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SENATE BILL 947

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

PETE CAMPOS

AN ACT

RELATING TO TAXATION; AMENDING THE NMSA 1978 TO MODIFY THE
SUPPLEMENTAL MUNICIPAL GROSS RECEIPTS TAX ACT TO EXTEND ITS
OPERATION AND PERMIT REFUNDING BONDS.

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

Section 1. Section 7-19-11 NMSA 1978 (being Laws 1979,
Chapter 397, Section 2, as amended) is amended to read:

"7-19-11. DEFINITIONS. -- As used in the Supplemental
Municipal Gross Receipts Tax Act:

A. "department" or "division" means the taxation and
revenue department, the secretary of taxation and revenue or any
employee of the department exercising authority lawfully
delegated to that employee by the secretary;

B. "governing body" means the city council or city
commission of a municipality;

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1 C. "municipality" means any incorporated city, town
2 or village having a population under ~~[twelve]~~ thirteen thousand
3 as determined by the last official United States census and
4 being located within a class ~~[C]~~ B county;

5 D. "person" means an individual or any other legal
6 entity;

7 E. "refunding bonds" means bonds issued pursuant to
8 the provisions of the Supplemental Municipal Gross Receipts Tax
9 Act to refund supplemental municipal gross receipts tax bonds
10 issued pursuant to the provisions of that act;

11 ~~[E.]~~ F. "state gross receipts tax" means the gross
12 receipts tax imposed under the Gross Receipts and Compensating
13 Tax Act; and

14 ~~[F.]~~ G. "supplemental municipal gross receipts tax"
15 means the tax authorized to be imposed under the Supplemental
16 Municipal Gross Receipts Tax Act. "

17 Section 2. Section 7-19-12 NMSA 1978 (being Laws 1979,
18 Chapter 397, Section 3, as amended by Laws 1986, Chapter 6,
19 Section 1 and also by Laws 1986, Chapter 20, Section 80) is
20 amended to read:

21 "7-19-12. AUTHORIZATION TO IMPOSE SUPPLEMENTAL MUNICIPAL
22 GROSS RECEIPTS TAX--AUTHORIZATION FOR ISSUANCE OF SUPPLEMENTAL
23 MUNICIPAL GROSS RECEIPTS BONDS--ELECTION REQUIRED

24 [~~---AUTHORIZATION REMOVED~~]. --

25 A. The majority of the members elected to the

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1 governing body of a municipality may enact an ordinance imposing
2 an excise tax on any person engaging in business in the
3 municipality for the privilege of engaging in business in the
4 municipality. This tax is to be referred to as the
5 "supplemental municipal gross receipts tax". The rate of the
6 tax shall not exceed one percent of the gross receipts of the
7 person engaging in business and shall be imposed in one-fourth
8 percent increments if less than one percent.

9 B. The governing body of a municipality enacting an
10 ordinance imposing the tax authorized in Subsection A of this
11 section shall submit the question of imposing such tax and the
12 question of the issuance of supplemental municipal gross
13 receipts bonds in an amount not to exceed nine million dollars
14 (\$9,000,000), for which the revenue from the supplemental
15 municipal gross receipts tax is dedicated, to the qualified
16 [registered] electors of the municipality at a regular or
17 special election.

18 C. The questions referred to in Subsection B of this
19 section shall be submitted to a vote of the qualified [and
20 registered] electors of the municipality as two separate ballot
21 questions which shall be substantially in the following form:

22 (1) "Shall the municipality be authorized to
23 issue supplemental municipal gross receipts bonds in an amount
24 of not exceeding _____ dollars for the purpose of
25 constructing and equipping and otherwise acquiring a municipal

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1 water supply system?

2 For _____ Against _____"; and

3 (2) "Shall the municipality impose an excise
4 tax for the privilege of engaging in business in the
5 municipality which shall be known as the "supplemental municipal
6 gross receipts tax" and which shall be imposed at a rate of
7 _____ percent of the gross receipts of the person engaging
8 in business, the proceeds of which are dedicated to the payment
9 of supplemental municipal gross receipts bonds?

