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SENATE BILL 308

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Tim Eichenberg

AN ACT

RELATING TO PROPERTY TAXATION; FREEZING THE PROPERTY TAX RATES
AT THE 2011 PROPERTY TAX YEAR LEVEL FOR ONE YEAR.

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

SECTION 1. Section 7-37-7.1 NMSA 1978 (being Laws 1979,
Chapter 268, Section 1, as amended) is amended to read:

"7-37-7.1. ADDITIONAL LIMITATIONS ON PROPERTY TAX
RATES.--

A. Except as provided in Subsections D, [~~and~~] E and
F of this section, in setting the general property tax rates
for residential and nonresidential property authorized in
Subsection B of Section 7-37-7 NMSA 1978, the other rates and
impositions authorized in Paragraphs (2) and (3) of Subsection
C of Section 7-37-7 NMSA 1978, except the portion of the rate
authorized in Paragraph (1) of Subsection A of Section 4-48B-12

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1 NMSA 1978 used to meet the requirements of Section 27-10-4 NMSA
2 1978, and benefit assessments authorized by law to be levied
3 upon net taxable value of property, assessed value or a similar
4 term, neither the department of finance and administration nor
5 any other entity authorized to set or impose a rate or
6 assessment shall set a rate or impose a tax or assessment that
7 will produce revenue from either residential or nonresidential
8 property in a particular governmental unit in excess of the sum
9 of a dollar amount derived by multiplying the appropriate
10 growth control factor by the revenue due from the imposition on
11 residential or nonresidential property, as appropriate, for the
12 prior property tax year in the governmental unit of the rate,
13 imposition or assessment for the specified purpose plus, for
14 the calculation for the rate authorized for county operating
15 purposes by Subsection B of Section 7-37-7 NMSA 1978 with
16 respect to residential property, any applicable tax rebate
17 adjustment. The calculation described in this subsection shall
18 be separately made for residential and nonresidential property.
19 Except as provided in Subsections D and E of this section, no
20 tax rate or benefit assessment that will produce revenue from
21 either class of property in a particular governmental unit in
22 excess of the dollar amount allowed by the calculation shall be
23 set or imposed. The rates imposed pursuant to Sections 7-32-4
24 and 7-34-4 NMSA 1978 shall be the rates for nonresidential
25 property that would have been imposed but for the limitations

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1 in this section. As used in this section, "growth control
2 factor" is a percentage equal to the sum of "percent change I"
3 plus V where:

4 (1) $V = \frac{(\text{base year value} + \text{net new value})}{\text{base year value}}$
5

6 expressed as a percentage, but if the percentage calculated is
7 less than one hundred percent, then V shall be set and used as
8 one hundred percent;

9 (2) "base year value" means the value for
10 property taxation purposes of all residential or nonresidential
11 property, as appropriate, subject to valuation under the
12 Property Tax Code in the governmental unit for the specified
13 purpose in the prior property tax year;

14 (3) "net new value" means the additional value
15 of residential or nonresidential property, as appropriate, for
16 property taxation purposes placed on the property tax schedule
17 in the current year resulting from the elements in
18 Subparagraphs (a) through (d) of this paragraph reduced by the
19 value of residential or nonresidential property, as
20 appropriate, removed from the property tax schedule in the
21 current year and, if applicable, the reductions described in
22 Subparagraph (e) of this paragraph:

23 (a) residential or nonresidential
24 property, as appropriate, valued in the current year that was
25 not valued at all in the prior year;

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1 (b) improvements to existing residential
2 or nonresidential property, as appropriate;

3 (c) additions to residential or
4 nonresidential property, as appropriate, or values that were
5 omitted from previous years' property tax schedules even if
6 part or all of the property was included on the schedule, but
7 no additions of values attributable to valuation maintenance
8 programs or reappraisal programs shall be included;

9 (d) additions to nonresidential property
10 due to increases in annual net production values of mineral
11 property valued in accordance with Section 7-36-23 or 7-36-25
12 NMSA 1978 or due to increases in market value of mineral
13 property valued in accordance with Section 7-36-24 NMSA 1978;
14 and

