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SENATE BILL 162

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

John M. Sapien

AN ACT

RELATING TO COUNTIES; PROVIDING FOR THE USE OF AN INCREMENT OF THE COUNTY GROSS RECEIPTS TAX TO BE USED TO FINANCE COUNTY PROJECTS.

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

Section 1. Section 4-62-1 NMSA 1978 (being Laws 1992, Chapter 95, Section 1, as amended) is amended to read:

"4-62-1. REVENUE BONDS--AUTHORITY TO ISSUE--PLEDGE OF REVENUES--LIMITATION ON TIME OF ISSUANCE.--

A. In addition to any other law authorizing a county to issue revenue bonds, a county may issue revenue bonds pursuant to Chapter 4, Article 62 NMSA 1978 for the purposes specified in this section. The term "pledged revenues", as used in Chapter 4, Article 62 NMSA 1978, means the revenues, net income or net revenues authorized to be pledged to the

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1 payment of particular revenue bonds as specifically provided in
2 Subsections B through M of this section.

3 B. Gross receipts tax revenue bonds may be issued
4 for one or more of the following purposes:

5 (1) constructing, purchasing, furnishing,
6 equipping, rehabilitating, making additions to or making
7 improvements to one or more public buildings or purchasing or
8 improving ground relating thereto, including but not
9 necessarily limited to acquiring and improving parking lots, or
10 any combination of the foregoing;

11 (2) acquiring or improving county or public
12 parking lots, structures or facilities or any combination of
13 the foregoing;

14 (3) purchasing, acquiring or rehabilitating
15 firefighting equipment or any combination of the foregoing;

16 (4) acquiring, extending, enlarging,
17 bettering, repairing or otherwise improving or maintaining
18 storm sewers and other drainage improvements, sanitary sewers,
19 sewage treatment plants, water utilities or other water,
20 wastewater or related facilities, including but not limited to
21 the acquisition of rights of way and water and water rights, or
22 any combination of the foregoing;

23 (5) reconstructing, resurfacing, maintaining,
24 repairing or otherwise improving existing alleys, streets,
25 roads or bridges or any combination of the foregoing or laying

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1 off, opening, constructing or otherwise acquiring new alleys,
2 streets, roads or bridges or any combination of the foregoing;
3 provided that any of the foregoing improvements may include the
4 acquisition of rights of way;

5 (6) purchasing, acquiring, constructing,
6 making additions to, enlarging, bettering, extending or
7 equipping airport facilities or any combination of the
8 foregoing, including without limitation the acquisition of
9 land, easements or rights of way;

10 (7) purchasing or otherwise acquiring or
11 clearing land or purchasing, otherwise acquiring and
12 beautifying land for open space;

13 (8) acquiring, constructing, purchasing,
14 equipping, furnishing, making additions to, renovating,
15 rehabilitating, beautifying or otherwise improving public
16 parks, public recreational buildings or other public
17 recreational facilities or any combination of the foregoing;

18 (9) acquiring, constructing, extending,
19 enlarging, bettering, repairing or otherwise improving or
20 maintaining solid waste disposal equipment, equipment for
21 operation and maintenance of sanitary landfills, sanitary
22 landfills, solid waste facilities or any combination of the
23 foregoing; or

24 (10) acquiring, constructing, extending,
25 bettering, repairing or otherwise improving public transit

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1 systems or any regional transit systems or facilities.

2 A county may pledge irrevocably any or all of the revenue
3 from the first one-eighth [~~of one percent~~] increment [~~and~~], the
4 third one-eighth [~~of one percent~~] increment and the one-
5 sixteenth increment of the county gross receipts tax and any
6 increment of the county infrastructure gross receipts tax and
7 county capital outlay gross receipts tax for payment of
8 principal and interest due in connection with, and other
9 expenses related to, gross receipts tax revenue bonds for any
10 of the purposes authorized in this section or specific purposes
11 or for any area of county government services. If the revenue
12 from the first one-eighth [~~of one percent~~] increment [~~or~~], the
13 third one-eighth [~~of one percent~~] increment or the one-
14 sixteenth increment of the county gross receipts tax or any
15 increment of the county infrastructure gross receipts tax or
16 county capital outlay gross receipts tax is pledged for payment
17 of principal and interest as authorized by this subsection, the
18 pledge shall require the revenues received from that increment
19 of the county gross receipts tax or any increment of the county
20 infrastructure gross receipts tax or county capital outlay
21 gross receipts tax to be deposited into a special bond fund for
22 payment of the principal, interest and expenses. At the end of
23 each fiscal year, money remaining in the special bond fund
24 after the annual obligations for the bonds are fully met may be
25 transferred to any other fund of the county.

