

AN ACT

RELATING TO MUNICIPALITIES; AMENDING THE SMALL CITIES ASSISTANCE ACT.

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

Section 1. Section 3-37A-1 NMSA 1978 (being Laws 1979, Chapter 284, Section 1) is amended to read:

"3-37A-1. SHORT TITLE.--Chapter 3, Article 37A NMSA 1978 may be cited as the "Small Cities Assistance Act"."

Section 2. Section 3-37A-2 NMSA 1978 (being Laws 1979, Chapter 284, Section 2, as amended) is amended to read:

"3-37A-2. DEFINITIONS.--As used in the Small Cities Assistance Act:

A. "municipality" means an incorporated city, town or village, whether incorporated under general act, special act or special charter, and incorporated counties and H-class counties;

B. "municipal share" means one and thirty-five one-hundredths percent of the taxable gross receipts as defined in the Gross Receipts and Compensating Tax Act reported annually for each municipality to the taxation and revenue department during a twelve-month period ending June 30;

C. "total municipal share" means the sum of all municipal shares;

D. "statewide per capita average" means the quotient of the total municipal share divided by the total population in all municipalities;

E. "municipal per capita average" means the quotient of the municipal share divided by the municipality's population;

F. "population" means the most recent official census or estimate

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determined by the bureau of the census or, if neither is available, "population" means an estimate as determined by the local government division of the department of finance and administration;

G. "local tax effort" means the amount produced by a one-fourth of one percent municipal gross receipts tax in the previous fiscal year;

H. "qualifying municipality" means a municipality with a population of less than ten thousand that has enacted on or before the last day of the preceding fiscal year an ordinance or ordinances imposing a municipal gross receipts tax pursuant to Section 7-19D-9 NMSA 1978 at a rate of one-fourth of one percent or more;

I. "enacted" means adopted by a majority of the members of the governing body of the municipality pursuant to Section 7-19D-9 NMSA 1978 and:

(1) for which no election has been called in the manner and within the time provided by Section 7-19D-9 NMSA 1978; or

(2) that has been approved by a majority of the registered voters voting on the question pursuant to Section 7-19D-9 NMSA 1978; and

J. "minimum amount" means an amount equal to thirty-five thousand dollars (\$35,000)."

Section 3. Section 3-37A-3 NMSA 1978 (being Laws 1979, Chapter 284, Section 3, as amended) is amended to read:

"3-37A-3. SMALL CITIES ASSISTANCE FUND--DISTRIBUTION.--

A. The "small cities assistance fund" is created within the state treasury.

B. On or before January 31, 2004 and on or before January 31 of each

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subsequent year, the local government division of the department of finance and administration shall certify to the taxation and revenue department the population of each municipality in the state.

C. On or before the last day of February of 2004 and of each subsequent year, the taxation and revenue department shall compute the amount to be distributed to each qualifying municipality as follows; provided that the maximum amount to be distributed to a qualifying municipality shall not exceed fifty-six thousand dollars (\$56,000).

(1) The department first shall compute a distribution share for each qualifying municipality. The distribution share shall be an amount equal to the product of the qualifying municipality's population multiplied by the difference between the statewide per capita average and the municipal per capita average less the local tax effort of the qualifying municipality.

(2) In 2004 and subsequent years, the balance in the small cities assistance fund in February immediately after the distribution to the fund pursuant to Section 7-1-6.2 NMSA 1978 for the preceding January will be divided by the number of qualifying municipalities. The quotient will be rounded down to the nearest dollar and may be cited as the "target amount".

(3) If the target amount determined in Paragraph (2) of this subsection is less than or equal to the minimum amount, the target amount is the amount to be distributed to each qualifying municipality.

(4) If the target amount exceeds the minimum amount, the amount to be distributed to all qualifying municipalities whose distribution share equals or is less than the minimum amount shall equal the minimum amount.

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The sum to be distributed to such municipalities shall be subtracted from the amount in the fund. The target amount then shall be increased by dividing the balance remaining in the fund by the number of remaining qualifying municipalities. The amount to be distributed to each remaining qualifying municipality shall equal the lesser of the municipality's distribution share or the increased target amount. If the distribution share of one or more of these remaining qualifying municipalities is less than the increased target amount, the balance of the fund is to be further reduced by the amount necessary to provide for a distribution to those municipalities of their distribution shares. The target amount is to be increased again by dividing the recomputed fund balance by the number of qualifying municipalities not yet provided for. Successive iterations of the process to increase the target amount shall occur until no remaining municipality's distribution share is less than the increased target amount.

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D. The state treasurer shall distribute from the small cities assistance fund on or before March 1, 2004 and March 1 of each subsequent year to each qualifying municipality the amount certified by the taxation and revenue department for each qualifying municipality for the year.

E. Immediately after distribution to municipalities from the small cities assistance fund but no later than June 30 of each year, the unexpended or unencumbered balance in the small cities assistance fund remaining after the distribution to the qualifying municipalities shall revert to the general fund.

F. Funds distributed in accordance with this section shall be placed in the general fund of the qualifying municipalities receiving distributions."

Section 4. TEMPORARY PROVISION.--The distribution to municipalities pursuant to Section 3-37A-3 NMSA 1978 for 2003 shall be made in accordance with the provisions of Section 3-37A-3 NMSA 1978 in effect immediately prior to the effective date of this act; provided, however, that the reversion to the general fund for fiscal year 2003 shall be limited as follows:

A. if the distribution is made on or before March 1, 2003, the reversion shall not exceed the amount remaining in the small cities assistance fund after the distribution for fiscal year 2003; or

B. if the distribution is made after March 1, 2003, the reversion shall not exceed an amount equal to the amount remaining in the small cities assistance fund as of February 28, 2003 less the amount distributed.