

AN ACT

RELATING TO TAXATION; AMENDING THE COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS TAX; EXPANDING THE DEFINITION OF "COUNTY"; PROVIDING FOR BONDING PURSUANT TO THE NEW MEXICO FINANCE AUTHORITY ACT; DECLARING AN EMERGENCY.

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

Section 1. A new section of the New Mexico Finance Authority Act is enacted to read:

"BONDS FOR COUNTY CORRECTIONAL FACILITY LOANS. -- The authority may issue bonds for a county to design, construct, equip, furnish and otherwise improve a county correctional facility pursuant to the County Correctional Facility Gross Receipts Tax Act only after a majority of the registered qualified electors of the county has voted to allow the county to impose a county correctional facility gross receipts tax in the amount needed to repay bonds issued by the authority for the purpose of designing, constructing, equipping, furnishing and otherwise improving a county correctional facility. "

Section 2. Section 7-20F-2 NMSA 1978 (being Laws 1993, Chapter 303, Section 2) is amended to read:

"7-20F-2. DEFINITIONS. -- As used in the County Correctional Facility Gross Receipts Tax Act:

A. "county" means:

(1) a class A county, the population of which does not exceed one hundred fifty thousand people as determined by the 1990 federal decennial census;

(2) a class B county with a population of at least fifty-seven thousand people but less than sixty thousand as determined by the 1990 federal decennial census;
or

(3) a class B county with a population of at least forty-five thousand people but less than forty-seven thousand as determined by the 1990 federal decennial census;

B. "county board" means the board of county commissioners of a county;

C. "department" 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;

D. "judicial-correctional facility" means a facility for housing and use by judicial and corrections agencies, including housing for persons confined in county corrections facilities; however, none of the facilities are required to be located on the same or contiguous parcels of land;

E. "municipality" means any incorporated city, town or village, whether incorporated under general act,

special act or special charter;

F. "person" means an individual or any other legal entity;

G. "pledged revenues" means the revenue, net income or net revenues authorized to be pledged to the payment of revenue bonds issued pursuant to the provisions of the County Correctional Facility Gross Receipts Tax Act;

H. "refunding bond" means a refunding revenue bond issued pursuant to the provisions of the County Correctional Facility Gross Receipts Tax Act to refund revenue bonds issued pursuant to the provisions of that act; and

I. "revenue bond" means a county correctional facility gross receipts tax revenue bond. "

Section 3. Section 7-20F-3 NMSA 1978 (being Laws 1993, Chapter 303, Section 3, as amended) is amended to read:

"7-20F-3. COUNTY CORRECTIONAL FACILITY GROSS RECEIPTS TAX--AUTHORITY TO IMPOSE--RATE--ORDINANCE REQUIREMENTS--REFERENDUM --

A. The majority of the members elected to the county board may enact an ordinance imposing on a county-wide basis an excise tax not to exceed a rate of one-eighth of one percent of the gross receipts of any person engaging in business in the county, including all municipalities within the county; provided that the voters

of:

(1) a class A county described in Paragraph (1) of Subsection A of Section 7-20F-2 NMSA 1978 or a class B county described in Paragraph (2) of Subsection A of Section 7-20F-2 NMSA 1978 have approved the issuance of general obligation bonds of the county sufficient to pay at least one-half of the costs of the construction and equipping of the new county judicial-correctional facility for which the county correctional facility gross receipts tax revenue is dedicated; or

(2) a class B county described in Paragraph (3) of Subsection A of Section 7-20F-2 NMSA 1978 have approved the issuance of bonds by the New Mexico finance authority sufficient to pay at least one-half of the costs of designing, constructing, equipping, furnishing and otherwise improving the new county correctional facility for which the county correctional facility gross receipts tax revenue is dedicated.

B. The tax imposed pursuant to Subsection A of this section may be referred to as the "county correctional facility gross receipts tax". The county correctional facility gross receipts tax shall be imposed only once for the period necessary for payment of the principal and interest on revenue bonds issued pursuant to the County Correctional Facility Gross Receipts Tax Act, but the period

shall not exceed ten years from the effective date of the ordinance imposing the tax.

