

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

SENATE BILL 222

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

James G. Taylor

FOR THE REVENUE STABILIZATION AND TAX POLICY COMMITTEE

AN ACT

RELATING TO TAXATION; PROVIDING FOR A MUNICIPAL PROPERTY TAX
REBATE FOR LOW-INCOME HOMEOWNERS; PERMITTING MUNICIPALITIES TO
SUBMIT TO QUALIFIED ELECTORS THE QUESTION OF A NEW PROPERTY TAX
IMPOSITION.

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

Section 1. Section 7-2-14.3 NMSA 1978 (being Laws 1994,
Chapter 111, Section 1, as amended) is amended to read:

"7-2-14.3. TAX REBATE OF PART OF PROPERTY TAX DUE FROM
LOW-INCOME TAXPAYER--LOCAL OPTION [~~REFUND~~].--

A. The tax rebate provided by this section may be
claimed for the taxable year for which the return is filed by
an individual who:

(1) has [~~his~~] a principal place of residence in
a county or municipality that has adopted an ordinance pursuant

.160261.1

underscoring material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 to Subsection [~~G~~] H or I of this section;

2 (2) is not a dependent of another individual;

3 (3) files a return pursuant to the Income Tax
4 Act; and

5 (4) incurred a property tax liability on [~~his~~]
6 the principal place of residence in the taxable year.

7 B. The tax rebate provided by this section shall be
8 allowed for [~~any~~] an individual eligible to claim the [~~refund~~]
9 rebate pursuant to Subsection A of this section [~~and~~] who:

10 (1) was not an inmate of a public institution
11 for more than six months during the taxable year;

12 (2) was physically present in New Mexico for at
13 least six months during the taxable year for which the rebate
14 is claimed; and

15 (3) is eligible for the rebate as a low-income
16 property taxpayer in accordance with the provisions of
17 Subsection [~~D~~] E of this section.

18 C. A husband and wife who file separate returns for
19 the taxable year in which they could have filed a joint return
20 may each claim only one-half of the tax rebate that would have
21 been allowed on the joint return.

22 D. As used [~~in the table~~] in this [~~subsection~~]
23 section:

24 (1) "governing body" means, for a county, the
25 board of county commissioners, and for a municipality, the city

.160261.1

1 council or city commission of a city, the board of trustees of
2 a town or village and the board of county commissioners of an H
3 class county;

4 (2) "principal place of residence" means the
5 dwelling owned and occupied by the taxpayer and so much of the
6 land surrounding it, not to exceed five acres, as is reasonably
7 necessary for use of the dwelling as a home and may consist of
8 a part of a multidwelling or a multipurpose building and a part
9 of the land upon which it is built; and

10 (3) "property tax liability" means the amount
11 of property tax resulting from the imposition of the county and
12 municipal property tax operating impositions on the net taxable
13 value of the taxpayer's principal place of residence calculated
14 for the year for which the rebate is claimed.

15 E. The tax rebate provided in this section is as
16 specified in the following table; provided that if a taxpayer's
17 modified gross income is zero, the taxpayer may claim a rebate
18 in the amount shown in the first row of the table; and further
19 provided that the amounts are subject to the limitations of
20 Subsection F of this section:

21 LOW-INCOME TAXPAYER'S PROPERTY TAX REBATE TABLE

| 22 Taxpayer's Modified Gross Income | Property Tax Rebate |
|-------------------------------------|--|
| 23 But Not | |
| 24 Over | Over |
| 25 \$ 0 | \$ 8,000 75% of property tax liability |

.160261.1

underscoring material = new
[bracketed material] = delete

| | | | |
|---|--------|--------|--------------------------------|
| 1 | 8,000 | 10,000 | 70% of property tax liability |
| 2 | 10,000 | 12,000 | 65% of property tax liability |
| 3 | 12,000 | 14,000 | 60% of property tax liability |
| 4 | 14,000 | 16,000 | 55% of property tax liability |
| 5 | 16,000 | 18,000 | 50% of property tax liability |
| 6 | 18,000 | 20,000 | 45% of property tax liability |
| 7 | 20,000 | 22,000 | 40% of property tax liability |
| 8 | 22,000 | 24,000 | 35% of property tax liability. |

9 ~~[E. If a taxpayer's modified gross income is zero,~~
10 ~~the taxpayer may claim a tax rebate in the amount shown in the~~
11 ~~first row of the table.]~~

12 F. The tax rebate provided for in this section shall
13 not exceed three hundred fifty dollars (\$350) per return and,
14 if a return is filed separately that could have been filed
15 jointly, the tax rebate shall not exceed one hundred seventy-
16 five dollars (\$175). No tax rebate shall be allowed any
17 taxpayer whose modified gross income exceeds twenty-four
18 thousand dollars (\$24,000).

