

HOUSE BILL 105

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

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AN ACT

RELATING TO INDUSTRIAL REVENUE BONDS; CHANGING THE METHOD FOR DETERMINING AN ANNUAL IN-LIEU TAX PAYMENT FOR AN ELECTRIC GENERATION OR TRANSMISSION FACILITY PROJECT; PROVIDING FOR THE SHARING OF IN-LIEU TAX PAYMENTS AMONG CERTAIN SCHOOL DISTRICTS; CLARIFYING THAT CERTAIN PAYMENTS TO THE STATE FOR AN ELECTRIC TRANSMISSION PROJECT SHALL BE MADE BY THE PERSON PROPOSING THE ELECTRIC TRANSMISSION PROJECT; DECLARING AN EMERGENCY.

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

SECTION 1. Section 3-32-6 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-31-3, as amended) is amended to read:

"3-32-6. ADDITIONAL POWERS CONFERRED ON MUNICIPALITIES.--

In addition to any other powers that it may now have, a municipality shall have the following powers:

A. to acquire, whether by construction, purchase,

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1 gift or lease, one or more projects that shall be located
2 within this state and may be located within or without the
3 municipality or partially within or partially without the
4 municipality, but which shall not be located more than fifteen
5 miles outside of the corporate limits of the municipality;
6 provided that:

7 (1) urban transit buses qualifying as a
8 project pursuant to Subsection B of Section 3-32-3 NMSA 1978
9 need not be continuously located within this state, but the
10 commercial enterprise using the urban transit buses for leasing
11 shall meet the location requirement of this subsection; and

12 (2) a municipality shall not acquire any
13 electricity generation or transmission facility project unless
14 the school ~~[district in which the project is located will~~
15 ~~receive the same amount, or greater, of annual in-lieu tax~~
16 ~~payments as would have been received in property taxes for the~~
17 ~~fully developed project had the project not been acquired]~~
18 districts within the municipality in which the project is
19 located receive annual in-lieu tax payments; provided that the
20 annual in-lieu tax payments required by this paragraph shall
21 be:

22 (a) payable to the school districts for
23 the period the municipality owns and leases the project;

24 (b) in an aggregate amount equal to the
25 amount received by the municipality multiplied by the

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1 percentage determined by dividing the average of the operating,
2 capital improvement and bond mills imposed by the school
3 districts in the municipality as of the date of issuance of the
4 bonds by the average of the mills imposed by all entities
5 levying taxes on property in the municipality as of such date;

6 (c) shared among the school districts
7 located within the municipality equally, if there is more than
8 one school district in such municipality; and

9 (d) not be less than the amount due to
10 the school districts in the tax year immediately preceding the
11 issuance of the bonds from the property included in a project,
12 had such project not been created;

13 B. to sell or lease or otherwise dispose of any or
14 all of its projects upon such terms and conditions as the
15 governing body may deem advisable and as shall not conflict
16 with the provisions of the Industrial Revenue Bond Act;

17 C. to issue revenue bonds for the purpose of
18 defraying the cost of acquiring by construction and purchase,
19 or either, any project and to secure the payment of such bonds,
20 all as provided in the Industrial Revenue Bond Act. No
21 municipality shall have the power to operate any project as a
22 business or in any manner except as lessor;

23 D. to refinance one or more hospital or 501(c)(3)
24 corporation projects and to acquire any such hospital or
25 501(c)(3) corporation project whether by construction,

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1 purchase, gift or lease, which hospital or 501(c)(3)
2 corporation project shall be located within this state and may
3 be located within or without the municipality or partially
4 within or partially without the municipality, but which shall
5 not be located more than fifteen miles outside of the corporate
6 limits of the municipality, and to issue revenue bonds to
7 refinance and acquire a hospital or 501(c)(3) corporation
8 project and to secure the payment of such bonds, all as
9 provided in the Industrial Revenue Bond Act. A municipality
10 shall not have the power to operate a hospital or 501(c)(3)
11 corporation project as a business or in any manner except as
12 lessor; and

13 E. to refinance one or more projects of any private
14 institution of higher education and to acquire any such
15 project, whether by construction, purchase, gift or lease;
16 provided that the project shall be located within this state
17 and may be located within or without the municipality or
18 partially within or partially without the municipality, but the
19 project shall not be located more than fifteen miles outside of
20 the corporate limits of the municipality, and to issue revenue
21 bonds to refinance and acquire any project of any private
22 institution of higher education and to secure the payment of
23 such bonds. A municipality shall not have the power to operate
24 a project of a private institution of higher education as a
25 business or in any manner except as lessor."