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1 Revenues in excess of the annual principal and interest
2 due on gross receipts tax revenue bonds secured by a pledge of
3 gross receipts tax revenue may be accumulated in a debt service
4 reserve account. The governing body of the county may appoint
5 a commercial bank trust department to act as trustee of the
6 proceeds of the tax and to administer the payment of principal
7 of and interest on the bonds.

8 C. Fire protection revenue bonds may be issued
9 for acquiring, extending, enlarging, bettering, repairing,
10 improving, constructing, purchasing, furnishing, equipping or
11 rehabilitating any independent fire district project or
12 facilities, including where applicable purchasing, otherwise
13 acquiring or improving the ground for the project, or any
14 combination of such purposes. A county may pledge irrevocably
15 any or all of the county fire protection excise tax revenue for
16 payment of principal and interest due in connection with, and
17 other expenses related to, fire protection revenue bonds.
18 These bonds may be referred to in Chapter 4, Article 62 NMSA
19 1978 as "fire protection revenue bonds".

20 D. Environmental revenue bonds may be issued for
21 the acquisition and construction of solid waste facilities,
22 water facilities, wastewater facilities, sewer systems and
23 related facilities. A county may pledge irrevocably any or all
24 of the county environmental services gross receipts tax revenue
25 for payment of principal and interest due in connection with,

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1 and other expenses related to, environmental revenue bonds.
2 These bonds may be referred to in Chapter 4, Article 62 NMSA
3 1978 as "environmental revenue bonds".

4 E. Gasoline tax revenue bonds may be issued for the
5 acquisition of rights of way for and the construction,
6 reconstruction, resurfacing, maintenance, repair or other
7 improvement of county roads and bridges. A county may pledge
8 irrevocably any or all of the county gasoline tax revenue for
9 payment of principal and interest due in connection with, and
10 other expenses related to, county gasoline tax revenue bonds.
11 These bonds may be referred to in Chapter 4, Article 62 NMSA
12 1978 as "gasoline tax revenue bonds".

13 F. Utility revenue bonds or joint utility revenue
14 bonds may be issued for acquiring, extending, enlarging,
15 bettering, repairing or otherwise improving water facilities,
16 sewer facilities, gas facilities or electric facilities or for
17 any combination of the foregoing purposes. A county may pledge
18 irrevocably any or all of the net revenues from the operation
19 of the utility or joint utility for which the particular
20 utility or joint utility bonds are issued to the payment of
21 principal and interest due in connection with, and other
22 expenses related to, utility or joint utility revenue bonds.
23 These bonds may be referred to in Chapter 4, Article 62 NMSA
24 1978 as "utility revenue bonds" or "joint utility revenue
25 bonds".

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1 G. Project revenue bonds may be issued for
2 acquiring, extending, enlarging, bettering, repairing,
3 improving, constructing, purchasing, furnishing, equipping or
4 rehabilitating any revenue-producing project, including as
5 applicable purchasing, otherwise acquiring or improving the
6 ground therefor and including but not limited to acquiring and
7 improving parking lots, or may be issued for any combination of
8 the foregoing purposes. The county may pledge irrevocably any
9 or all of the net revenues from the operation of the revenue-
10 producing project for which the particular project revenue
11 bonds are issued to the payment of the interest on and
12 principal of the project revenue bonds. The net revenues of
13 any revenue-producing project shall not be pledged to the
14 project revenue bonds issued for any other revenue-producing
15 project that is clearly unrelated in nature; but nothing in
16 this subsection prevents the pledge to any of the project
17 revenue bonds of the revenues received from existing, future or
18 disconnected facilities and equipment that are related to and
19 that may constitute a part of the particular revenue-producing
20 project. A general determination by the governing body that
21 facilities or equipment is reasonably related to and
22 constitutes a part of a specified revenue-producing project
23 shall be conclusive if set forth in the proceedings authorizing
24 the project revenue bonds. As used in Chapter 4, Article 62
25 NMSA 1978:

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1 (1) "project revenue bonds" means the bonds
2 authorized in this subsection; and

3 (2) "project revenues" means the net revenues
4 of revenue-producing projects that may be pledged to project
5 revenue bonds pursuant to this subsection.

