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SENATE BILL 113

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Elizabeth "Liz" Stefanics

AN ACT

RELATING TO ECONOMIC DEVELOPMENT; CHANGING A LIMITATION ON THE AMOUNT OF LOCAL OPTION INFRASTRUCTURE GROSS RECEIPTS TAX REVENUE THAT MAY BE USED FOR PROMOTION AND ADMINISTRATION OF OR PROFESSIONAL SERVICES CONTRACTS RELATED TO AN ECONOMIC DEVELOPMENT PLAN PURSUANT TO THE LOCAL ECONOMIC DEVELOPMENT ACT; INCREASING A MUNICIPALITY'S AUTHORITY TO IMPOSE A MUNICIPAL INFRASTRUCTURE GROSS RECEIPTS TAX TO FIVE-EIGHTHS PERCENT; INCREASING A COUNTY'S AUTHORITY TO IMPOSE A COUNTY INFRASTRUCTURE GROSS RECEIPTS TAX TO FIVE-EIGHTHS PERCENT; REQUIRING AN ELECTION ON AN IMPOSITION IN EXCESS OF ONE-EIGHTH PERCENT OF THOSE TAXES.

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

SECTION 1. Section 5-10-4 NMSA 1978 (being Laws 1993, Chapter 297, Section 4, as amended) is amended to read:

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1 "5-10-4. ECONOMIC DEVELOPMENT PROJECTS--RESTRICTIONS ON
2 PUBLIC EXPENDITURES OR PLEDGES OF CREDIT.--

3 A. No local or regional government shall provide
4 public support for economic development projects as permitted
5 pursuant to Article 9, Section 14 of the constitution of
6 New Mexico except as provided in the Local Economic Development
7 Act or as otherwise permitted by law.

8 B. The total amount of public money expended and
9 the value of credit pledged in the fiscal year in which that
10 money is expended by a local government for economic
11 development projects pursuant to Article 9, Section 14 of the
12 constitution of New Mexico and the Local Economic Development
13 Act shall not exceed ten percent of the annual general fund
14 expenditures of the local government in that fiscal year. The
15 limits of this subsection shall not apply to:

16 (1) the value of any land or building
17 contributed to any project pursuant to a project participation
18 agreement;

19 (2) revenue generated through the imposition
20 of the municipal infrastructure gross receipts tax pursuant to
21 the Municipal Local Option Gross Receipts Taxes Act for
22 furthering or implementing economic development plans and
23 projects as defined in the Local Economic Development Act or
24 projects as defined in the Statewide Economic Development
25 Finance Act; provided that no more than the greater of [fifty

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1 ~~thousand dollars (\$50,000)]~~ two hundred fifty thousand dollars
2 (\$250,000) or [~~ten~~] twenty percent of the revenue collected
3 shall be used for promotion and administration of or
4 professional services contracts related to the implementation
5 of any such economic development plan adopted by the governing
6 body;

7 (3) revenue generated through the imposition
8 of a county infrastructure gross receipts tax pursuant to the
9 County Local Option Gross Receipts Taxes Act for furthering or
10 implementing economic development plans and projects as defined
11 in the Local Economic Development Act or projects as defined in
12 the Statewide Economic Development Finance Act; provided that
13 no more than the greater of [~~fifty thousand dollars (\$50,000)]~~
14 two hundred fifty thousand dollars \$250,000) or [~~ten~~] twenty
15 percent of the revenue collected shall be used for promotion
16 and administration of or professional services contracts
17 related to the implementation of any such economic development
18 plan adopted by the governing body;

19 (4) the proceeds of a revenue bond issue to
20 which municipal infrastructure gross receipts tax revenue is
21 pledged;

22 (5) the proceeds of a revenue bond issue to
23 which county infrastructure gross receipts tax revenue is
24 pledged; or

25 (6) funds donated by private entities to be

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1 used for defraying the cost of a project.

2 C. A regional or local government that generates
3 revenue for economic development projects to which the limits
4 of Subsection B of this section do not apply shall create an
5 economic development fund into which such revenues shall be
6 deposited. The economic development fund and income from the
7 economic development fund shall be deposited as provided by
8 law. Money in the economic development fund may be expended
9 only as provided in the Local Economic Development Act or the
10 Statewide Economic Development Finance Act.

11 D. In order to expend money from an economic
12 development fund for arts and cultural district purposes,
13 cultural facilities or retail businesses, the governing body of
14 a municipality or county that has imposed a municipal or county
15 local option infrastructure gross receipts tax for furthering
16 or implementing economic development plans and projects as
17 defined in the Local Economic Development Act or projects as
18 defined in the Statewide Economic Development Finance Act by
19 referendum of the majority of the voters voting on the question
20 approving the ordinance imposing the municipal or county
21 infrastructure gross receipts tax before July 1, 2013 shall be
22 required to adopt a resolution. The resolution shall call for
23 an election to approve arts and cultural districts as a
24 qualifying purpose and cultural facilities or retail businesses
25 as a qualifying entity before any revenue generated by the

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1 municipal or county local option gross receipts tax for
2 furthering or implementing economic development plans and
3 projects as defined in the Local Economic Development Act or
4 projects as defined in the Statewide Economic Development
5 Finance Act can be expended from the economic development fund
6 for arts and cultural district purposes, cultural facilities or
7 retail businesses.

