

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 TAXATION; REORGANIZING COUNTY LOCAL OPTION GROSS RECEIPTS TAXES; AMENDING REFERENDUM REQUIREMENTS; EXPANDING COUNTY GROSS RECEIPTS TAX AUTHORITY.

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

Section 1. Section 7-20E-3 NMSA 1978 (being Laws 1993, Chapter 354, Section 3) is amended to read:

"7-20E-3. OPTIONAL REFERENDUM SELECTION--EFFECTIVE DATE OF ORDINANCE.--

A. The governing body of a county imposing a tax or an increment of tax authorized by the County Local Option Gross Receipts Taxes Act or any other county local option gross receipts tax act that is subject to optional referendum selection shall select, when enacting the ordinance imposing the tax, one of the following referendum options:

(1) the ordinance imposing the tax or increment of tax shall go into effect on July 1 or January 1 in accordance with the provisions of the County Local Option Gross Receipts Taxes Act, but an election may be called in the county on the question of approving or disapproving that ordinance as follows:

(a) an election shall be called when:

1) in a county having a referendum provision in its charter, a petition requesting such an election is filed pursuant to

1 the requirements of that provision in the charter and signed
2 by the number of registered voters in the county equal to the
3 number of registered voters required in its charter to seek a
4 referendum; and 2) in all other counties, a petition
5 requesting such an election is filed with the county clerk
6 within sixty days of enactment of the ordinance by the
7 governing body and the petition has been signed by a number
8 of registered voters in the county equal to at least five
9 percent of the number of the voters in the county who were
10 registered to vote in the most recent general election;

11 (b) the signatures on the petition
12 requesting an election shall be verified by the county clerk.
13 If the petition is verified by the county clerk as containing
14 the required number of signatures of registered voters, the
15 governing body shall adopt a resolution calling an election
16 on the question of approving or disapproving the ordinance.
17 The election shall be held within sixty days after the date
18 the petition is verified by the county clerk, or it may be
19 held in conjunction with a general election if that election
20 occurs within sixty days after the date of the verification.
21 The election shall be called, held, conducted and canvassed
22 in substantially the same manner as provided by law for
23 general elections; and

24 (c) if a majority of the registered
25 voters voting on the question approves the ordinance, the

1 ordinance shall go into effect on July 1 or January 1 in
2 accordance with the provisions of the County Local Option
3 Gross Receipts Taxes Act. If at such an election a majority
4 of the registered voters voting on the question disapproves
5 the ordinance, the ordinance imposing the tax shall be deemed
6 repealed and the question of imposing the tax or increment of
7 tax shall not be considered again by the governing body for a
8 period of one year from the date of the election; or

9 (2) the ordinance imposing the tax or
10 increment of tax shall not go into effect until after an
11 election is held and a simple majority of the registered
12 voters of the county voting on the question votes in favor of
13 imposing the tax or increment of tax. The governing body
14 shall adopt a resolution calling for an election within
15 seventy-five days of the date the ordinance is adopted on the
16 question of imposing the tax or increment of tax. Such
17 question may be submitted to the voters and voted upon as a
18 separate question at any general election or at any special
19 election called for that purpose by the governing body. The
20 election upon the question shall be called, held, conducted
21 and canvassed in substantially the same manner as may be
22 provided by law for general elections. If the question of
23 imposing the tax or increment of tax fails, the governing
24 body shall not again propose the tax or increment of tax for
25 a period of one year after the election.

1 B. An ordinance imposing, amending or repealing a
2 tax or an increment of tax authorized by the County Local
3 Option Gross Receipts Taxes Act shall be effective on July 1
4 or January 1, whichever date occurs first after the
5 expiration of at least three months from the date the adopted
6 ordinance is mailed or delivered to the department. The
7 ordinance shall include that effective date."

8 Section 2. Section 7-20E-9 NMSA 1978 (being Laws 1983,
9 Chapter 213, Section 30, as amended) is amended to read:

10 "7-20E-9. COUNTY GROSS RECEIPTS TAX--AUTHORITY TO
11 IMPOSE RATE--INDIGENT FUND REQUIREMENTS.--

12 A. A majority of the members of the governing body
13 of a county may enact an ordinance imposing an excise tax not
14 to exceed a rate of seven-sixteenths percent of the gross
15 receipts of any person engaging in business in the county for
16 the privilege of engaging in business in the county. An
17 ordinance imposing an excise tax pursuant to this section
18 shall impose the tax in three independent increments of
19 one-eighth percent and one independent increment of
20 one-sixteenth percent, which shall be separately denominated
21 as "the first one-eighth increment", "the second one-eighth
22 increment", "the third one-eighth increment" and "the
23 one-sixteenth increment", respectively, not to exceed an
24 aggregate amount of seven-sixteenths percent.

