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SENATE BILL 440

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

James G. Taylor

AN ACT

RELATING TO FINANCE; AUTHORIZING MUNICIPALITIES TO IMPOSE FEES FOR USE OF A MUNICIPAL EVENT CENTER AND TO IMPOSE A SURCHARGE ON REVENUES ARISING FROM ACTIVITIES AT A MUNICIPAL EVENT CENTER; PERMITTING MUNICIPALITIES TO ISSUE REVENUE BONDS; PROVIDING LEGAL REMEDIES; CREATING AN EXEMPTION FROM THE GOVERNMENTAL GROSS RECEIPTS TAX FOR MUNICIPAL EVENT CENTER RECEIPTS; ENACTING A NEW SECTION OF THE GROSS RECEIPTS AND COMPENSATING TAX ACT; ENACTING THE MUNICIPAL EVENT CENTER FUNDING ACT; DECLARING AN EMERGENCY.

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

Section 1. A new section of the Gross Receipts and Compensating Tax Act is enacted to read:

" NEW MATERIAL EXEMPTION--GROSS RECEIPTS TAX AND GOVERNMENTAL GROSS RECEIPTS TAX-- EVENT CENTER SURCHARGE. --

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1 Exempted from the gross receipts tax and from the governmental
2 gross receipts tax are the receipts from selling tickets,
3 parking, souvenirs, concessions, programs, advertising,
4 merchandise, corporate suites or boxes, broadcast revenues and
5 all other products or services sold at or related to a
6 municipal event center or related to activities occurring at
7 the event center on which an event center surcharge is imposed
8 pursuant to the Municipal Event Center Funding Act. "

9 Section 2. [NEW MATERIAL] SHORT TITLE. -- Sections 2
10 through 10 of this act may be cited as the "Municipal Event
11 Center Funding Act".

12 Section 3. [NEW MATERIAL] FINDINGS AND PURPOSE. --

13 A. The legislature finds that:

14 (1) the costs of acquiring land for and of
15 designing, purchasing, constructing, remodeling,
16 rehabilitating, renovating, improving, equipping, furnishing,
17 operating and maintaining municipal event centers have
18 increased to a level that local financial resources are
19 inadequate to meet all of the costs;

20 (2) functional and modern municipal event
21 centers are essential in retaining and attracting cultural,
22 educational, entertainment and sporting events to
23 municipalities and the state and are essential for the economic
24 development and prosperity of municipalities and the state; and

25 (3) even after using local financial

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1 resources, municipalities need additional means to provide
2 complete funding for functional and modern municipal event
3 centers.

4 B. The purpose of the Municipal Event Center
5 Funding Act is to provide an additional method of accessing the
6 capital markets to meet the need for a complete funding package
7 for functional and modern municipal event centers.

8 Section 4. [NEW MATERIAL] DEFINITIONS. -- As used in the
9 Municipal Event Center Funding Act:

10 A. "bonds" means revenue bonds issued by a
11 municipality to pay for some or all of the costs of acquiring
12 land for and designing, purchasing, constructing, remodeling,
13 rehabilitating, renovating, improving, equipping and furnishing
14 a municipal event center;

15 B. "chief executive officer" means the mayor or
16 chief administrative officer of a municipality when designated
17 in writing by the mayor to perform duties required by the
18 Municipal Event Center Funding Act;

19 C. "debt service payments" means rentals, receipts,
20 fees or other charges paid to a municipality for the rights to
21 use, operate or manage a municipal event center by any person,
22 corporation or other entity;

23 D. "event center revenues" means rentals, receipts,
24 fees or other charges imposed by and paid to a municipality
25 pursuant to the Municipal Event Center Funding Act for the

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1 rights to use, operate or manage a municipal event center by
2 any person, corporation or other entity;

3 E. "event center surcharge" means a surcharge to be
4 included in each vendor contract on tickets, parking,
5 souvenirs, concessions, programs, advertising, merchandise,
6 corporate suites or boxes, broadcast revenues and all other
7 products or services sold at or related to the municipal event
8 center or related to activities occurring at the event center;

9 F. "governing body" means the council, commission
10 or other group of elected officials of a municipality in which
11 is vested the legislative authority of a municipality;

12 G. "municipal event center" means an event center
13 providing seating for a minimum of four thousand people,
14 including land, buildings and related improvements, primarily
15 designed and intended for cultural, educational, entertainment
16 and sporting events;

17 H. "municipality" means a political subdivision of
18 the state, organized and operating under a home-rule charter or
19 the Municipal Code;

20 I. "vendor" means every person, corporation,
21 partnership or other entity, including a division or department
22 of a municipality, providing products or services sold at or
23 related to the municipal event center; and

24 J. "vendor contract" means a contract, agreement or
25 other written arrangement between a municipality and a vendor

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1 pursuant to which the vendor provides products or services sold
2 at or related to the municipal event center.

3 Section 5. [NEW MATERIAL] AUTHORIZATION OF SURCHARGE AND
4 OTHER FEES-- USE OF PROCEEDS. --

5 A. A municipality in which a municipal event center
6 is located may establish by ordinance an event center surcharge
7 of five percent of each vendor service contract entered into by
8 that municipality.

9 B. A municipality shall include an event center
10 surcharge in the terms of each vendor contract into which it
11 enters. A chief executive officer of a municipality shall sign
12 each vendor contract into which that municipality enters.