8 E. The governing body shall adopt a resolution
9 calling for an election within seventy-five days of the date
10 the ordinance is adopted on the question of approving arts and
11 cultural districts as a qualifying purpose and cultural
12 facilities or retail businesses as a qualifying entity eligible
13 to utilize revenue generated by the Municipal Local Option
14 Gross Receipts Taxes Act or the County Local Option Gross
15 Receipts Taxes Act for furthering or implementing economic
16 development plans and projects as defined in the Local Economic
17 Development Act or projects as defined in the Statewide
18 Economic Development Finance Act.

19 F. The question shall be submitted to the voters of
20 the municipality or county as a separate question at a regular
21 local or county election or at a special election called for
22 that purpose by the governing body. A special local election
23 shall be called, conducted and canvassed as provided in the
24 Local Election Act. A special county election shall be called,
25 conducted and canvassed in substantially the same manner as

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1 provided by law for general elections.

2 G. If a majority of the voters voting on the
3 question approves the ordinance adding arts and cultural
4 districts and cultural facilities or retail businesses as an
5 approved use of the local option municipal or county economic
6 development infrastructure gross receipts tax fund, the
7 ordinance shall become effective on July 1 or January 1,
8 whichever date occurs first after the expiration of three
9 months from the date of the adopted ordinance. The ordinance
10 shall include the effective date."

11 SECTION 2. Section 7-19D-11 NMSA 1978 (being Laws 1991,
12 Chapter 9, Section 3, as amended) is amended to read:

13 "7-19D-11. MUNICIPAL INFRASTRUCTURE GROSS RECEIPTS
14 TAX--AUTHORITY BY MUNICIPALITY TO IMPOSE--ORDINANCE
15 REQUIREMENTS--ELECTION.--

16 A. A majority of the members of the governing body
17 of a municipality may enact an ordinance imposing an excise tax
18 on any person engaging in business in the municipality for the
19 privilege of engaging in business. The rate of the tax shall
20 not exceed [~~one-fourth of one~~] five-eighths percent of the
21 gross receipts of the person engaging in business and may be
22 imposed in one-sixteenth [~~of one~~] percent increments by
23 separate ordinances. Any ordinance enacting any increment of
24 the first one-eighth [~~of one~~] percent of the tax is not subject
25 to a referendum of any kind, notwithstanding any requirement of

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1 any charter municipality, except that an increment that is
2 imposed after July 1, 1998 for economic development purposes
3 set forth in Paragraph (5) of Subsection C of this section
4 shall be subject to a referendum as provided in Subsection D of
5 this section.

6 B. The tax imposed pursuant to Subsection A of this
7 section may be referred to as the "municipal infrastructure
8 gross receipts tax".

9 C. The governing body of a municipality, at the
10 time of enacting any ordinance imposing the rate of the tax
11 authorized in Subsection A of this section, may dedicate the
12 revenue for:

13 (1) payment of special obligation bonds issued
14 pursuant to a revenue bond act;

15 (2) repair, replacement, construction or
16 acquisition of infrastructure improvements, including sanitary
17 sewer lines, storm sewers and other drainage improvements,
18 water, water rights, water lines and utilities, streets,
19 alleys, rights of way, easements, international ports of entry
20 and land within the municipality or within the extraterritorial
21 zone of the municipality;

22 (3) municipal general purposes;

23 (4) acquiring, constructing, extending,
24 bettering, repairing or otherwise improving or operating or
25 maintaining public transit systems or regional transit systems

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1 or authorities; and

2 (5) furthering or implementing economic
3 development plans and projects as defined in the Local Economic
4 Development Act or projects as defined in the Statewide
5 Economic Development Finance Act and use of not more than the
6 greater of [~~fifty thousand dollars (\$50,000)~~] two hundred fifty
7 thousand dollars (\$250,000) or [~~ten~~] twenty percent of the
8 revenue collected for promotion and administration of or
9 professional services contracts related to implementation of an
10 economic development plan adopted by the governing body
11 pursuant to the Local Economic Development Act and in
12 accordance with law.

13 D. An ordinance imposing any increment of the
14 municipal infrastructure gross receipts tax in excess of the
15 first one-eighth [~~of one~~] percent, or any increment imposed
16 after July 1, 1998 for economic development purposes set forth
17 in Paragraph (5) of Subsection C of this section, shall not go
18 into effect until after an election is held and a majority of
19 the voters of the municipality voting in the election votes in
20 favor of imposing the tax. The governing body shall adopt a
21 resolution calling for an election within seventy-five days of
22 the date the ordinance is adopted on the question of imposing
23 the tax. The question shall be submitted to the voters of the
24 municipality as a separate question at a regular local election
25 or at a special election called for that purpose by the

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1 governing body. An election shall be called, conducted and
2 canvassed as provided in the Local Election Act. If a majority
3 of the voters voting on the question approves the ordinance
4 imposing the municipal infrastructure gross receipts tax, then
5 the ordinance shall become effective in accordance with the
6 provisions of the Municipal Local Option Gross Receipts Taxes
7 Act. If the question of imposing the municipal infrastructure
8 gross receipts tax fails, the governing body shall not again
9 propose the imposition of any increment of the tax in excess of
10 the first one-eighth [~~of one~~] percent for a period of one year
11 from the date of the election."

