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HOUSE BILL 14

55TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2022

INTRODUCED BY

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and Tara L. Lujan

AN ACT

RELATING TO ENERGY STORAGE FACILITIES; AMENDING THE INDUSTRIAL REVENUE BOND ACT AND THE COUNTY INDUSTRIAL REVENUE BOND ACT TO INCLUDE CERTAIN ELECTRIC ENERGY STORAGE FACILITIES AS ELIGIBLE PROJECTS; PROVIDING A GROSS RECEIPTS TAX DEDUCTION FOR SALES OF ENERGY STORAGE EQUIPMENT TO A GOVERNMENT FOR THE PURPOSE OF INSTALLING A RENEWABLE ENERGY STORAGE FACILITY.

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

SECTION 1. Section 3-32-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-31-1, as amended) is amended to read:

"3-32-1. INDUSTRIAL REVENUE BOND ACT--DEFINITIONS.--

Wherever used in the Industrial Revenue Bond Act unless a different meaning clearly appears in the context, the following terms whether used in the singular or plural shall be given the following respective interpretations:

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underscoring material = new
~~[bracketed material] = delete~~

underscoring material = new
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1 A. "municipality" means a city, town or village in
2 New Mexico;

3 B. "project" means any land and building or other
4 improvements thereon, the acquisition by or for a New Mexico
5 corporation of the assets or stock of an existing business or
6 corporation located outside the state to be relocated within or
7 near the municipality in the state and all real and personal
8 properties deemed necessary in connection therewith, whether or
9 not now in existence, which shall be suitable for use by the
10 following or by any combination of two or more thereof:

11 (1) an industry for the manufacturing,
12 processing or assembling of agricultural or manufactured
13 products;

14 (2) a commercial enterprise in storing,
15 warehousing, distributing or selling products of agriculture,
16 mining or industry but does not include a facility designed for
17 the sale of goods or commodities at retail or distribution to
18 the public of electricity, gas, water or telephone or other
19 services commonly classified as public utilities;

20 (3) a business in which all or part of the
21 activities of the business involve the supplying of services to
22 the general public or to governmental agencies or to a specific
23 industry or customer but does not include an establishment
24 primarily engaged in the sale of goods or commodities at
25 retail;

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underscoring material = new
~~[bracketed material]~~ = delete

1 (4) a water distribution or irrigation system,
2 including without limitation, pumps, distribution lines,
3 transmission lines, towers, dams and similar facilities and
4 equipment, designed to provide water to a vineyard or winery;

5 (5) an electric generation, ~~[or]~~ transmission
6 or energy storage facility, other than one for which both
7 location approval and a certificate of convenience and
8 necessity are required prior to commencing construction or
9 operation of the facility, pursuant to the Public Utility Act;
10 and

11 (6) a 501(c)(3) corporation;

12 C. "governing body" means the board or body in
13 which the legislative powers of the municipality are vested;

14 D. "property" means any land, improvements thereon,
15 buildings and any improvements thereto, machinery and equipment
16 of any and all kinds necessary to the project, operating
17 capital and any other personal properties deemed necessary in
18 connection with the project;

19 E. "mortgage" means a mortgage or a mortgage and
20 deed of trust or the pledge and hypothecation of any assets as
21 collateral security;

22 F. "health care service" means the diagnosis or
23 treatment of sick or injured persons or medical research and
24 includes the ownership, operation, maintenance, leasing and
25 disposition of health care facilities such as hospitals,

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underscored material = new
~~[bracketed material] = delete~~

1 clinics, laboratories, x-ray centers and pharmacies and, for
2 any small municipality only, office facilities for physicians;

3 G. "refinance a hospital or 501(c)(3) corporation
4 project" means the issuance of bonds by a municipality and the
5 use of all or substantially all of the proceeds to liquidate
6 any obligations previously incurred to finance or aid in
7 financing a project of a nonprofit corporation engaged in
8 health care services, including nursing homes, or of a
9 501(c)(3) corporation, which would constitute a project under
10 the Industrial Revenue Bond Act had it been originally
11 undertaken and financed by a municipality pursuant to the
12 Industrial Revenue Bond Act; and

13 H. "501(c)(3) corporation" means a corporation that
14 demonstrates to the taxation and revenue department that it has
15 been granted exemption from the federal income tax as an
16 organization described in Section 501(c)(3) of the Internal
17 Revenue Code of 1986, as amended or renumbered."

18 SECTION 2. Section 4-59-2 NMSA 1978 (being Laws 1975,
19 Chapter 286, Section 2, as amended) is amended to read:

20 "4-59-2. DEFINITIONS.--As used in the County Industrial
21 Revenue Bond Act, unless the context clearly indicates
22 otherwise:

23 A. "commission" means the governing body of a
24 county;

25 B. "county" means a county organized or

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underscoring material = new
~~[bracketed material] = delete~~

1 incorporated in New Mexico;

2 C. "501(c)(3) corporation" means a corporation that
3 demonstrates to the taxation and revenue department that it has
4 been granted exemption from the federal income tax as an
5 organization described in Section 501(c)(3) of the Internal
6 Revenue Code of 1986, as amended or renumbered;

7 D. "health care service" means the diagnosis or
8 treatment of sick or injured persons or medical research and
9 includes the ownership, operation, maintenance, leasing and
10 disposition of health care facilities, such as hospitals,
11 clinics, laboratories, x-ray centers and pharmacies;

