care facilities contract; or

25 (b) operations and maintenance of a

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1 hospital or health clinic owned by the county or a hospital or
2 health clinic with whom the county has entered into a health
3 care facilities contract; and

4 (5) if the governing body of a county
5 described in Paragraph (7) of Subsection A of Section 7-20C-2
6 NMSA 1978 is enacting the ordinance imposing the tax after
7 January 1, 2002, the governing body shall dedicate the revenue
8 for acquisition, lease, renovation or equipping of a hospital
9 facility or for operation and maintenance of that facility,
10 whether operated and maintained by the county or by another
11 party pursuant to a health care facilities contract, lease or
12 management contract with the county.

13 E. The ordinance shall not go into effect until
14 after an election is held and a simple majority of the
15 qualified electors of the county voting in the election [~~votes~~]
16 vote in favor of imposing the local hospital gross receipts tax
17 and, in the case of a county described in Paragraph (3) or (5)
18 of Subsection A of Section 7-20C-2 NMSA 1978, also [~~votes~~] vote
19 in favor of a property tax at a rate of one dollar (\$1.00) for
20 each one thousand dollars (\$1,000) of taxable value of property
21 in the county. The governing body shall adopt a resolution
22 calling for an election within seventy-five days of the date
23 the ordinance is adopted on the question of imposing the tax.
24 The question may be submitted to the qualified electors and
25 voted on as a separate question in a general election or in any

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1 special election called for that purpose by the governing body.
2 A special election on the question shall be called, held,
3 conducted and canvassed in substantially the same manner as
4 provided by law for general elections. If the question of
5 imposing a local hospital gross receipts tax fails or if the
6 question of imposing both a local hospital gross receipts tax
7 and a property tax fails, the governing body shall not again
8 propose a local hospital gross receipts tax for a period of one
9 year after the election. A certified copy of any ordinance
10 imposing a local hospital gross receipts tax shall be mailed to
11 the department within five days after the ordinance is adopted
12 in an election called for that purpose.

13 F. An ordinance enacted pursuant to the provisions
14 of Subsection A of this section shall include an effective date
15 of either July 1 or January 1, whichever date occurs first
16 after the expiration of at least three months from the date the
17 ordinance is approved by the electorate.

18 G. An ordinance repealed under the provisions of
19 the Local Hospital Gross Receipts Tax Act shall be repealed
20 effective on either July 1 or January 1.

21 H. As used in this section, "taxable value of
22 property" means the sum of:

23 (1) the net taxable value, as that term is
24 defined in the Property Tax Code, of property subject to
25 taxation under the Property Tax Code;

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1 (2) the assessed value of products, as those
2 terms are defined in the Oil and Gas Ad Valorem Production Tax
3 Act;

4 (3) the assessed value of equipment, as those
5 terms are defined in the Oil and Gas Production Equipment Ad
6 Valorem Tax Act; and

7 (4) the taxable value of copper mineral
8 property, as those terms are defined in the Copper Production
9 Ad Valorem Tax Act, subject to taxation under the Copper
10 Production Ad Valorem Tax Act. "

11 Section 3. EMERGENCY.--It is necessary for the public
12 peace, health and safety that this act take effect immediately.