

AN ACT

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RELATING TO INDUSTRIAL REVENUE BONDS; PROVIDING CERTAIN NOTIFICATION REQUIREMENTS PRIOR TO ISSUANCE; ALLOWING CERTAIN COUNTIES TO ISSUE INDUSTRIAL REVENUE BONDS ANYWHERE WITHIN THE COUNTY; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 3-32-6.1 NMSA 1978 (being Laws 1997, Chapter 216, Section 2 and also Laws 1997, Chapter 226, Section 2) is amended to read:

"3-32-6.1. NOTICE TO COUNTY.--

A. Prior to adopting an ordinance issuing industrial revenue bonds, the municipality shall give notice to the board of county commissioners and the county assessor of its intent to consider the matter. The board and the county assessor shall be notified at least thirty days prior to the meeting at which final action is to be taken so that comments can be transmitted to the municipality.

B. The board of county commissioners and the county assessor shall be able to forward their comments and any concerns to the city council, but there is no approval required from the board or the county assessor and they do not have veto over the proposed industrial revenue bond issuance.

C. The municipality and county shall jointly develop criteria for issuance of industrial revenue bonds by either government; provided, however, that industrial revenue bonds may be authorized and issued before development of the criteria is completed.

D. The municipality shall notify the board of county commissioners and

the county assessor when an industrial revenue bond has matured, expired or been replaced by a refunding bond."

Section 2. Section 4-59-2 NMSA 1978 (being Laws 1975, Chapter 286, Section 2, as amended by Laws 2002, Chapter 25, Section 4 and by Laws 2002, Chapter 37, Section 4) is amended to read:

"4-59-2. DEFINITIONS.--As used in the County Industrial Revenue Bond Act, unless the context clearly indicates otherwise:

- A. "commission" means the governing body of a county;
- B. "county" means a county organized or incorporated in New Mexico;
- C. "501(c)(3) corporation" means a corporation that demonstrates to the taxation and revenue department that it has been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, as amended or renumbered;
- D. "health care service" means the diagnosis or treatment of sick or injured persons or medical research and includes the ownership, operation, maintenance, leasing and disposition of health care facilities, such as hospitals, clinics, laboratories, x-ray centers and pharmacies;
- E. "mortgage" means a mortgage or a mortgage and deed of trust or the pledge and hypothecation of any assets as collateral security;
- F. "project" means any land and building or other improvements thereon, the acquisition by or for a New Mexico corporation of the assets or stock of an existing business or corporation located outside the state to be relocated within a county but, except as provided in Paragraph (1) of Subsection A of Section 4-59-4 NMSA 1978, not within the boundaries of any incorporated municipality in the state,

and all real and personal properties deemed necessary in connection therewith,  
whether or not now in existence, which shall be suitable for use by the following or by  
any combination of two or more thereof:

(1) an industry for the manufacturing, processing or  
assembling of agricultural or manufactured products;

(2) a commercial enterprise in storing, warehousing,  
distributing or selling products of agriculture, mining or industry, but does not include a  
facility designed for the sale or distribution to the public of electricity, gas, telephone or  
other services commonly classified as public utilities, except for:

(a) water utilities; and

(b) any electric generation facility other than one for  
which both location approval and a certificate of convenience and necessity are  
required prior to commencing construction or operation of the facility, pursuant to the  
Public Utility Act and the Electric Utility Industry Restructuring Act of 1999;

(3) a business in which all or part of the activities of the  
business involve the supplying of services to the general public or to governmental  
agencies or to a specific industry or customer;

(4) a nonprofit corporation engaged in health care services;

(5) a mass transit or other transportation activity involving the  
movement of passengers, an industrial park, an office headquarters and a research  
facility;

(6) a water distribution or irrigation system, including without  
limitation, pumps, distribution lines, transmission lines, towers, dams and similar  
facilities and equipment; and

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(7) a 501(c)(3) corporation; and

G. "property" means any land, improvements thereon, buildings and any improvements thereto, machinery and equipment of any and all kinds necessary to the project, operating capital and any other personal properties deemed necessary in connection with the project."

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

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

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

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

(2) a county shall not acquire any electricity generation facility project unless the acquisition is approved by the local school board of the school district in which a project is located and the board of county commissioners, the local school board and the person proposing the project negotiate and determine the amount of an annual in-lieu tax payment to be made to the school district by the person proposing the project, for the period that the county owns and leases the project, and provided such approval shall not be unreasonably withheld;

B. to sell or lease or otherwise dispose of any or all of its projects upon such terms and conditions as the commission may deem advisable and as shall not

conflict with the provisions of the County Industrial Revenue Bond Act; and

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

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Section 4. Section 4-59-4.1 NMSA 1978 (being Laws 1997, Chapter 216, Section 4 and also Laws 1997, Chapter 226, Section 4) is amended to read:

"4-59-4.1. NOTICE TO MUNICIPALITY AND COUNTY

ASSESSOR.--

A. Prior to adopting an ordinance issuing county industrial revenue bonds, a county shall give notice to the county assessor and the largest municipality located within the county of its intent to consider the matter. The county assessor and the municipality shall be notified at least thirty days prior to the meeting at which final action is to be taken so that comments can be transmitted to the county.

B. The county assessor and the municipality shall be able to forward their comments and any concerns to the board of county commissioners, but there is no approval required from the municipality or the county assessor and they do not have veto over the proposed county industrial revenue bond issuance.

C. The county and the municipality shall jointly develop criteria for issuance of industrial revenue bonds by either government; provided, however, that county industrial revenue bonds may be authorized and issued before development of the criteria is completed.

D. The county shall notify the board of county commissioners and the

county assessor when an industrial revenue bond has matured, expired or been replaced by a refunding bond."