10 For _____ Against _____".

11 D. Only those voters who are registered electors who
12 reside within the municipality shall be permitted to vote on
13 these two questions. The procedures for conducting the election
14 shall be substantially the same as the applicable provisions in
15 Sections 3-30-1, 3-30-6 and 3-30-7 NMSA 1978 relating to
16 municipal debt.

17 E. If at an election called pursuant to this section
18 a majority of the voters voting on each of the two questions
19 vote in the affirmative on each such question, then the
20 ordinance imposing the supplemental municipal gross receipts tax
21 shall be approved. If at such election a majority of the voters
22 voting on such questions fail to approve any of the questions,
23 then the ordinance imposing the tax shall be disapproved and the
24 questions required to be submitted by Subsection B of this
25 section shall not be submitted to the voters for a period of one

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1 year from the date of the election.

2 F. Any ordinance enacted under the provisions of this
3 section shall include an effective date of either July 1 or
4 January 1, whichever date occurs first after the expiration of
5 at least five months from the date of the election. A certified
6 copy of any ordinance imposing a supplemental municipal gross
7 receipts tax shall be mailed to the division within five days
8 after the ordinance is adopted by the approval by the
9 electorate. Any ordinance repealing the imposition of a tax
10 under the provisions of the Supplemental Municipal Gross
11 Receipts Tax Act shall become effective on either July 1 or
12 January 1, after the expiration of at least five months from the
13 date the ordinance is repealed by the governing body.

14 G. ~~[No ordinance pursuant to the provisions of the~~
15 ~~Supplemental Municipal Gross Receipts Tax Act shall be effective~~
16 ~~unless it is enacted and the required election is held prior to~~
17 ~~February 1, 1986.]~~ Nothing in this section is intended to or
18 does alter the effectiveness or validity of any actions taken in
19 accordance with Subsection G of Section 80 of Chapter 20 of Laws
20 1986."

21 Section 3. Section 7-19-18 NMSA 1978 (being Laws 1979,
22 Chapter 397, Section 9, as amended) is amended to read:

23 "7-19-18. SUPPLEMENTAL MUNICIPAL GROSS RECEIPTS TAX--USE OF
24 PROCEEDS-- RESTRICTION. --

25 A. The proceeds from the supplemental municipal gross

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1 receipts tax shall be deposited in a special improvement account
2 of the municipality and shall be used only for:

3 (1) the payment of the principal of, interest on,
4 any prior redemption premiums due in connection with and other
5 expenses related to the supplemental municipal gross receipts
6 bonds issued pursuant to the Supplemental Municipal Gross
7 Receipts Tax Act;

8 (2) the funding of any reserves and other
9 accounts in connection with such bonds;

10 (3) refunding bonds; and

11 (4) to the extent not needed for [~~such~~] those
12 purposes, the improvement of the municipality's water system.

13 B. When [~~the~~] any issue of supplemental municipal
14 gross receipts bonds [~~are~~] is fully paid, [~~any~~] the supplemental
15 municipal gross receipts tax shall cease to be imposed for that
16 issue, but may continue to be imposed for bonds enacted and
17 approved pursuant to Section 7-19-12 NMSA 1978 and thereafter
18 issued, or for refunding bonds issued pursuant to Section 4 of
19 this 1997 act. Any money remaining in a special improvement
20 account after the obligations for [~~the~~] supplemental municipal
21 gross receipts bonds and refunding bonds, are fully paid may be
22 transferred to any other fund of the municipality. "

23 Section 4. A new section of Chapter 7, Article 19 NMSA 1978
24 is enacted to read:

25 "[NEW MATERIAL] REFUNDING BONDS-- AUTHORIZATION. --

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1 A. Any municipality may issue refunding bonds for the
2 purpose of refinancing, paying and discharging all or any part
3 of outstanding supplemental municipal gross receipts tax bonds
4 of any one or more or all outstanding issues:

5 (1) for the acceleration, deceleration or other
6 modification of the payment of such obligations, including
7 without limitation any capitalization of any interest thereon in
8 arrears or about to become due for any period not exceeding one
9 year from the date of the refunding bonds;

10 (2) for the purpose of reducing interest costs or
11 affecting other economies;

12 (3) for the purpose of modifying or eliminating
13 restrictive contractual limitations pertaining to the issuance
14 of additional bonds, otherwise concerning the outstanding bonds
15 or to any facilities relating thereto; or

16 (4) for any combination of such purposes.