6 H. Fire district revenue bonds may be issued for
7 acquiring, extending, enlarging, bettering, repairing,
8 improving, constructing, purchasing, furnishing, equipping and
9 rehabilitating any fire district project, including where
10 applicable purchasing, otherwise acquiring or improving the
11 ground therefor, or for any combination of the foregoing
12 purposes. The county may pledge irrevocably any or all of the
13 revenues received by the fire district from the fire protection
14 fund as provided in the Fire Protection Fund Law and any or all
15 of the revenues provided for the operation of the fire district
16 project for which the particular bonds are issued to the
17 payment of the interest on and principal of the bonds. The
18 revenues of a fire district project shall not be pledged to the
19 bonds issued for a fire district project that clearly is
20 unrelated in its purpose; but nothing in this section prevents
21 the pledge to such bonds of revenues received from existing,
22 future or disconnected facilities and equipment that are
23 related to and that may constitute a part of the particular
24 fire district project. A general determination by the
25 governing body of the county that facilities or equipment is

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1 reasonably related to and constitutes a part of a specified
2 fire district project shall be conclusive if set forth in the
3 proceedings authorizing the fire district revenue bonds.

4 I. Law enforcement protection revenue bonds may be
5 issued for the repair and purchase of law enforcement apparatus
6 and equipment that meet nationally recognized standards. The
7 county may pledge irrevocably any or all of the revenues
8 received by the county from the law enforcement protection fund
9 distributions pursuant to the Law Enforcement Protection Fund
10 Act to the payment of the interest on and principal of the law
11 enforcement protection revenue bonds.

12 J. Hospital emergency gross receipts tax revenue
13 bonds may be issued for acquiring, equipping, remodeling or
14 improving a county hospital or county health facility. A
15 county may pledge irrevocably to the payment of the interest on
16 and principal of the hospital emergency gross receipts tax
17 revenue bonds any or all of the revenues received by the county
18 from a county hospital emergency gross receipts tax imposed
19 pursuant to Section 7-20E-12.1 NMSA 1978 and dedicated to
20 payment of bonds or a loan for acquiring, equipping, remodeling
21 or improving a county hospital or county health facility.

22 K. Economic development gross receipts tax revenue
23 bonds may be issued for the purpose of furthering economic
24 development projects as defined in the Local Economic
25 Development Act. A county may pledge irrevocably any or all of

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1 the county infrastructure gross receipts tax to the payment of
2 the interest on and principal of the economic development gross
3 receipts tax revenue bonds for the purpose authorized in this
4 subsection.

5 L. County education gross receipts tax revenue
6 bonds may be issued for public school or off-campus instruction
7 program capital projects as authorized in Section 7-20E-20 NMSA
8 1978. A county may pledge irrevocably any or all of the county
9 education gross receipts tax revenue to the payment of interest
10 on and principal of the county education gross receipts tax
11 revenue bonds for the purpose authorized in this section.

12 M. PILT revenue bonds may be issued by a county to
13 repay all or part of the principal and interest of an
14 outstanding loan owed by the county to the New Mexico finance
15 authority. A county may pledge irrevocably all or part of PILT
16 revenue to the payment of principal of and interest on new
17 loans or preexisting loans provided by the New Mexico finance
18 authority to finance a public project as "public project" is
19 defined in Subsection E of Section 6-21-3 NMSA 1978.

20 N. Except for the purpose of refunding previous
21 revenue bond issues, no county may sell revenue bonds payable
22 from pledged revenue after the expiration of two years from the
23 date of the ordinance authorizing the issuance of the bonds or,
24 for bonds to be issued and sold to the New Mexico finance
25 authority as authorized in Subsection C of Section 4-62-4 NMSA

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1 1978, after the expiration of two years from the date of the
2 resolution authorizing the issuance of the bonds. However, any
3 period of time during which a particular revenue bond issue is
4 in litigation shall not be counted in determining the
5 expiration date of that issue.