12 E. "mortgage" means a mortgage or a mortgage and
13 deed of trust or the pledge and hypothecation of any assets as
14 collateral security;

15 F. "project" means any land and building or other
16 improvements thereon, the acquisition by or for a New Mexico
17 corporation of the assets or stock of an existing business or
18 corporation located outside the state to be relocated within a
19 county but, except as provided in Paragraph (1) of Subsection A
20 of Section 4-59-4 NMSA 1978, not within the boundaries of any
21 incorporated municipality in the state, and all real and
22 personal properties deemed necessary in connection therewith,
23 whether or not now in existence, that shall be suitable for use
24 by the following or by any combination of two or more thereof:

25 (1) an industry for the manufacturing,

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~~[bracketed material]~~ = delete

1 processing or assembling of agricultural or manufactured
2 products;

3 (2) a commercial enterprise that has received
4 a permit from the energy, minerals and natural resources
5 department for a mine that has not been in operation prior to
6 the issuance of bonds for the project for which the enterprise
7 will be involved;

8 (3) a commercial enterprise that has received
9 any necessary state permit for a refinery, treatment plant or
10 processing plant of energy products that was not in operation
11 prior to the issuance of bonds for the project for which the
12 enterprise will be involved;

13 (4) a commercial enterprise in storing,
14 warehousing, distributing or selling products of agriculture,
15 mining or industry, but does not include a facility designed
16 for the sale or distribution to the public of electricity, gas,
17 telephone or other services commonly classified as public
18 utilities, except for:

19 (a) water utilities; and

20 (b) ~~[any]~~ an electric generation, ~~[or]~~
21 transmission or energy storage facility, other than one for
22 which both location approval and a certificate of convenience
23 and necessity are required prior to commencing construction or
24 operation of the facility, pursuant to the Public Utility Act;

25 (5) a business in which all or part of the

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underscored material = new
[bracketed material] = delete

1 activities of the business involve the supplying of services to
2 the general public or to governmental agencies or to a specific
3 industry or customer;

4 (6) a nonprofit corporation engaged in health
5 care services;

6 (7) a mass transit or other transportation
7 activity involving the movement of passengers, an industrial
8 park, an office headquarters and a research facility;

9 (8) a water distribution or irrigation system,
10 including without limitation, pumps, distribution lines,
11 transmission lines, towers, dams and similar facilities and
12 equipment; and

13 (9) a 501(c)(3) corporation; and

14 G. "property" means any land, improvements thereon,
15 buildings and any improvements thereto, machinery and equipment
16 of any and all kinds necessary to the project, operating
17 capital and any other personal properties deemed necessary in
18 connection with the project."

19 SECTION 3. Section 7-9-54.3 NMSA 1978 (being Laws 2002,
20 Chapter 37, Section 8, as amended by Laws 2010, Chapter 77,
21 Section 2 and by Laws 2010, Chapter 78, Section 2) is amended
22 to read:

23 "7-9-54.3. DEDUCTION--GROSS RECEIPTS TAX--WIND AND SOLAR
24 GENERATION EQUIPMENT--ENERGY STORAGE EQUIPMENT--SALES TO
25 GOVERNMENTS.--

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underscored material = new
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1 A. Receipts from selling wind generation equipment
2 or solar generation equipment to a government for the purpose
3 of installing a wind or solar electric generation facility may
4 be deducted from gross receipts.

5 B. Receipts from selling energy storage equipment
6 to a government for the purpose of installing a renewable
7 energy storage facility may be deducted from gross receipts.

8 [~~B.~~] C. The [~~deduction~~] deductions allowed pursuant
9 to this section shall not be claimed for receipts from an
10 expenditure for which a taxpayer claims a credit pursuant to
11 Section 7-2-18.25, 7-2A-25 or 7-9G-2 NMSA 1978.

12 [~~C.~~] D. As used in this section:

13 (1) "energy storage equipment" means equipment
14 that is installed for the purpose of storing electric energy
15 received from a wind or solar electric generation facility that
16 uses mechanical, chemical, thermal, kinetic or other processes
17 to store energy for release at a later time and related
18 equipment;

19 [~~(1)~~] (2) "government" means the United States
20 or the state or a governmental unit or a subdivision, agency,
21 department or instrumentality of the federal government or the
22 state;

23 [~~(2)~~] (3) "related equipment" means
24 transformers, power conversion equipment, circuit breakers and
25 switching and metering equipment used to connect:

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underscoring material = new
~~[bracketed material] = delete~~

1 (a) a wind or solar electric generation
2 plant to the electric grid; or

3 (b) a renewable energy storage facility
4 to the electric grid or to a wind or solar electric generation
5 plant;

6 [~~(3)~~] (4) "solar generation equipment" means
7 solar thermal energy collection, concentration and heat
8 transfer and conversion equipment; solar tracking hardware and
9 software; photovoltaic panels and inverters; support
10 structures; turbines and associated electrical generating
11 equipment used to generate electricity from solar thermal
12 energy; and related equipment; and

13 [~~(4)~~] (5) "wind generation equipment" means
14 wind generation turbines, blades, nacelles, rotors and
15 supporting structures used to generate electricity from wind
16 and related equipment."

17 SECTION 4. EFFECTIVE DATE.--The effective date of the
18 provisions of this act is July 1, 2022.