13 C. A municipality may establish charges and fees
14 deemed necessary by the governing body or the chief executive
15 officer for the use, operation or management of a municipal
16 event center by a person, corporation or other entity.

17 D. A municipality shall establish a fund for
18 construction, renovation, operation, maintenance and
19 improvement of a municipal event center for deposit of all
20 event center revenues and event center surcharges that exceed
21 the required debt service payments. Money in the fund may be
22 used to pay:

- 23 (1) debt service payments;
24 (2) costs of constructing, renovating,
25 operating, maintaining or improving that municipal event

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1 center; or

2 (3) costs of collecting or administering the
3 event center surcharge.

4 Section 6. [NEW MATERIAL] COLLECTION OF EVENT CENTER
5 SURCHARGE-- REMITTANCE TO MUNICIPALITY. --

6 A. Upon the sale of a product or service subject to
7 the event center surcharge, a vendor shall collect the event
8 center surcharge from the purchaser of that product or service
9 on behalf of the municipality and shall act as a trustee for
10 the surcharge receipts. A purchaser of a product or service
11 subject to the event center surcharge shall be charged
12 separately for the event center surcharge from the cost of the
13 product or service, or the vendor shall institute accounting
14 controls or procedures sufficient to identify the amount of the
15 surcharge owed to a municipality for each sale, transaction or
16 exchange subject to the surcharge. Receipts from the event
17 center surcharge shall be remitted by a vendor to the treasurer
18 of the municipality in which the municipal event center at
19 which the vendor sold the product or service is located no
20 later than the tenth day of the month following the collection
21 of the surcharge.

22 B. A treasurer of a municipality shall deposit
23 municipal event center revenues and event center surcharge
24 receipts in a separate account and act as trustee of the
25 revenue on behalf of bondholders pursuant to the Municipal

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1 Event Center Funding Act so long as any bonds remain
2 outstanding.

3 Section 7. [NEW MATERIAL] AUDITS. -- A municipality shall
4 provide by ordinance a method to audit or otherwise ensure that
5 vendors subject to the event center surcharge collect and remit
6 to the treasurer of the municipality the full amount of the
7 surcharge receipts due to the municipality.

8 Section 8. [NEW MATERIAL] ENFORCEMENT-- PENALTIES. --

9 A. An action to enforce the imposition and
10 collection of an event center surcharge by a vendor may be
11 brought by a municipality.

12 B. A district court may issue an appropriate
13 judgment, order or remedy to enforce the provisions of a vendor
14 contract.

15 C. A judgment issued by a district court requiring
16 event center surcharge receipts to be paid to a municipal
17 treasurer by a vendor shall also award interest at an annual
18 rate of twelve percent on past due amounts, attorney fees and
19 costs to a municipality.

20 Section 9. [NEW MATERIAL] ISSUANCE OF BONDS. --

21 A. A municipality may issue revenue bonds, in
22 accordance with the procedures set forth in Sections 3-31-3
23 through 3-31-7 NMSA 1978, to acquire land for and to design,
24 purchase, construct, remodel, renovate, rehabilitate, improve,
25 equip or furnish a municipal event center.

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1 B. Revenue bonds issued by a municipality may be
2 secured by event center revenues, event center surcharge
3 receipts or gross receipts tax revenues distributed to that
4 municipality pursuant to Section 7-1-6.4 or 7-1-6.12 NMSA 1978.

5 C. An action shall not be brought questioning the
6 legality of the pledge of event center revenues, event center
7 surcharge receipts or gross receipts tax revenues, bonds issued
8 pursuant to the Municipal Event Center Funding Act, issuance of
9 those bonds, an event center surcharge included in a vendor
10 contract or any other matter concerning the bonds after thirty
11 days from the date of publication of the ordinance authorizing
12 issuance of the bonds and the pledging of event center
13 receipts, event center surcharge receipts or gross receipts tax
14 revenues of a municipality to make debt service payments.

15 D. The legislature or a municipality shall not
16 repeal, amend or otherwise modify any law or ordinance that
17 adversely affects or impairs the event center surcharge or any
18 bonds secured by a pledge of the event center revenues, event
19 center surcharge receipts or gross receipts tax revenues,
20 unless the bonds have been paid in full or provisions have been
21 made for full payment.

22 Section 10. [NEW MATERIAL] CUMULATIVE AND COMPLETE
23 AUTHORITY. --The Municipal Event Center Funding Act shall be
24 deemed to provide an additional and alternative method for
25 obtaining funding for a municipal event center, establishing

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1 and collecting event center revenues and the event center
2 surcharge and completing the acts authorized pursuant to that
3 act, and shall be regarded as supplemental and additional to
4 powers conferred by other laws of the state and shall
5 constitute full authority for the exercise of powers granted
6 pursuant to the Municipal Event Center Funding Act.

7 Section 11. LIBERAL INTERPRETATION.--The Municipal Event
8 Center Funding Act shall be liberally construed to carry out
9 its purpose.

10 Section 12. SEVERABILITY.--If any part or application of
11 the Municipal Event Center Funding Act is held invalid, the
12 remainder or its application to other situations or persons
13 shall not be affected.

14 Section 13. EMERGENCY.--It is necessary for the public
15 peace, health and safety that this act take effect immediately.