19 ~~[F.]~~ G. The tax rebate provided for in this section
20 may be deducted from the taxpayer's New Mexico income tax
21 liability for the taxable year. If the tax rebate exceeds the
22 taxpayer's income tax liability, the excess shall be refunded
23 to the taxpayer.

24 ~~[G.]~~ H. In January of every odd-numbered year in
25 which a county does not have in effect an ordinance adopted

underscored material = new
[bracketed material] = delete

1 pursuant to this subsection, the board of county commissioners
2 of the county shall conduct a public hearing on the question of
3 whether the property tax rebate provided in this section
4 benefiting low-income property taxpayers in the county should
5 be made available through adoption of a county ordinance.

6 Notice of the public hearing shall be published once at least
7 two weeks prior to the hearing date in at least one newspaper
8 of general circulation in the county and broadcast at some time
9 within the week before the hearing on at least one radio
10 station with substantial broadcasting coverage in the county.

11 At the public hearing, the board shall take action on the
12 question and if a majority of the members elected votes to
13 adopt an ordinance, it shall be adopted no later than thirty
14 days after the public hearing.

15 I. If the county in which the municipality is wholly
16 or partially located does not have in effect for the tax year
17 an ordinance pursuant to Subsection H of this section, a
18 municipality may adopt an ordinance providing a low-income
19 property tax rebate pursuant to this section. If a county in
20 which the municipality is located concurrently or subsequently
21 adopts an ordinance pursuant to this section for any taxable
22 year included in the municipal ordinance, the municipal
23 ordinance is void with respect to that taxable year.

24 [~~H.~~] J. An ordinance adopted pursuant to Subsection
25 [~~G~~] H or I of this section shall specify the taxable years to

.160261.1

underscored material = new
[bracketed material] = delete

1 which it is applicable. The [~~board of county commissioners~~]
2 governing body adopting an ordinance shall notify the
3 department of the adoption of the ordinance and furnish a copy
4 of the ordinance to the department no later than September 1 of
5 the first taxable year to which the ordinance applies.

6 [~~F.~~] K. No later than December 31 of the year
7 immediately following the first year in which the low-income
8 taxpayer property tax rebate provided in the Income Tax Act is
9 in effect for a county or a municipality, and no later than
10 December 31 of each year thereafter in which the tax rebate is
11 in effect, the department shall certify to the county and the
12 municipality the amount of the loss of income tax revenue to
13 the state for the previous taxable year attributable to the
14 allowance of property tax rebates to taxpayers of that county
15 or municipality. The county or municipality shall promptly pay
16 the amount certified to the department. If a county or
17 municipality fails to pay the amount certified within thirty
18 days of the date of certification, the department may enforce
19 collection of the amount by action against the county or
20 municipality and may withhold from any revenue distribution to
21 the county or municipality, not dedicated or pledged, amounts
22 up to the amount certified. A county and any municipality
23 wholly or partially located within that county may enter into
24 an agreement pursuant to the Joint Powers Agreements Act or any
25 other written agreement to reimburse the paying party all or

.160261.1

underscored material = new
[bracketed material] = delete

1 part of the amount paid to the department.

2 ~~[J. As used in this section, "principal place of~~
3 ~~residence" means the dwelling owned and occupied by the~~
4 ~~taxpayer and so much of the land surrounding it, not to exceed~~
5 ~~five acres, as is reasonably necessary for use of the dwelling~~
6 ~~as a home and may consist of a part of a multidwelling or a~~
7 ~~multipurpose building and a part of the land upon which it is~~
8 ~~built.]"~~

9 Section 2. Section 7-2-14.5 NMSA 1978 (being Laws 1994,
10 Chapter 111, Section 3) is amended to read:

11 "7-2-14.5. IMPOSITION OF TAX--LIMITATIONS.--

12 A. If, as a result of an election held on the
13 question of imposing a property tax to fund the property tax
14 rebate for low-income taxpayers provided in the Income Tax Act,
15 a majority of the qualified electors voting on the question
16 votes in favor of the imposition of the tax, the tax rate shall
17 be certified by the department of finance and administration
18 for any year in which the tax is imposed. The rate certified
19 shall be the rate specified in the authorizing resolution or
20 any lower rate required by operation of the rate limitation
21 provisions of Section 7-37-7.1 NMSA 1978. The tax shall be
22 imposed at the rate certified unless the ~~[board of county~~
23 ~~commissioners]~~ governing body determines that the tax
24 imposition be decreased or not made pursuant to Subsection B of
25 this section. The revenue produced by the tax shall be placed

.160261.1

underscored material = new
[bracketed material] = delete

1 in a separate fund in the county treasury or municipal
2 treasury, as appropriate, and is pledged solely for the payment
3 of the income tax revenue reduction resulting from the
4 implementation of the property tax rebate for low-income
5 taxpayers.