C. Any ordinance imposing a county correctional facility gross receipts tax pursuant to this section shall:

(1) impose the tax in any number of increments of one-sixteenth of one percent not to exceed an aggregate amount of one-eighth of one percent;

(2) specify that the imposition of the tax will begin on either July 1 or January 1, whichever occurs first after the expiration of at least three months from the date that the department is notified personally or by mail by the county that imposition of the county correctional facility gross receipts tax has been approved by a majority of the registered voters in the county voting on the question; and

(3) dedicate the revenue from the county correctional facility gross receipts tax for the purpose of constructing, purchasing, furnishing, equipping, rehabilitating, expanding or improving a judicial-correctional or a county correctional facility or the grounds of a judicial-correctional or county correctional facility, including but not limited to acquiring and improving parking lots, landscaping or any combination of the foregoing or to payment of principal and interest on revenue bonds or refunding bonds issued pursuant to the

provisions of the County Correctional Facility Gross Receipts Tax Act.

D. An ordinance imposing a county correctional facility gross receipts tax pursuant to this section shall not become effective until after an election is held and a simple majority of the qualified electors of the county voting in the election votes in favor of imposing the tax.

E. The governing body shall adopt a resolution calling for an election within seventy-five days of the date the ordinance is adopted on the question of imposing the tax, and:

(1) in a class A county described in Paragraph (1) of Subsection A of Section 7-20F-2 NMSA 1978 or a class B county described in Paragraph (2) of Subsection A of Section 7-20F-2 NMSA 1978, if a property tax at a rate necessary to comply with the provisions of Subsection A of this section has not been approved by the voters of the county, the question submitted to the voters shall be the question of imposing a county correctional facility gross receipts tax and a property tax at a rate necessary for the issuance of general obligation bonds of the county sufficient to comply with the provisions of the County Correctional Facility Gross Receipts Tax Act; or

(2) in a class B county described in Paragraph (3) of Subsection A of Section 7-20F-2 NMSA 1978,

the question to be submitted to the voters is "Shall a county correctional facility gross receipts tax be imposed to repay bonds that will be issued by the New Mexico finance authority in an amount sufficient to pay at least one-half of the costs of designing, constructing, equipping, furnishing and otherwise improving the new county correctional facility?".

F. The question shall be submitted to the voters at any general election or special election called for that purpose by the board.

G. The election upon the question shall be called, held, conducted and canvassed in substantially the same manner as may be provided by law for general elections.

H. If the question of imposing the county correctional facility gross receipts tax and a property tax, if the question includes a property tax, fails, the board shall not again propose imposition of a county correctional facility gross receipts tax for a period of one year after the election.

I. Revenue produced by the imposition of a county correctional facility gross receipts tax that is in excess of the annual principal and interest due on bonds secured by a pledge of the county correctional facility gross receipts tax may be accumulated in a debt service reserve account until an amount equal to the maximum amount permitted

pursuant to the provisions of the United States treasury regulations is accumulated in the debt service reserve account. After the debt service reserve account requirements have been met, the excess revenue shall be accumulated in an extraordinary mandatory redemption fund and annually used to redeem the bonds prior to their stated maturity date.

J. When all outstanding bonds have been paid, whether from the debt service reserve, the redemption fund or maturity, the ordinance shall be repealed if the county correctional facility gross receipts tax revenue is no longer required for the purposes for which it may be used pursuant to the provisions of the County Correctional Facility Gross Receipts Tax Act.

K. The repeal of an ordinance imposing a county correctional facility gross receipts tax shall state that the repeal shall be effective on January 1 or July 1, whichever occurs first following the date the department is notified personally or by mail by the county of the repeal."

Section 4. EMERGENCY.--It is necessary for the public peace, health and safety that this act take effect immediately. _____