

HOUSE BILL 262

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

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AN ACT

RELATING TO TAX ADMINISTRATION; INCREASING CERTAIN
ADMINISTRATIVE FEES CHARGED BY THE TAXATION AND REVENUE
DEPARTMENT BY ONE-FOURTH PERCENT; ADJUSTING SECTION REFERENCES
ACCORDINGLY; MAKING AN APPROPRIATION.

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

Section 1. Section 7-1-6.12 NMSA 1978 (being Laws 1983,
Chapter 211, Section 17, as amended) is amended to read:

"7-1-6.12. TRANSFER--REVENUES FROM MUNICIPAL LOCAL OPTION
GROSS RECEIPTS TAXES.--

A. A transfer pursuant to Section 7-1-6.1 NMSA 1978
shall be made to each municipality for which the department is
collecting a local option gross receipts tax imposed by that
municipality in an amount, subject to any increase or decrease
made pursuant to Section 7-1-6.15 NMSA 1978, equal to the net

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1 receipts attributable to the local option gross receipts tax
2 imposed by that municipality, less any deduction for
3 administrative cost determined and made by the department
4 pursuant to the provisions of the act authorizing imposition by
5 that municipality of the local option gross receipts tax [~~and~~
6 ~~any additional administrative fee withheld pursuant to~~
7 ~~Subsection C of Section 7-1-6.41 NMSA 1978~~].

8 B. A transfer pursuant to this section may be
9 adjusted for a distribution made to a tax increment development
10 district with respect to a portion of a gross receipts tax
11 increment dedicated by a municipality pursuant to the Tax
12 Increment for Development Act."

13 Section 2. Section 7-1-6.13 NMSA 1978 (being Laws 1983,
14 Chapter 211, Section 18, as amended) is amended to read:

15 "7-1-6.13. TRANSFER--REVENUES FROM COUNTY LOCAL OPTION
16 GROSS RECEIPTS TAXES.--

17 A. Except as provided in [~~Subsections~~] Subsection B
18 [~~and C~~] of this section, a transfer pursuant to Section 7-1-6.1
19 NMSA 1978 shall be made to each county for which the department
20 is collecting a local option gross receipts tax imposed by that
21 county in an amount, subject to any increase or decrease made
22 pursuant to Section 7-1-6.15 NMSA 1978, equal to the net
23 receipts attributable to the local option gross receipts tax
24 imposed by that county, less any deduction for administrative
25 cost determined and made by the department pursuant to the

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1 provisions of the act authorizing imposition by that county of
2 the local option gross receipts tax [~~and any additional~~
3 ~~administrative fee withheld pursuant to Subsection C of Section~~
4 ~~7-1-6.41 NMSA 1978~~].

5 B. A transfer pursuant to this section may be
6 adjusted for a distribution made to a tax increment development
7 district with respect to a portion of a gross receipts tax
8 increment dedicated by a county pursuant to the Tax Increment
9 for Development Act.

10 [~~C. Through June 30, 2009, a distribution pursuant~~
11 ~~to Section 7-1-6.1 NMSA 1978 shall be made to the sole~~
12 ~~community provider fund from revenue attributable to the county~~
13 ~~gross receipts tax imposed by a county pursuant to Section~~
14 ~~7-20E-9 NMSA 1978, subject to the approval of the board of~~
15 ~~county commissioners of that county. The distribution shall be~~
16 ~~in an amount equal to one-twelfth of the county's annual~~
17 ~~approved contribution for support of sole community provider~~
18 ~~payments. Revenue in excess of the amount required for the~~
19 ~~contribution shall be transferred to the county pursuant to the~~
20 ~~provisions of Subsection A of this section.]"~~

21 Section 3. Section 7-1-6.32 NMSA 1978 (being Laws 1990,
22 Chapter 99, Section 44, as amended) is amended to read:

23 "7-1-6.32. DISTRIBUTION--SOLID WASTE ASSESSMENT FEE.--A
24 distribution pursuant to Section 7-1-6.1 NMSA 1978 shall be
25 made to the solid waste facility grant fund of the net receipts
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1 attributable to the solid waste assessment fee authorized under
2 the Solid Waste Act less any administrative fee withheld
3 pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978."

