

HOUSE BILL 764

**49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009**

INTRODUCED BY

Ray Begaye

AN ACT

RELATING TO TAXATION; AMENDING THE LOCAL HOSPITAL GROSS RECEIPTS TAX ACT TO PERMIT CERTAIN COUNTIES TO IMPOSE AND DEDICATE THE TAX AS MATCHING FUNDS.

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

Section 1. Section 7-20C-2 NMSA 1978 (being Laws 1991, Chapter 176, Section 2, as amended) is amended to read:

"7-20C-2. DEFINITIONS.--As used in the Local Hospital Gross Receipts Tax Act:

A. "county" means:

(1) a class B county having a population of less than twenty-five thousand according to the most recent federal decennial census and having a net taxable value for rate-setting purposes for the 1990 property tax year or any subsequent year of more than two hundred fifty million dollars

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1 (\$250,000,000);

2 (2) a class B county having a population of  
3 less than forty-seven thousand but more than forty-four  
4 thousand according to the 1990 federal decennial census and  
5 having a net taxable value for rate-setting purposes for the  
6 1992 property tax year of more than three hundred million  
7 dollars (\$300,000,000) but less than six hundred million  
8 dollars (\$600,000,000);

9 (3) a class B county having a population of  
10 less than ten thousand according to the most recent federal  
11 decennial census and having a net taxable value for rate-  
12 setting purposes for the 1990 property tax year or any  
13 subsequent year of more than one hundred million dollars  
14 (\$100,000,000);

15 (4) a class B county having a population of  
16 less than twenty-five thousand according to the 1990 federal  
17 decennial census and having a net taxable value for rate-  
18 setting purposes for the 1993 property tax year of more than  
19 ninety-one million dollars (\$91,000,000) but less than one  
20 hundred twenty-five million dollars (\$125,000,000);

21 (5) a class B county having a population of  
22 more than seventeen thousand but less than twenty thousand  
23 according to the 1990 federal decennial census and having a net  
24 taxable value for rate-setting purposes for the 1993 property  
25 tax year of more than one hundred fifty-three million dollars

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1 (\$153,000,000) but less than one hundred fifty-six million  
2 dollars (\$156,000,000);

3 (6) a class B county having a population of  
4 more than fifteen thousand according to the 1990 federal  
5 decennial census and having a net taxable value for rate-  
6 setting purposes for the 1996 property tax year of more than  
7 one hundred fifty million dollars (\$150,000,000) but less than  
8 one hundred seventy-five million dollars (\$175,000,000);

9 (7) an H class county;

10 (8) a class A county having a population of  
11 less than one hundred fifteen thousand according to the 2000  
12 federal decennial census or any subsequent federal decennial  
13 census and having a net taxable value for rate-setting purposes  
14 for the 2001 property tax year or any subsequent year of more  
15 than three billion dollars (\$3,000,000,000); [~~or~~]

16 (9) a class B county having a population of  
17 more than three thousand five hundred but less than ten  
18 thousand five hundred according to the 2000 federal decennial  
19 census or any subsequent federal decennial census and having a  
20 net taxable value for rate-setting purposes for the 2005  
21 property tax year or any subsequent year of more than one  
22 hundred million dollars (\$100,000,000) and less than one  
23 hundred sixteen million five hundred thousand dollars  
24 (\$116,500,000); or

25 (10) any county other than a class A county

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1 having a population of more than three hundred thousand  
2 according to the most recent federal decennial census;

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

7 C. "governing body" means the board of county  
8 commissioners of a county;

9 D. "health care facilities contract" means an  
10 agreement between a hospital or health clinic not owned by the  
11 county and a county imposing the tax authorized by the Local  
12 Hospital Gross Receipts Tax Act that obligates the county to  
13 pay to the hospital revenue generated by the tax authorized in  
14 that act as consideration for the agreement by the hospital or  
15 health clinic to use the funds only for nonsectarian purposes  
16 and to make health care services available for the benefit of  
17 the county;

18 E. "hospital facility revenues" means all or a  
19 portion of the revenues derived from a lease of a hospital  
20 facility acquired, constructed or equipped pursuant to and  
21 operated in accordance with the Local Hospital Gross Receipts  
22 Tax Act;

23 F. "local hospital gross receipts tax" means the  
24 tax authorized to be imposed under the Local Hospital Gross  
25 Receipts Tax Act;

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1 G. "person" means an individual or any other legal  
2 entity; and

3 H. "state gross receipts tax" means the gross  
4 receipts tax imposed under the Gross Receipts and Compensating  
5 Tax Act."