25 B. The tax authorized in Subsection A of this

1 section is to be referred to as the "county gross receipts
2 tax".

3 C. A class A county with a county hospital
4 operated and maintained pursuant to a lease with a state
5 educational institution named in Article 12, Section 11 of
6 the constitution of New Mexico enacting the second one-eighth
7 increment of county gross receipts tax shall provide, each
8 year that the tax is in effect, not less than one million
9 dollars (\$1,000,000) in funds, and that amount shall be
10 dedicated to the support of indigent patients who are
11 residents of that county. Funds for indigent care shall be
12 made available each month of each year the tax is in effect
13 in an amount not less than eighty-three thousand three
14 hundred thirty-three dollars thirty-three cents (\$83,333.33).
15 The interest from the investment of county funds for indigent
16 care may be used for other assistance to indigent persons,
17 not to exceed twenty thousand dollars (\$20,000) for all other
18 assistance in any year.

19 D. A county, except a class A county with a county
20 hospital operated and maintained pursuant to a lease with a
21 state educational institution named in Article 12, Section 11
22 of the constitution of New Mexico, imposing the second
23 one-eighth increment of county gross receipts tax shall be
24 required to dedicate the entire amount of revenue produced by
25 the imposition of the second one-eighth increment for the

1 support of indigent patients who are residents of that
2 county. The revenue produced by the imposition of the third
3 one-eighth increment and the one-sixteenth increment may be
4 used for general purposes. Any county that has imposed the
5 second one-eighth increment or the third one-eighth
6 increment, or both, on January 1, 1996 for support of
7 indigent patients in the county or after January 1, 1996
8 imposes the second one-eighth increment or imposes the third
9 one-eighth increment and dedicates one-half of that increment
10 for county indigent patient purposes shall deposit the
11 revenue dedicated for county indigent purposes in the county
12 indigent hospital claims fund and such revenues shall be
13 expended pursuant to the Indigent Hospital and County Health
14 Care Act."

15 Section 3. Section 7-20E-10 NMSA 1978 (being Laws 1983,
16 Chapter 213, Section 32, as amended) is amended to read:

17 "7-20E-10. COUNTY GROSS RECEIPTS TAX--REFERENDUM
18 REQUIREMENTS.--

19 A. An ordinance enacting the first or third
20 one-eighth increment or the one-sixteenth increment of county
21 gross receipts tax pursuant to Section 7-20E-9 NMSA 1978
22 shall be subject to optional referendum selection by the
23 governing body, pursuant to Subsection A of Section 7-20E-3
24 NMSA 1978.

25 B. Imposition by any county of the second

1 one-eighth increment of county gross receipts tax shall not
2 be subject to a referendum of any kind unless prescribed by
3 the county charter or the governing body of the county.

4 Section 4. Section 7-20E-15 NMSA 1978 (being Laws 1979,
5 Chapter 398, Section 3, as amended) is amended to read:

6 "7-20E-15. COUNTY FIRE PROTECTION EXCISE TAX--AUTHORITY
7 TO IMPOSE--ORDINANCE REQUIREMENTS.--

8 A. The majority of the members of the governing
9 body may enact an ordinance imposing an excise tax on any
10 person engaging in business in the county area for the
11 privilege of engaging in business. The rate of the tax shall
12 be one-fourth percent or one-eighth percent of the gross
13 receipts of the person engaging in business.

14 B. This tax is to be referred to as the "county
15 fire protection excise tax".

16 C. The governing body of a county shall, at the
17 time of enacting an ordinance imposing the rate of the tax
18 authorized in Subsection A of this section, dedicate the
19 revenue for the purpose of financing the operational
20 expenses, ambulance services or capital outlay costs of
21 independent fire districts or ambulance services provided by
22 the county. In any election held, the ballot shall clearly
23 state the purpose to which the revenue will be dedicated and
24 shall be used by the county for that purpose.

25 D. Any ordinance enacted under the provisions of

1 Subsection A of this section shall include an effective date
2 of either July 1 or January 1 in accordance with the
3 provisions of the County Local Option Gross Receipts Taxes
4 Act.

5 E. The ordinance shall not go into effect until
6 after an election is held and a simple majority of the
7 qualified electors of the county area voting in the election
8 votes in favor of imposing the county fire protection excise
9 tax. The governing body shall adopt a resolution calling for
10 an election within seventy-five days of the date the
11 ordinance is adopted on the question of imposing the tax.
12 Such question may be submitted to the qualified electors and
13 voted upon as a separate question at any special election
14 called for that purpose by the governing body. The election
15 upon the question shall be called, held, conducted and
16 canvassed in substantially the same manner as provided by law
17 for general elections. If the question of imposing a county
18 fire protection excise tax fails, the governing body shall
19 not again propose a county fire protection excise tax for a
20 period of one year after the election."