4 Section 4. Section 7-1-6.41 NMSA 1978 (being Laws 1997,
5 Chapter 125, Section 1) is amended to read:

6 "7-1-6.41. ADMINISTRATIVE FEE IMPOSED--APPROPRIATION.--

7 ~~[A. The taxation and revenue department is directed~~
8 ~~to withhold an administrative fee of three percent of the net~~
9 ~~amount to be distributed under the provisions of:~~

10 ~~(1) Section 7-1-6.32 NMSA 1978;~~

11 ~~(2) Section 66-12-20 NMSA 1978; and~~

12 ~~(3) Section 74-1-13 NMSA 1978.~~

13 ~~B. The administrative fee to be withheld pursuant~~
14 ~~to Subsection A of this section shall be withheld on~~
15 ~~distributions made on or after July 1, 1997 and shall continue~~
16 ~~until the earlier of December 31, 2006 or the date on which the~~
17 ~~New Mexico finance authority certifies to the taxation and~~
18 ~~revenue department that all obligations for bonds issued~~
19 ~~pursuant to Section 12 of this 1997 act have been fully~~
20 ~~discharged and directs the department to cease distributing~~
21 ~~money to the authority pursuant to this section.~~

22 ~~C. The taxation and revenue department is directed~~
23 ~~to withhold an additional administrative fee at the following~~
24 ~~percentage of the net amount to be distributed pursuant to the~~
25 ~~following provisions of law:~~

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1 ~~(1) two percent of the net amount to be~~
2 ~~distributed pursuant to Section 7-1-6.12 NMSA 1978; and~~

3 ~~(2) six-tenths of one percent of the net~~
4 ~~amount to be distributed pursuant to Section 7-1-6.13 NMSA~~
5 ~~1978.~~

6 ~~D. The administrative fee to be withheld under~~
7 ~~Subsection C of this section shall be withheld on distributions~~
8 ~~made on or after July 1, 1997 and shall continue until the~~
9 ~~earlier of July 1, 2000 or the date on which the New Mexico~~
10 ~~finance authority certifies to the taxation and revenue~~
11 ~~department that all obligations for bonds issued pursuant to~~
12 ~~Section 12 of this 1997 act have been fully discharged and~~
13 ~~directs the department to cease distributing money to the~~
14 ~~authority pursuant to this section.~~

15 ~~E.]~~ A. The administrative fee to be withheld by the
16 [~~taxation and revenue~~] department under [~~Section~~] Sections
17 7-1-6.12 and 7-1-6.13 NMSA 1978 or pursuant to any other
18 provision of law that requires the department to withhold an
19 administrative fee pursuant to this section shall be set at
20 three and twenty-five hundredths percent of the net amount to
21 be distributed pursuant to the provisions of those sections.

22 ~~[F. The administrative fee to be withheld under~~
23 ~~Subsection E of this section shall be withheld on distributions~~
24 ~~made on or after July 1, 2000 and shall continue until the~~
25 ~~earlier of December 31, 2006 or the date on which the New~~

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1 ~~Mexico finance authority certifies to the taxation and revenue~~
2 ~~department that all obligations for bonds issued pursuant to~~
3 ~~Section 12 of this 1997 act have been fully discharged and~~
4 ~~directs the department to cease distributing money to the~~
5 ~~authority pursuant to this section. After the department has~~
6 ~~been directed by the authority to cease distributing money to~~
7 ~~the authority pursuant to this section, the administrative fee~~
8 ~~shall be remitted to the state treasurer for deposit in the~~
9 ~~state general fund each month.~~

10 ~~G. The administrative fee shall be distributed~~
11 ~~monthly to the New Mexico finance authority to be pledged~~
12 ~~irrevocably for the payment of principal, interest and any~~
13 ~~expenses or obligations related to the bonds issued by the~~
14 ~~authority to finance the taxation and revenue information~~
15 ~~management systems project.]~~

16 B. The portion of the administrative fee withheld
17 pursuant to the provisions of this section equal to twenty-five
18 hundredths percent of the amount to be distributed pursuant to
19 Sections 7-1-6.12 and 7-1-6.13 NMSA 1978 shall be retained by
20 the department and is appropriated to the department for audit
21 and collection activities. The remaining portion of the
22 administrative fee shall be remitted to the state treasurer
23 each month for deposit in the state general fund."

24 Section 5. Section 7-19D-7 NMSA 1978 (being Laws 1993,
25 Chapter 346, Section 7, as amended) is amended to read:

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1 "7-19D-7. COLLECTION BY DEPARTMENT--TRANSFER OF
2 PROCEEDS--DEDUCTIONS.--

3 A. The department shall collect each tax imposed
4 pursuant to the provisions of the Municipal Local Option Gross
5 Receipts Taxes Act in the same manner and at the same time it
6 collects the state gross receipts tax.