6 Section 2. Section 7-20C-3 NMSA 1978 (being Laws 1991,  
7 Chapter 176, Section 3, as amended) is amended to read:

8 "7-20C-3. LOCAL HOSPITAL GROSS RECEIPTS TAX--AUTHORITY TO  
9 IMPOSE--ORDINANCE REQUIREMENTS.--

10 A. A majority of the members elected to the  
11 governing body of a county may enact an ordinance imposing an  
12 excise tax on a person engaging in business in the county for  
13 the privilege of engaging in business. This tax is to be  
14 referred to as the "local hospital gross receipts tax". The  
15 rate of the tax shall be:

16 (1) one-half [~~of one~~] percent of the gross  
17 receipts of the person engaging in business if the tax is  
18 initially imposed before January 1, 1993;

19 (2) one-eighth [~~of one~~] percent of the gross  
20 receipts of the person engaging in business if the tax is  
21 initially imposed after January 1, 1993; [~~and~~]

22 (3) a rate not to exceed one-half [~~of one~~]  
23 percent of the gross receipts of the person engaging in  
24 business if the tax is imposed after July 1, 1996 in a county  
25 described in Paragraph (4), (6), (7) or (8) of Subsection A of

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1 Section 7-20C-2 NMSA 1978; provided the tax may be imposed in  
2 any number of increments of one-eighth percent not to exceed an  
3 aggregate rate of one-half [~~of one~~] percent of gross receipts;  
4 and

5 (4) a rate not to exceed one-fourth percent,  
6 which may be imposed in increments of one-eighth percent, of  
7 the gross receipts of the person engaging in business if the  
8 tax is imposed after January 1, 2009 in a county described in  
9 Paragraph (10) of Subsection A of Section 7-20C-2 NMSA 1978;  
10 provided that the rate of tax authorized by this paragraph may  
11 be imposed in addition to other local hospital gross receipts  
12 tax rate increments authorized for a county by this section.

13 B. The local hospital gross receipts tax imposed  
14 initially before January 1, 1993 shall be imposed only once for  
15 the period necessary for payment of the principal and interest  
16 on revenue bonds issued to accomplish the purpose for which the  
17 revenue is dedicated, but the period shall not exceed ten years  
18 from the effective date of the ordinance imposing the tax. The  
19 local hospital gross receipts tax imposed after July 1, 1996 in  
20 a county described in Paragraph (4) or (8) of Subsection A of  
21 Section 7-20C-2 NMSA 1978 shall be imposed only once for the  
22 period necessary for payment of the principal and interest on  
23 revenue bonds issued to accomplish the purpose for which the  
24 revenue is dedicated, but the period shall not exceed forty  
25 years from the effective date of the ordinance imposing the

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1 tax.

2 C. No local hospital gross receipts tax authorized  
3 in Subsection A of this section shall be imposed initially  
4 after January 1, 1993 in a county described in Paragraph (2),  
5 (3) or (5) of Subsection A of Section 7-20C-2 NMSA 1978 unless:

6 (1) in a county described in Paragraph (2) of  
7 Subsection A of Section 7-20C-2 NMSA 1978, the voters of the  
8 county have approved the issuance of general obligation bonds  
9 of the county sufficient to pay at least one-half of the costs  
10 of the county hospital facility or county twenty-four-hour  
11 urgent care or emergency facility for which the local hospital  
12 gross receipts tax revenues are dedicated, including the costs  
13 of all acquisition, renovation and equipping of the facility;  
14 or

15 (2) in a county described in Paragraph (3) or  
16 (5) of Subsection A of Section 7-20C-2 NMSA 1978, the county  
17 will not have in effect at the same time a county hospital  
18 emergency gross receipts tax and the voters of the county have  
19 approved the imposition of a property tax at a rate of one  
20 dollar (\$1.00) on each one thousand dollars (\$1,000) of taxable  
21 value of property in the county for the purpose of operation  
22 and maintenance of a hospital owned by the county and operated  
23 and maintained either by the county or by another party  
24 pursuant to a lease with the county.

25 D. The governing body of a county enacting an

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1 ordinance imposing a local hospital gross receipts tax shall  
2 dedicate the revenue from the tax as provided in this  
3 subsection. In any election held, the ballot shall clearly  
4 state the purpose to which the revenue will be dedicated and  
5 the revenue shall be used by the county for that purpose. The  
6 revenue shall be dedicated as follows:

7 (1) prior to January 1, 1993, the governing  
8 body, at the time of enacting an ordinance imposing the rate of  
9 the tax authorized in Subsection A of this section, shall  
10 dedicate the revenue for acquisition of land for and the  
11 design, construction, equipping and furnishing of a county  
12 hospital facility to be operated by the county or operated and  
13 maintained by another party pursuant to a lease with the  
14 county;

15 (2) if the governing body of a county  
16 described in Paragraph (2), (3) or (5) of Subsection A of  
17 Section 7-20C-2 NMSA 1978 is enacting the ordinance imposing  
18 the tax after July 1, 1993, the governing body shall dedicate  
19 the revenue for acquisition, renovation and equipping of a  
20 building for a county hospital facility or a county twenty-  
21 four-hour urgent care or emergency facility or for operation  
22 and maintenance of that facility, whether operated and  
23 maintained by the county or by another party pursuant to a  
24 lease or management contract with the county, for the period of  
25 time the tax is imposed not to exceed ten years;