21 Section 5. Section 7-20E-22 NMSA 1978 (being Laws 2002,
22 Chapter 14, Section 1, as amended) is amended to read:

23 "7-20E-22. COUNTY EMERGENCY COMMUNICATIONS AND
24 EMERGENCY MEDICAL SERVICES TAX--AUTHORITY TO IMPOSE
25 COUNTYWIDE OR ONLY IN THE COUNTY AREA--ORDINANCE

1 REQUIREMENTS--USE OF REVENUE--ELECTION.--

2 A. The majority of the members of the governing
3 body of an eligible county that does not have in effect a tax
4 imposed pursuant to Subsection B of this section may enact an
5 ordinance imposing an excise tax at a rate not to exceed
6 one-fourth percent of the gross receipts of a person engaging
7 in business in the county for the privilege of engaging in
8 business. The tax imposed by this subsection may be referred
9 to as the "countywide emergency communications and emergency
10 medical services tax".

11 B. The majority of the members of the governing
12 body of an eligible county that does not have in effect a tax
13 imposed pursuant to Subsection A of this section may enact an
14 ordinance imposing an excise tax at a rate not to exceed
15 one-fourth percent of the gross receipts of a person engaging
16 in business in the county area for the privilege of engaging
17 in business. The tax imposed by this subsection may be
18 referred to as the "county area emergency communications and
19 emergency medical services tax".

20 C. The tax authorized in Subsections A and B of
21 this section may be imposed in one or more increments of
22 one-sixteenth percent not to exceed an aggregate rate of
23 one-fourth percent.

24 D. The governing body, at the time of enacting an
25 ordinance imposing a rate of tax authorized in Subsection A

1 or B of this section, shall dedicate the revenue to one or
2 both of the following purposes:

3 (1) operation of an emergency communications
4 center that has been determined by the local government
5 division of the department of finance and administration to
6 be a consolidated public safety answering point; or

7 (2) operation of emergency medical services
8 provided by the county.

9 E. An ordinance imposing any increment of the
10 countywide emergency communications and emergency medical
11 services tax or the county area emergency communications and
12 emergency medical services tax shall not go into effect until
13 after an election is held and a majority of the voters voting
14 in the election vote in favor of imposing the tax. In the
15 case of an ordinance imposing an increment of the countywide
16 emergency communications and emergency medical services tax,
17 the election shall be conducted countywide. In the case of
18 an ordinance imposing the county area emergency
19 communications and emergency medical services tax, the
20 election shall be conducted only in the county area. The
21 governing body shall adopt a resolution calling for an
22 election within seventy-five days of the date the ordinance
23 is adopted on the question of imposing the tax. The question
24 may be submitted to the voters as a separate question at a
25 general election or at a special election called for that

1 purpose by the governing body. A special election shall be
2 called, conducted and canvassed in substantially the same
3 manner as provided by law for general elections. In any
4 election held, the ballot shall clearly state the purpose to
5 which the revenue will be dedicated pursuant to Subsection D
6 of this section. If a majority of the voters voting on the
7 question approve the imposition of the countywide emergency
8 communications and emergency medical services tax or the
9 county area emergency communications and emergency medical
10 services tax, the ordinance shall become effective in
11 accordance with the provisions of the County Local Option
12 Gross Receipts Taxes Act. If the question of imposing the
13 tax fails, the governing body shall not again propose the
14 imposition of any increment of either tax for a period of one
15 year from the date of the election.

16 F. For the purposes of this section, "eligible
17 county" means a county that operates or, pursuant to a joint
18 powers agreement, is served by an emergency communications
19 center that has been determined by the local government
20 division of the department of finance and administration to
21 be a consolidated public safety answering point."

22 Section 6. Section 7-20F-2 NMSA 1978 (being Laws 1993,
23 Chapter 303, Section 2, as amended) is amended to read:

24 "7-20F-2. DEFINITIONS.--As used in the County
25 Correctional Facility Gross Receipts Tax Act:

1 A. "county" means a county of New Mexico;

2 B. "county board" means the board of county
3 commissioners of a county;

4 C. "department" means the taxation and revenue
5 department, the secretary of taxation and revenue or any
6 employee of the department exercising authority lawfully
7 delegated to that employee by the secretary;

8 D. "judicial-correctional facility" means a
9 facility for housing and use by judicial and corrections
10 agencies, including housing for persons confined in county
11 correctional facilities; however, none of the facilities are
12 required to be located on the same or contiguous parcels of
13 land;