7 B. Except as provided in Subsection C of this
8 section, the department shall withhold an administrative fee
9 pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978.
10 The department shall transfer to each municipality for which it
11 is collecting a tax pursuant to the provisions of the Municipal
12 Local Option Gross Receipts Taxes Act the amount of each tax
13 collected for that municipality, less the administrative fee
14 withheld and less any disbursements for tax credits, refunds
15 and the payment of interest applicable to the tax. The
16 transfer to the municipality shall be made within the month
17 following the month in which the tax is collected.

18 C. With respect to the municipal gross receipts tax
19 imposed by a municipality pursuant to Section 7-19D-9 NMSA
20 1978, the department shall withhold the administrative fee
21 pursuant to Section [~~1 of this 1997 act~~] 7-1-6.41 NMSA 1978
22 only on that portion of the municipal gross receipts tax
23 arising from a municipal gross receipts tax rate in excess of
24 one-half of one percent."

25 Section 6. Section 66-12-20 NMSA 1978 (being Laws 1959,
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1 Chapter 338, Section 19, as amended) is amended to read:

2 "66-12-20. DISPOSITION OF FEES.--The fees collected
3 pursuant to the provisions of the Boat Act, less the
4 administrative fee withheld pursuant to Section [~~1 of this 1997~~
5 ~~act~~] 7-1-6.41 NMSA 1978, shall be [~~covered into the state park~~
6 ~~and recreation fund~~] distributed and appropriated to the
7 energy, minerals and natural resources department for use
8 pursuant to the provisions of Section 16-2-19 NMSA 1978. Money
9 distributed pursuant to this section shall not revert to the
10 general fund."

11 Section 7. Section 74-1-13 NMSA 1978 (being Laws 1993,
12 Chapter 317, Section 2, as amended) is amended to read:

13 "74-1-13. WATER CONSERVATION FEE--IMPOSITION--
14 DEFINITIONS.--

15 A. There is imposed on every person who operates a
16 public water supply system a water conservation fee in an
17 amount equal to three cents (\$.03) per thousand gallons of
18 water produced on which the fee imposed by this subsection has
19 not been paid.

20 B. The "water conservation fund" is created in the
21 state treasury and shall be administered by the department [~~of~~
22 ~~environment~~]. The fund shall consist of water conservation
23 fees collected pursuant to this section. Balances in the fund
24 at the end of any fiscal year shall not revert to the general
25 fund but shall accrue to the credit of the fund. Earnings on

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1 the fund shall be credited to the fund.

2 C. Money in the water conservation fund is
3 appropriated to the department [~~of environment~~] for
4 administration of a public water supply program to:

5 (1) test public water supplies for the
6 contaminants required to be tested pursuant to the provisions
7 of Section 1412 of the federal Safe Drinking Water Act of 1974,
8 as finalized through July 1, 1992, and collect chemical
9 compliance samples as required by those provisions of the
10 federal act;

11 (2) perform vulnerability assessments [~~which~~]
12 that will be used to assess a public water supply's
13 susceptibility to those contaminants; and

14 (3) implement new requirements of the Utility
15 Operators Certification Act and provide training for all public
16 water supply operators.

17 D. The taxation and revenue department shall
18 provide by regulation for the manner and form of collection of
19 the water conservation fee. All water conservation fees
20 collected by the taxation and revenue department, less the
21 administrative fee withheld pursuant to Section [~~1 of this 1997~~
22 ~~act~~] 7-1-6.41 NMSA 1978, shall be deposited in the water
23 conservation fund.

24 E. The fee imposed by this section shall be
25 administered in accordance with the provisions of the Tax

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1 Administration Act and shall be paid to the taxation and
2 revenue department by each person who operates a public water
3 supply system in the manner required by the department on or
4 before the twenty-fifth day of the month following the month in
5 which the water is produced.

6 F. Each operator of a public water supply system
7 shall register and comply with the provisions of Section 7-1-12
8 NMSA 1978 and furnish such information as may be required by
9 the taxation and revenue department.

10 G. As used in this section:

11 (1) "person" means any individual or legal
12 entity and also means, to the extent permitted by law, any
13 federal, state or other governmental unit or subdivision or an
14 agency, department or instrumentality thereof; and

15 (2) "public water supply system" means a
16 system that provides piped water to the public for human
17 consumption and that has at least fifteen service connections
18 or regularly services an average of at least twenty-five
19 individuals at least sixty days per year."

20 Section 8. EFFECTIVE DATE.--The effective date of the
21 provisions of this act is July 1, 2010.

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