12 SECTION 3. Section 7-20E-19 NMSA 1978 (being Laws 1998,
13 Chapter 90, Section 7, as amended) is amended to read:

14 "7-20E-19. COUNTY INFRASTRUCTURE GROSS RECEIPTS TAX--
15 AUTHORITY TO IMPOSE RATE--USE OF FUNDS--ELECTION.--

16 A. The majority of the members of the governing
17 body of a county may enact an ordinance imposing an excise tax
18 at a rate not to exceed [~~one-eighth of one~~] five-eighths
19 percent of the gross receipts of any person engaging in
20 business in the county area for the privilege of engaging in
21 business. The tax may be imposed in increments of one-
22 sixteenth [~~of one~~] percent by separate ordinances not to exceed
23 an aggregate rate of [~~one-eighth of one~~] five-eighths percent.
24 An ordinance enacting an increment of the first one-eighth
25 percent of the tax is not subject to a referendum,

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1 notwithstanding a requirement of a charter county, except that
2 an increment that is imposed after July 1, 1998 for economic
3 development purposes as set forth in Paragraph (7) of
4 Subsection C of this section shall be subject to a referendum
5 as provided in Subsection D of this section.

6 B. The tax imposed pursuant to Subsection A of this
7 section may be referred to as the "county infrastructure gross
8 receipts tax".

9 C. The governing body, at the time of enacting an
10 ordinance imposing a rate of tax authorized in Subsection A of
11 this section, may dedicate the revenue for:

- 12 (1) county general purposes;
- 13 (2) payment of gross receipts tax revenue
14 bonds issued pursuant to Chapter 4, Article 62 NMSA 1978;
- 15 (3) repair, replacement, construction or
16 acquisition of any county infrastructure improvements;
- 17 (4) acquisition, construction, operation or
18 maintenance of solid waste facilities, water facilities,
19 wastewater facilities, sewer systems and related facilities;
- 20 (5) acquiring, constructing, extending,
21 bettering, repairing or otherwise improving or operating or
22 maintaining public transit systems or regional transit systems
23 or authorities;
- 24 (6) planning, design, construction, equipping,
25 maintenance or operation of a county jail or juvenile detention

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1 facility; planning, assessment, design or operation of a
2 regional system of juvenile services, including secure
3 detention and nonsecure alternatives, that serves multiple
4 contiguous counties; planning, design, construction,
5 maintenance or operation of multipurpose regional adult jails
6 or juvenile detention facilities; housing of county prisoners
7 or juvenile offenders in any county jail or detention facility;
8 or substance abuse, mental health or other programs for county
9 prisoners or other inmates in county jails or for juvenile
10 offenders in county or regional detention facilities; and

11 (7) furthering or implementing economic
12 development plans and projects as defined in the Local Economic
13 Development Act or projects as defined in the Statewide
14 Economic Development Finance Act and use of not more than the
15 greater of [~~fifty thousand dollars (\$50,000)~~] two hundred fifty
16 thousand dollars (\$250,000) or [~~ten~~] twenty percent of the
17 revenue collected for promotion and administration of or
18 professional services contracts related to implementation of an
19 economic development plan adopted by the governing body
20 pursuant to the Local Economic Development Act and in
21 accordance with law.

22 D. An ordinance imposing the county infrastructure
23 gross receipts tax in excess of the first one-eighth percent,
24 or any increment imposed after July 1, 1998 for economic
25 development purposes set forth in Paragraph (7) of Subsection C

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1 of this section, shall not go into effect until after an
2 election is held and a majority of the voters in the county
3 area voting in the election votes in favor of imposing the tax.
4 The governing body shall adopt a resolution calling for an
5 election within seventy-five days of the date the ordinance is
6 adopted on the question of imposing the tax. The question
7 shall be submitted to the voters of the county area as a
8 separate question at a general election or at a special
9 election called for that purpose by the governing body. A
10 special county election shall be called, conducted and
11 canvassed in substantially the same manner as provided by law
12 for general elections. If a majority of the voters voting on
13 the question approves the ordinance imposing the county
14 infrastructure gross receipts tax, then the ordinance shall
15 become effective in accordance with the provisions of the
16 County Local Option Gross Receipts Taxes Act. If the question
17 of imposing the county infrastructure gross receipts tax fails,
18 the governing body shall not again propose the imposition of
19 any increment of the tax in excess of the first one-eighth
20 percent for a period of one year from the date of the
21 election."

22 SECTION 4. EFFECTIVE DATE.--The effective date of the
23 provisions of this act is July 1, 2019.