15 (e) reductions to nonresidential
16 property due to decreases in annual net production values of
17 mineral property valued in accordance with Section 7-36-23 or
18 7-36-25 NMSA 1978 or due to decreases in market value of
19 mineral property valued in accordance with Section 7-36-24 NMSA
20 1978; and

21 (4) "percent change I" means a percent not in
22 excess of five percent that is derived by dividing the annual
23 implicit price deflator index for state and local government
24 purchases of goods and services, as published in the United
25 States department of commerce monthly publication entitled

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1 "survey of current business" or any successor publication, for
2 the calendar year next preceding the prior calendar year into
3 the difference between the prior year's comparable annual index
4 and that next preceding year's annual index if that difference
5 is an increase, and if the difference is a decrease, the
6 "percent change I" is zero. In the event that the annual
7 implicit price deflator index for state and local government
8 purchases of goods and services is no longer prepared or
9 published by the United States department of commerce, the
10 department shall adopt by regulation the use of any comparable
11 index prepared by any agency of the United States.

12 B. If, as a result of the application of the
13 limitation imposed under Subsection A of this section, a
14 property tax rate for residential or nonresidential property,
15 as appropriate, authorized in Subsection B of Section 7-37-7
16 NMSA 1978 is reduced below the maximum rate authorized in that
17 subsection, no governmental unit or entity authorized to impose
18 a tax rate under Paragraph (2) of Subsection C of Section
19 7-37-7 NMSA 1978 shall impose any portion of the rate
20 representing the difference between a maximum rate authorized
21 under Subsection B of Section 7-37-7 NMSA 1978 and the reduced
22 rate resulting from the application of the limitation imposed
23 under Subsection A of this section.

24 C. If the net new values necessary to make the
25 computation required under Subsection A of this section are not

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1 available for any governmental unit at the time the calculation
2 must be made, the department of finance and administration
3 shall use a zero amount for net new values when making the
4 computation for the governmental unit.

5 D. Any part of the maximum tax rate authorized for
6 each governmental unit for residential and nonresidential
7 property by Subsection B of Section 7-37-7 NMSA 1978 that is
8 not imposed for a governmental unit for any property tax year
9 for reasons other than the limitation required under Subsection
10 A of this section may be authorized by the department of
11 finance and administration to be imposed for that governmental
12 unit for residential and nonresidential property for the
13 following tax year subject to the restriction of Subsection D
14 of Section 7-38-33 NMSA 1978.

15 E. If the base year value necessary to make the
16 computation required under Subsection A of this section is not
17 available for any governmental unit at the time the calculation
18 must be made, the department of finance and administration
19 shall set a rate for residential and nonresidential property
20 that will produce in that governmental unit a dollar amount
21 that is not in excess of the property tax revenue due for all
22 property for the prior property tax year for the specified
23 purpose of that rate in that governmental unit.

24 F. For the 2012 property tax year, the computation
25 required under Subsection A of this section shall not be

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1 performed to determine property tax rates by the department of
2 finance and administration, and the rates used in the 2011
3 property tax year for each governmental unit shall be the rates
4 set for each governmental unit by that department.

5 ~~[F-]~~ G. For the purposes of this section:

6 (1) "nonresidential property" does not include
7 any property upon which taxes are imposed pursuant to the Oil
8 and Gas Ad Valorem Production Tax Act, the Oil and Gas
9 Production Equipment Ad Valorem Tax Act or the Copper
10 Production Ad Valorem Tax Act; and

11 (2) "tax rebate adjustment" means, for those
12 counties that have an ordinance in effect providing the
13 property tax rebate pursuant to the Income Tax Act for the
14 property tax year and that have not imposed for the property
15 tax year either a property tax, the revenue from which is
16 pledged for payment of the income tax revenue reduction
17 resulting from the provision of the property tax rebate, or a
18 property transfer tax, the estimated amount of the property tax
19 rebate to be allowed with respect to the property tax year, and
20 for any other governmental unit or purpose, zero; provided that
21 any estimate of property tax rebate to be allowed is subject to
22 review for appropriateness and approval by the department of
23 finance and administration."