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1 SECTION 2. Section 3-32-6.2 NMSA 1978 (being Laws 2020,
2 Chapter 14, Section 3) is amended to read:

3 "3-32-6.2. ELECTRIC TRANSMISSION PROJECTS--PAYMENTS TO
4 THE STATE.--~~[The state shall receive]~~ A person proposing an
5 electric transmission facility project pursuant to Paragraph
6 (2) of Subsection A of Section 3-32-6 NMSA 1978 shall pay to
7 the state annual payments equal to five percent of the total
8 amount of in-lieu tax payments ~~[made by a person proposing an~~
9 ~~electric transmission project]~~ to be made in that calendar year
10 by such person to counties, municipalities and other local
11 entities authorized to levy taxes on property, including in-
12 lieu tax payments made to school districts pursuant to
13 Paragraph (2) of Subsection A of Section 3-32-6 NMSA 1978, and
14 five percent of the value of any other consideration related to
15 the project paid to local entities authorized to levy taxes on
16 property by a person proposing an electric transmission
17 project. A copy of any agreement providing for such in-lieu
18 tax payments shall be provided to the secretary of finance and
19 administration within thirty days of written approval of such
20 agreement by all of the parties. Each annual payment to the
21 state shall be made no later than the end of each fiscal year
22 in which in-lieu tax payments are made to local taxing
23 entities. Each annual payment shall be made to the department
24 of finance and administration for deposit to the general fund."

25 SECTION 3. Section 4-59-4 NMSA 1978 (being Laws 1975,

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1 Chapter 286, Section 4, as amended) is amended to read:

2 "4-59-4. ADDITIONAL POWERS CONFERRED ON COUNTIES.--In
3 addition to any other powers that it may now have, each county
4 shall have the following powers:

5 A. to acquire, whether by construction, purchase,
6 gift or lease, one or more projects, which shall be located
7 within this state and shall be located within the county
8 outside the boundaries of any incorporated municipality;
9 provided, however, that:

10 (1) a class A county with a population of more
11 than three hundred thousand may acquire projects located
12 anywhere in the county; and

13 (2) a county shall not acquire any electricity
14 generation or transmission facility project unless the school
15 ~~[district in which the project is located will receive the same~~
16 ~~amount, or greater, of annual in-lieu tax payments as would~~
17 ~~have been received in property taxes for the fully developed~~
18 ~~project had the project not been acquired]~~ districts within the
19 county in which the project is located receive annual in-lieu
20 tax payments; provided that the annual in-lieu tax payments
21 required by this paragraph shall be:

22 (a) payable to the school districts for
23 the period the county owns and leases the project;

24 (b) in an aggregate amount equal to the
25 amount received by the county multiplied by the percentage

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1 determined by dividing the average of the operating, capital
2 improvement and bond mills imposed by the school districts in
3 the county as of the date of issuance of the bonds by the
4 average of the mills imposed by all entities levying taxes on
5 property in the county as of such date;

6 (c) shared among the school districts
7 located within the county equally; and

8 (d) not be less than the amount due to
9 the school districts in the tax year immediately preceding the
10 issuance of the bonds from the property included in a project,
11 had such project not been created;

12 B. to sell or lease or otherwise dispose of any or
13 all of its projects upon such terms and conditions as the
14 commission may deem advisable and as shall not conflict with
15 the provisions of the County Industrial Revenue Bond Act; and

16 C. to issue revenue bonds for the purpose of
17 defraying the cost of acquiring, by construction and purchase
18 or either, any project and to secure the payment of such bonds,
19 all as provided in the County Industrial Revenue Bond Act. No
20 county shall have the power to operate any project as a
21 business or in any manner except as lessor thereof."

22 SECTION 4. Section 4-59-4.2 NMSA 1978 (being Laws 2020,
23 Chapter 14, Section 6) is amended to read:

24 "4-59-4.2. ELECTRIC TRANSMISSION PROJECTS--PAYMENTS TO
25 THE STATE.--~~[The state shall receive]~~ A person proposing an

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1 electric transmission facility project pursuant to Paragraph
2 (2) of Subsection A of Section 4-59-4 NMSA 1978 shall pay to
3 the state annual payments equal to five percent of the total
4 amount of in-lieu tax payments to be made in that calendar year
5 by such person to counties, municipalities and other local
6 entities authorized to levy taxes on property, including in-
7 lieu tax payments made to school districts pursuant to
8 Paragraph (2) of Subsection A of Section 4-59-4 NMSA 1978, and
9 five percent of the value of any other consideration related to
10 the project paid to local entities authorized to levy taxes on
11 property by a person proposing an electric transmission
12 project. A copy of any agreement providing for such in-lieu
13 tax payments shall be provided to the secretary of finance and
14 administration within thirty days of written approval of such
15 agreement by all of the parties. Each annual payment to the
16 state shall be made no later than the end of each fiscal year
17 in which in-lieu tax payments are made to local taxing
18 entities. Each annual payment shall be made to the department
19 of finance and administration for deposit to the general fund."

20 SECTION 5. EMERGENCY.--It is necessary for the public
21 peace, health and safety that this act take effect immediately.

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