17 B. The municipality may pledge irrevocably for the
18 payment of interest and principal on refunding bonds the
19 appropriate pledged revenues, which may be pledged to an
20 original issue of bonds as provided in the Supplemental
21 Municipal Gross Receipts Tax Act. Nothing in this section shall
22 permit the pledge of the gross receipts tax revenue to the
23 payment of bonds that refund bonds issued under any other
24 provision of law.

25 C. Refunding bonds may be issued separately or issued

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1 in combination in one series or more.

2 D. Refunding bonds issued pursuant to the Supplemental
3 Municipal Gross Receipts Tax Act shall be authorized by
4 ordinance. Any bonds that are refunded under the provisions of
5 this section shall be paid at maturity or on any permitted prior
6 redemption date in the amounts, at the time and places and, if
7 called prior to maturity, in accordance with any applicable
8 notice provisions, all as provided in the proceedings
9 authorizing the issuance of the refunded bonds, or otherwise
10 appertaining thereto, except for any such bond that is
11 voluntarily surrendered for exchange or payment by the holder or
12 owner.

13 E. Provision shall be made for paying the bonds
14 refunded at the time or places provided in Subsection D of this
15 section. The principal amount of the refunding bonds may
16 exceed, be less than or be the same as the principal amount of
17 the bonds being refunded so long as provision is duly and
18 sufficiently made for the payment of the refunded bonds.

19 F. The proceeds of refunding bonds, including any
20 accrued interest and premium appertaining to the sale of
21 refunding bonds, shall either be immediately applied to the
22 retirement of the bonds being refunded or be placed in escrow in
23 a commercial bank or trust company that possesses and is
24 exercising trust powers and that is a member of the federal
25 deposit insurance corporation, to be applied to the payment of

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1 the principal of, interest on and any prior redemption premium
2 due in connection with the bonds being refunded; provided that
3 such refunding bond proceeds, including any accrued interest and
4 any premium appertaining to a sale of refunding bonds, may be
5 applied to the establishment and maintenance of a reserve fund
6 and to the payment of expenses incidental to the refunding and
7 the issuance of the refunding bonds, the interest on the
8 refunding bonds and the principal of the refunding bonds or both
9 interest and principal as the municipality may determine.
10 Nothing in this section requires the establishment of an escrow
11 if the refunded bonds become due and payable within one year
12 from the date of the refunding bonds and if the amounts
13 necessary to retire the refunded bonds within that time are
14 deposited with the paying agent for the refunded bonds. Any
15 such escrow shall not necessarily be limited to proceeds of
16 refunding bonds but may include other money available for its
17 escrow purpose. Any proceeds in escrow pending such use may be
18 invested or reinvested in bills, certificates of indebtedness,
19 notes or bonds that are direct obligations of or the principal
20 and interest of which obligations are unconditionally guaranteed
21 by the United States or in certificates of deposit of banks that
22 are members of the federal deposit insurance corporation, the
23 par value of which certificates of deposit is collateralized by
24 a pledge of obligations of or the payment of which is
25 unconditionally guaranteed by the United States, the par value

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1 of which obligations is least seventy-five percent of the par
2 value of the certificates of deposit. Such proceeds and
3 investments in escrow together with any interest or other income
4 to be derived from any such investment shall be in an amount at
5 all times sufficient as to principal, interest, any prior
6 redemption premium due and any charges of the escrow agent
7 payable therefrom to pay the bonds being refunded as they become
8 due at their respective maturities or due at any designated
9 prior redemption date in connection with which the municipality
10 shall exercise a prior redemption option. Any purchaser of any
11 refunding bond issued pursuant to the provisions of the
12 Supplemental Municipal Gross Receipts Tax Act is in no manner
13 responsible for the application of the proceeds thereof by the
14 municipality or any of its officers, agents or employees.