6 O. No bonds may be issued by a county, other than
7 an H class county, a class B county as defined in Section
8 4-36-8 NMSA 1978 or a class A county as described in Section
9 4-36-10 NMSA 1978, to acquire, equip, extend, enlarge, better,
10 repair or construct a utility unless the utility is regulated
11 by the public regulation commission pursuant to the Public
12 Utility Act and the issuance of the bonds is approved by the
13 commission. For purposes of Chapter 4, Article 62 NMSA 1978, a
14 "utility" includes but is not limited to a water, wastewater,
15 sewer, gas or electric utility or joint utility serving the
16 public. H class counties shall obtain public regulation
17 commission approvals required by Section 3-23-3 NMSA 1978.

18 P. Any law that imposes or authorizes the
19 imposition of a county gross receipts tax, a county
20 environmental services gross receipts tax, a county fire
21 protection excise tax, a county infrastructure gross receipts
22 tax, the county education gross receipts tax, a county capital
23 outlay gross receipts tax, the gasoline tax or the county
24 hospital emergency gross receipts tax, or that affects any of
25 those taxes, shall not be repealed or amended in such a manner

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1 as to impair outstanding revenue bonds that are issued pursuant
2 to Chapter 4, Article 62 NMSA 1978 and that may be secured by a
3 pledge of those taxes unless the outstanding revenue bonds have
4 been discharged in full or provision has been fully made
5 therefor.

6 Q. As used in this section:

7 (1) "county infrastructure gross receipts tax
8 revenue" means the revenue from the county infrastructure gross
9 receipts tax transferred to the county pursuant to Section
10 7-1-6.13 NMSA 1978;

11 (2) "county capital outlay gross receipts tax
12 revenue" means the revenue from the county capital outlay gross
13 receipts tax transferred to the county pursuant to Section
14 7-1-6.13 NMSA 1978;

15 (3) "county education gross receipts tax
16 revenue" means the revenue from the county education gross
17 receipts tax transferred to the county pursuant to Section
18 7-1-6.13 NMSA 1978;

19 (4) "county environmental services gross
20 receipts tax revenue" means the revenue from the county
21 environmental services gross receipts tax transferred to the
22 county pursuant to Section 7-1-6.13 NMSA 1978;

23 (5) "county fire protection excise tax
24 revenue" means the revenue from the county fire protection
25 excise tax transferred to the county pursuant to Section

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1 7-1-6.13 NMSA 1978;

2 (6) "county gross receipts tax revenue" means
3 the revenue attributable to the first one-eighth [~~of one~~
4 ~~percent and~~] increment, the third one-eighth [~~of one percent~~
5 ~~increments~~] increment and the one-sixteenth increment of the
6 county gross receipts tax transferred to the county pursuant to
7 Section 7-1-6.13 NMSA 1978 and any distribution related to the
8 first one-eighth [~~of one percent~~] increment made pursuant to
9 Section 7-1-6.16 NMSA 1978;

10 (7) "gasoline tax revenue" means the revenue
11 from that portion of the gasoline tax distributed to the county
12 pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA 1978;

13 (8) "PILT revenue" means revenue received by
14 the county from the federal government as payments in lieu of
15 taxes; and

16 (9) "public building" includes but is not
17 limited to fire stations, police buildings, county or regional
18 jails, county or regional juvenile detention facilities,
19 libraries, museums, auditoriums, convention halls, hospitals,
20 buildings for administrative offices, courthouses and garages
21 for housing, repairing and maintaining county vehicles and
22 equipment.

23 R. As used in Chapter 4, Article 62 NMSA 1978,
24 the term "bond" means any obligation of a county issued under
25 Chapter 4, Article 62 NMSA 1978, whether designated as a bond,

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1 note, loan, warrant, debenture, lease-purchase agreement or
2 other instrument evidencing an obligation of a county to make
3 payments."

4 Section 2. EFFECTIVE DATE.--The effective date of the
5 provisions of this act is July 1, 2010.

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