14 E. "municipality" means any incorporated city,
15 town or village, whether incorporated under general act,
16 special act or special charter;

17 F. "person" means an individual or any other legal
18 entity;

19 G. "pledged revenues" means the revenue, net
20 income or net revenues authorized to be pledged to the
21 payment of revenue bonds issued pursuant to the provisions of
22 the County Correctional Facility Gross Receipts Tax Act;

23 H. "refunding bond" means a refunding revenue bond
24 issued pursuant to the provisions of the County Correctional
25 Facility Gross Receipts Tax Act to refund revenue bonds

1 issued pursuant to the provisions of that act; and

2 I. "revenue bond" means a county correctional
3 facility gross receipts tax revenue bond."

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

6 "7-20F-3. COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS
7 TAX--AUTHORITY TO IMPOSE--RATE--ORDINANCE REQUIREMENTS--
8 REFERENDUM.--

9 A. The majority of the members elected to the
10 county board may enact an ordinance imposing on a countywide
11 basis an excise tax not to exceed a rate of one-eighth
12 percent of the gross receipts of any person engaging in
13 business in the county, including all municipalities within
14 the county.

15 B. The tax imposed pursuant to Subsection A of
16 this section may be referred to as the "county correctional
17 facility gross receipts tax".

18 C. Any ordinance imposing a county correctional
19 facility gross receipts tax pursuant to this section shall:

20 (1) impose the tax in any number of
21 increments of one-sixteenth percent not to exceed an
22 aggregate amount of one-eighth percent;

23 (2) specify that the imposition of the tax
24 will begin on either July 1 or January 1, whichever occurs
25 first after the expiration of at least three months from the

1 date that the department is notified personally or by mail by
2 the county of adoption of the ordinance; and

3 (3) dedicate the revenue from the county
4 correctional facility gross receipts tax:

5 (a) for the purpose of operating,
6 maintaining, constructing, purchasing, furnishing, equipping,
7 rehabilitating, expanding or improving a
8 judicial-correctional or a county correctional facility or
9 the grounds of a judicial-correctional or county correctional
10 facility, including acquiring and improving parking lots,
11 landscaping or any combination of the foregoing;

12 (b) for the purpose of transporting or
13 extraditing prisoners; or

14 (c) to payment of principal and
15 interest on revenue bonds or refunding bonds issued pursuant
16 to the provisions of the County Correctional Facility Gross
17 Receipts Tax Act.

18 D. An ordinance imposing a county correctional
19 facility gross receipts tax pursuant to this section shall be
20 subject to optional referendum selection by the governing
21 body, as provided in Subsection A of Section 7-20E-3 NMSA
22 1978.

23 E. If the county has pledged the revenue from
24 imposition of the county correctional facilities gross
25 receipts tax to the repayment of bonds or other indebtedness,

1 revenue produced by the imposition of a county correctional
2 facility gross receipts tax that is in excess of the annual
3 principal and interest due on bonds secured by a pledge of
4 the county correctional facility gross receipts tax may be
5 accumulated in a debt service reserve account until an amount
6 equal to the maximum amount permitted pursuant to the
7 provisions of the United States treasury regulations is
8 accumulated in the debt service reserve account. After the
9 debt service reserve account requirements have been met, the
10 excess revenue shall be accumulated in an extraordinary
11 mandatory redemption fund and annually used to redeem the
12 bonds prior to their stated maturity date.

13 F. If the county has pledged the revenue from
14 imposition of the county correctional facilities gross
15 receipts tax to the repayment of bonds or other indebtedness,
16 when all outstanding bonds have been paid, whether from the
17 debt service reserve, the redemption fund or maturity, the
18 ordinance shall be repealed if the county correctional
19 facility gross receipts tax revenue is no longer required for
20 the purposes for which it may be used pursuant to the
21 provisions of the County Correctional Facility Gross Receipts
22 Tax Act.

23 G. The repeal of an ordinance imposing a county
24 correctional facility gross receipts tax shall state that the
25 repeal shall be effective on January 1 or July 1, whichever

1 occurs first following the date the department is notified
2 personally or by mail by the county of the repeal."

3 Section 8. TEMPORARY PROVISION.--An ordinance imposing
4 the county fire protection excise tax that has an effective
5 date on or after July 1, 2004 shall not be subject to the
6 time limit on tax imposition specified in that version of
7 Section 7-20E-15 NMSA 1978 that was in effect prior to the
8 effective date of this 2004 act, and any delayed repeal
9 provision included in that ordinance shall be ineffective.

10 Section 9. EFFECTIVE DATE.--The effective date of the
11 provisions of Sections 1 through 3 and 5 through 7 of this act
12 is July 1, 2004. _____

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