15 G. Refunding bonds may be sold at a public or
16 negotiated sale and may bear such additional terms and
17 provisions as may be determined by the municipality subject to
18 limitations in the Supplemental Municipal Gross Receipts Tax
19 Act. The terms, provisions and authorization of the refunding
20 bonds are not subject to the provisions of any other statute,
21 provided that the Public Securities Limitation of Action Act
22 shall be fully applicable to the issuance of refunding bonds.

23 H. The municipality shall receive from the department
24 of finance and administration written approval of any refunding
25 bonds issued pursuant to the provisions of this section."

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1 FORTY-THIRD LEGISLATURE

2 FIRST SESSION, 1997

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5
6 March 5, 1997

7
8 Mr. President:

9
10 Your WAYS AND MEANS COMMITTEE, to whom has been
11 referred

12
13 SENATE BILL 947

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 FINANCE COMMITTEE.
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19
20 Respectfully submitted,

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25 _____
Carlos R. Cisneros, Chairman

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(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Duran, McSorley, Nava

Absent: None

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1 FORTY-THIRD LEGISLATURE

SB 947/a

2 FIRST SESSION, 1997

3
4
5
6 March 8, 1997

7
8 Mr. President:

9
10 Your FINANCE COMMITTEE, to whom has been referred

11
12 SENATE BILL 947

13
14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

16
17
18 1. On page 2, line 2, after "having" strike the
19 remainder of the line and all of lines 3 and 4 and insert in lieu
20 thereof "previously qualified to impose and did impose the tax
21 pursuant to the provisions of the Supplemental Municipal Gross
22 Receipts Tax Act in effect prior to this 1997 act;".

23
24 2. On page 8, line 15, strike "may" and insert in lieu
25 thereof "shall not".

3. On page 8, line 16, after the comma insert "but may".

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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SFC/SB 947

Page 15

Respectfully submitted,

Ben D. Altamirano, Chairman

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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SFC/SB 947

Page 16

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: None

Excused: Carraro, Ingle, McKibben, Romero, Smith

Absent: None

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1 FORTY-THIRD LEGISLATURE

SB 947/a

2 FIRST SESSION, 1997

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6 March 8, 1997

7
8 Mr. President:

9
10 Your FINANCE COMMITTEE, to whom has been referred

11
12 SENATE BILL 947

13
14 has had it under consideration and reports same with
15 recommendation that it DO PASS, amended as follows:

16
17
18 1. On page 2, line 2, after "having" strike the
19 remainder of the line and all of lines 3 and 4 and insert in lieu
20 thereof "previously qualified to impose and did impose the tax
21 pursuant to the provisions of the Supplemental Municipal Gross
22 Receipts Tax Act in effect prior to this 1997 act;".

23
24 2. On page 8, line 15, strike "may" and insert in lieu
25 thereof "shall not".

3. On page 8, line 16, after the comma insert "but may".

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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SFC/SB 947

Page 18

Respectfully submitted,

Ben D. Altamirano, Chairman

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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SFC/SB 947

Page 19

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

No: None

Excused: Carraro, Ingle, McKibben, Romero, Smith

Absent: None

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Underscored material = new
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State of New Mexico
House of Representatives

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 17, 1997

Mr. Speaker:

**Your TAXATION AND REVENUE COMMITTEE, to whom has
been referred**

SENATE BILL 947, as amended

**has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
APPROPRIATIONS AND FINANCE COMMITTEE.**

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

HTRC/SB 947

Page 21

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Respectfully submitted,

Jerry W. Sandel, Chairman

Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 12 For 0 Against

Yes: 12

Excused: Lovejoy

Absent: None

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