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1 (3) if the governing body of a county  
2 described in Paragraph (4) or (8) of Subsection A of Section  
3 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax  
4 after July 1, 1995, the governing body shall dedicate the  
5 revenue for acquisition of land or buildings for and the  
6 renovation, design, construction, equipping or furnishing of a  
7 county hospital facility or health clinic to be operated by the  
8 county or operated and maintained by another party pursuant to  
9 a health care facilities contract, lease or management contract  
10 with the county;

11 (4) if the governing body of a county  
12 described in Paragraph (6) or (9) of Subsection A of Section  
13 7-20C-2 NMSA 1978 is enacting the ordinance imposing the tax  
14 after July 1, 1997, the governing body shall dedicate the  
15 revenue for either or a combination of the following:

16 (a) acquisition of land or buildings for  
17 and the design, construction, renovation, equipping or  
18 furnishing of a hospital facility or health clinic owned by the  
19 county or a hospital or health clinic with ~~whom~~ which the  
20 county has entered into a health care facilities contract lease  
21 or management contract; or

22 (b) operations and maintenance of a  
23 hospital or health clinic owned by the county or a hospital or  
24 a health clinic with ~~whom~~ which the county has entered into a  
25 health care facilities contract; ~~and~~

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1 (5) if the governing body of a county  
2 described in Paragraph (7) of Subsection A of Section 7-20C-2  
3 NMSA 1978 is enacting the ordinance imposing the tax after  
4 January 1, 2002, the governing body shall dedicate the revenue  
5 for acquisition, lease, renovation or equipping of a hospital  
6 facility or for operation and maintenance of that facility,  
7 whether operated and maintained by the county or by another  
8 party pursuant to a health care facilities contract, lease or  
9 management contract with the county; and

10 (6) if the governing body of a county  
11 described in Paragraph (10) of Subsection A of Section 7-20C-2  
12 NMSA 1978 is enacting an ordinance imposing an increment of the  
13 tax authorized in Paragraph (4) of Subsection A of this  
14 section, the governing body shall dedicate the revenue as  
15 matching funds for state or federal programs benefiting a  
16 hospital that is located in the county and is designated as a  
17 sole community provider by the centers for medicare and  
18 medicaid services or benefiting patient care at the hospital.

19 E. The ordinance shall not go into effect until  
20 after an election is held and a simple majority of the  
21 qualified electors of the county voting in the election vote in  
22 favor of imposing the local hospital gross receipts tax and, in  
23 the case of a county described in Paragraph (3) or (5) of  
24 Subsection A of Section 7-20C-2 NMSA 1978, also vote in favor  
25 of a property tax at a rate of one dollar (\$1.00) for each one

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1 thousand dollars (\$1,000) of taxable value of property in the  
2 county. The governing body shall adopt a resolution calling  
3 for an election within seventy-five days of the date the  
4 ordinance is adopted on the question of imposing the tax. The  
5 question may be submitted to the qualified electors and voted  
6 on as a separate question in a general election or in any  
7 special election called for that purpose by the governing body.  
8 A special election on the question shall be called, held,  
9 conducted and canvassed in substantially the same manner as  
10 provided by law for general elections. If the question of  
11 imposing a local hospital gross receipts tax fails or if the  
12 question of imposing both a local hospital gross receipts tax  
13 and a property tax fails, the governing body shall not again  
14 propose a local hospital gross receipts tax for a period of one  
15 year after the election. A certified copy of any ordinance  
16 imposing a local hospital gross receipts tax shall be mailed to  
17 the department within five days after the ordinance is adopted  
18 in an election called for that purpose.

19 F. An ordinance enacted pursuant to the provisions  
20 of Subsection A of this section shall include an effective date  
21 of either July 1 or January 1, whichever date occurs first  
22 after the expiration of at least three months from the date the  
23 ordinance is approved by the electorate.

24 G. An ordinance repealed under the provisions of  
25 the Local Hospital Gross Receipts Tax Act shall be repealed

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1 effective on either July 1 or January 1.

2 H. As used in this section, "taxable value of  
3 property" means the sum of:

4 (1) the net taxable value, as that term is  
5 defined in the Property Tax Code, of property subject to  
6 taxation under the Property Tax Code;

7 (2) the assessed value of products, as those  
8 terms are defined in the Oil and Gas Ad Valorem Production Tax  
9 Act;

10 (3) the assessed value of equipment, as those  
11 terms are defined in the Oil and Gas Production Equipment Ad  
12 Valorem Tax Act; and

13 (4) the taxable value of copper mineral  
14 property, as those terms are defined in the Copper Production  
15 Ad Valorem Tax Act, subject to taxation under the Copper  
16 Production Ad Valorem Tax Act."

17 Section 3. EFFECTIVE DATE.--The effective date of the  
18 provisions of this act is July 1, 2009.

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