6 B. A tax imposed pursuant to Subsection A of this
7 section shall be imposed for one, two, three, four or five
8 years commencing with the property tax year in which the tax
9 rate is first imposed. The [~~board of county commissioners~~]
10 governing body may direct that the rate of imposition of the
11 tax be decreased for any year if, in its judgment, imposition
12 of the total rate is not necessary for such year. The [~~board~~
13 ~~of county commissioners~~] governing body shall direct that the
14 imposition not be made for any property tax year for which the
15 property tax rebate for low-income taxpayers is not provided
16 [~~or for any year in which the county has imposed a property~~
17 ~~transfer tax pursuant to the Transfer Tax Act~~].

18 C. As used in this section, "governing body" means,
19 for a county, the board of county commissioners, and for a
20 municipality, the city council or city commission of a city,
21 the board of trustees of a town or village and the board of
22 county commissioners of an H class county."

23 Section 3. A new section of the Income Tax Act is enacted
24 to read:

25 "[NEW MATERIAL] AUTHORIZATION TO FUND PROPERTY TAX REBATE

.160261.1

underscored material = new
[bracketed material] = delete

1 FOR LOW-INCOME TAXPAYERS--TAX IMPOSITION--ELECTION.--

2 A. If the county in which the municipality is wholly
3 or partially located does not have in effect for the taxable
4 year an ordinance pursuant to Section 7-2-14.3 NMSA 1978, the
5 governing body of the municipality may adopt an ordinance to
6 submit to the qualified electors of the municipality the
7 question of whether a property tax at a rate not to exceed one
8 dollar (\$1.00) per one thousand dollars (\$1,000) of taxable
9 value of property should be imposed for the purpose of
10 providing the necessary funding for the property tax rebate for
11 low-income taxpayers provided in the Income Tax Act if the
12 municipality has adopted an ordinance providing the property
13 tax rebate.

14 B. The ordinance shall:

15 (1) specify the rate of the proposed tax, which
16 shall not exceed one dollar (\$1.00) per one thousand dollars
17 (\$1,000) of taxable value of property;

18 (2) specify the date an election will be held to
19 submit the question of imposition of the tax to the qualified
20 electors of the municipality;

21 (3) impose the tax for one, two, three, four or
22 five property tax years and limit the imposition of the
23 proposed tax to five property tax years; and

24 (4) pledge the revenue from the tax solely for
25 the payment of the income tax revenue reduction resulting from

.160261.1

underscoring material = new
[bracketed material] = delete

1 the implementation of the property tax rebate for low-income
2 taxpayers.

3 C. The ordinance authorized in Subsection A of this
4 section shall be adopted no later than May 15 in the year prior
5 to the year in which the tax is proposed to be imposed. By
6 adoption of an appropriate resolution or ordinance, the
7 governing body may submit the question of imposing the tax for
8 successive periods of one, two, three, four or five years to
9 the qualified electors of the municipality. The procedures for
10 the election and for the imposition of the tax for subsequent
11 periods shall be the same as those applying to the initial
12 imposition of the tax. The election shall be scheduled so that
13 the imposition of the tax for successive periods is in
14 continuity of the tax.

15 D. An election on the question of imposing the tax
16 authorized pursuant to this section may be held in conjunction
17 with a regular municipal election or may be conducted as or
18 held in conjunction with a special election, but the election
19 shall be held by the date necessary to ensure that the results
20 of the election on the question of imposing the tax may be
21 certified no later than July 1 of the first property tax year
22 in which the tax is proposed to be imposed. Conduct of the
23 election shall be as provided by the Municipal Election Code.

24 E. As used in this section:

25 (1) "governing body" means, for a county, the

.160261.1

underscored material = new
[bracketed material] = delete

1 board of county commissioners, and for a municipality, the city
2 council or city commission of a city, the board of trustees of
3 a town or village and the board of county commissioners of an H
4 class county; and

5 (2) "taxable value of property" means the
6 combined total of net taxable value of property allocated to
7 the municipality pursuant to the Property Tax Code; the
8 assessed value of products severed and sold in the municipality
9 for the calendar year preceding the year for which a
10 determination is made as determined pursuant to the Oil and Gas
11 Ad Valorem Production Tax Act; the assessed value of equipment
12 in the municipality as determined pursuant to the Oil and Gas
13 Production Equipment Ad Valorem Tax Act; and the taxable value
14 of copper mineral property in the municipality pursuant to
15 Section 7-39-7 NMSA 1978."

16 Section 4. APPLICABILITY.--The provisions of this act
17 apply to taxable years beginning on or after January 1, 2006
18 and to the 2006 and subsequent property tax years.