24 SECTION 2. Section 7-38-32 NMSA 1978 (being Laws 1973,
25 Chapter 258, Section 72, as amended) is amended to read:

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1 "7-38-32. DEPARTMENT TO PREPARE A COMPILATION OF NET
2 TAXABLE VALUES TO BE USED FOR BUDGET-MAKING AND RATE-SETTING.--

3 A. No later than June 30 of each year, the
4 department shall prepare a compilation of all net taxable
5 values certified to it by the county assessors and shall
6 include in the compilation the information regarding protested
7 values required to be furnished by the assessors to the
8 department. The compilation shall be prepared in a form
9 appropriate for use and shall be used for the purpose of making
10 budgets. The compilation of net taxable values shall be sent
11 immediately to the secretary of finance and administration.

12 B. No later than August 1 of each year, the
13 department shall prepare an amended compilation of net taxable
14 values and send it immediately to the secretary of finance and
15 administration. This amended compilation shall include final
16 valuations resulting from completed protests and information on
17 pending protests. It shall be used by the department of
18 finance and administration in setting property tax rates,
19 except for the 2012 property tax year, in which the department
20 of finance and administration shall set rates at the same rate
21 as the 2011 property tax rate for each governmental unit for
22 which property tax rates are set.

23 C. In the budget-making process for local units of
24 government, including school districts, the net taxable values
25 from the immediately preceding tax year may be considered for

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1 the purpose of estimating available revenue from the current
2 tax year when the compilation of net taxable values certified
3 under Subsection A of this section is incomplete or indefinite
4 due to pending protests."

5 SECTION 3. Section 7-38-33 NMSA 1978 (being Laws 1973,
6 Chapter 258, Section 73, as amended) is amended to read:

7 "7-38-33. DEPARTMENT OF FINANCE AND ADMINISTRATION TO SET
8 TAX RATES.--

9 A. No later than September 1 of each year, the
10 secretary of finance and administration shall by written order
11 set the property tax rates for the governmental units sharing
12 in the tax in accordance with the Property Tax Code and the
13 budget of each as approved by the department of finance and
14 administration. For the 2012 property tax year, the property
15 tax rates for governmental units set by the department of
16 finance and administration shall not exceed the rates set for
17 the governmental unit for the 2011 property tax year.

18 B. A copy of the property tax rate-setting order
19 shall be sent to each board of county commissioners, each
20 county assessor and the department within five days of the date
21 the order is made.

22 C. Net taxable values from the immediately
23 preceding tax year may be used by the department of finance and
24 administration for the purpose of estimating current tax year
25 revenue in connection with setting tax rates when final net

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1 taxable values for the current tax year are incomplete or
2 indefinite due to pending protests.

3 D. When a rate is set for a governmental unit that
4 is imposing a newly authorized rate pursuant to Section 7-37-7
5 NMSA 1978 or a newly authorized or a reauthorized rate after an
6 election in which the imposition of the tax was approved by the
7 voters of the unit, the rate shall be at a level that will
8 produce in the first year of imposition revenue no greater than
9 that which would have been produced if the valuation of
10 property subject to the imposition had been the valuation in
11 the tax year in which the increased rate pursuant to Section
12 7-37-7 NMSA 1978 was authorized by the taxing district or the
13 year in which the voters approved the imposition."

14 SECTION 4. TEMPORARY PROVISION--ONE-YEAR PROPERTY TAX
15 RATE FREEZE.--Notwithstanding any provision of law to the
16 contrary, for the 2012 property tax year, the property tax rate
17 in any governmental unit for which the department of finance
18 and administration sets property tax rates shall not be
19 increased by the department of finance and administration, by a
20 county or by any other governmental unit above the rate set for
21 the 2011 property tax year.