

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

(1) urban transit buses qualifying as a project pursuant to Subsection B of Section 3-32-3 NMSA 1978

1 need not be continuously located within this state, but the
2 commercial enterprise using the urban transit buses for
3 leasing shall meet the location requirement of this
4 subsection; and

5 (2) a municipality shall not acquire any
6 electricity generation or transmission facility project
7 unless the school districts within the municipality in which
8 the project is located receive annual in-lieu tax payments;
9 provided that the annual in-lieu tax payments required by
10 this paragraph shall be:

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

13 (b) in an aggregate amount equal to the
14 amount received by the municipality multiplied by the
15 percentage determined by dividing the average of the
16 operating, capital improvement and bond mills imposed by the
17 school districts in the municipality and state debt service
18 mills as of the date of issuance of the bonds by the average
19 of the mills imposed by all entities levying taxes on
20 property in the municipality as of such date;

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

24 (d) not be less than the amount due to
25 the school districts in the tax year immediately preceding

1 the issuance of the bonds from the property included in a
2 project, had such project not been created;

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

7 C. to issue revenue bonds for the purpose of
8 defraying the cost of acquiring by construction and purchase,
9 or either, any project and to secure the payment of such
10 bonds, all as provided in the Industrial Revenue Bond Act.

11 No municipality shall have the power to operate any project
12 as a business or in any manner except as lessor;

13 D. to refinance one or more hospital or 501(c)(3)
14 corporation projects and to acquire any such hospital or
15 501(c)(3) corporation project whether by construction,
16 purchase, gift or lease, which hospital or 501(c)(3)
17 corporation project shall be located within this state and
18 may be located within or without the municipality or
19 partially within or partially without the municipality, but
20 which shall not be located more than fifteen miles outside of
21 the corporate limits of the municipality, and to issue
22 revenue bonds to refinance and acquire a hospital or
23 501(c)(3) corporation project and to secure the payment of
24 such bonds, all as provided in the Industrial Revenue Bond
25 Act. A municipality shall not have the power to operate a

1 hospital or 501(c)(3) corporation project as a business or in
2 any manner except as lessor; and

3 E. to refinance one or more projects of any
4 private institution of higher education and to acquire any
5 such project, whether by construction, purchase, gift or
6 lease; provided that the project shall be located within this
7 state and may be located within or without the municipality
8 or partially within or partially without the municipality,
9 but the project shall not be located more than fifteen miles
10 outside of the corporate limits of the municipality, and to
11 issue revenue bonds to refinance and acquire any project of
12 any private institution of higher education and to secure the
13 payment of such bonds. A municipality shall not have the
14 power to operate a project of a private institution of higher
15 education as a business or in any manner except as lessor."

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

18 "3-32-6.2. ELECTRIC TRANSMISSION PROJECTS--PAYMENTS TO
19 THE STATE.--A person proposing an electric transmission
20 facility project pursuant to Paragraph (2) of Subsection A of
21 Section 3-32-6 NMSA 1978 shall pay to the state annual
22 payments equal to five percent of the total amount of in-lieu
23 tax payments to be made in that calendar year by such person
24 to counties, municipalities and other local entities
25 authorized to levy taxes on property, including in-lieu tax

1 payments made to school districts pursuant to Paragraph (2)
2 of Subsection A of Section 3-32-6 NMSA 1978, and five percent
3 of the value of any other consideration related to the
4 project paid to local entities authorized to levy taxes on
5 property by a person proposing an electric transmission
6 project. A copy of any agreement providing for such in-lieu
7 tax payments shall be provided to the secretary of finance
8 and administration within thirty days of written approval of
9 such agreement by all of the parties. Each annual payment to
10 the state shall be made no later than the end of each fiscal
11 year in which in-lieu tax payments are made to local taxing
12 entities. Each annual payment shall be made to the
13 department of finance and administration for deposit to the
14 general fund."

15 SECTION 3. Section 4-59-4 NMSA 1978 (being Laws 1975,
16 Chapter 286, Section 4, as amended) is amended to read:

17 "4-59-4. ADDITIONAL POWERS CONFERRED ON COUNTIES.--In
18 addition to any other powers that it may now have, each
19 county shall have the following powers:

20 A. to acquire, whether by construction, purchase,
21 gift or lease, one or more projects, which shall be located
22 within this state and shall be located within the county
23 outside the boundaries of any incorporated municipality;
24 provided, however, that:

25 (1) a class A county with a population of

1 more than three hundred thousand may acquire projects located
2 anywhere in the county; and

3 (2) a county shall not acquire any
4 electricity generation or transmission facility project
5 unless the school districts within the county in which the
6 project is located receive annual in-lieu tax payments;
7 provided that the annual in-lieu tax payments required by
8 this paragraph shall be:

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

11 (b) in an aggregate amount equal to the
12 amount received by the county multiplied by the percentage
13 determined by dividing the average of the operating, capital
14 improvement and bond mills imposed by the school districts in
15 the county and state debt service mills as of the date of
16 issuance of the bonds by the average of the mills imposed by
17 all entities levying taxes on property in the county as of
18 such date;

19 (c) shared among the school districts
20 located within the county equally; and

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

25 B. to sell or lease or otherwise dispose of any or HB 105/a
Page 6

1 all of its projects upon such terms and conditions as the
2 commission may deem advisable and as shall not conflict with
3 the provisions of the County Industrial Revenue Bond Act; and

4 C. to issue revenue bonds for the purpose of
5 defraying the cost of acquiring, by construction and purchase
6 or either, any project and to secure the payment of such
7 bonds, all as provided in the County Industrial Revenue Bond
8 Act. No county shall have the power to operate any project
9 as a business or in any manner except as lessor thereof."

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

12 "4-59-4.2. ELECTRIC TRANSMISSION PROJECTS--PAYMENTS TO
13 THE STATE.--A person proposing an electric transmission
14 facility project pursuant to Paragraph (2) of Subsection A of
15 Section 4-59-4 NMSA 1978 shall pay to the state annual
16 payments equal to five percent of the total amount of in-lieu
17 tax payments to be made in that calendar year by such person
18 to counties, municipalities and other local entities
19 authorized to levy taxes on property, including in-lieu tax
20 payments made to school districts pursuant to Paragraph (2)
21 of Subsection A of Section 4-59-4 NMSA 1978, and five percent
22 of the value of any other consideration related to the
23 project paid to local entities authorized to levy taxes on
24 property by a person proposing an electric transmission
25 project. A copy of any agreement providing for such in-lieu

1 tax payments shall be provided to the secretary of finance
2 and administration within thirty days of written approval of
3 such agreement by all of the parties. Each annual payment to
4 the state shall be made no later than the end of each fiscal
5 year in which in-lieu tax payments are made to local taxing
6 entities. Each annual payment shall be made to the
7 department of finance and administration for deposit to the
8 general fund."

9 SECTION 5. EMERGENCY.--It is necessary for the public
10 peace, health and safety that this act take effect
11 immediately. _____

HB 105/a
Page 8

12
13
14
15
16
17
18
19
20
21
22
23
24
25