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HOUSE BILL 259

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Jane E. Powdrell-Culbert

AN ACT

RELATING TO PUBLIC FINANCE; AUTHORIZING THE ISSUANCE OF COUNTY
AREA EMERGENCY COMMUNICATIONS AND EMERGENCY MEDICAL AND
BEHAVIORAL HEALTH SERVICES TAX REVENUE BONDS AND COUNTYWIDE
EMERGENCY COMMUNICATIONS AND EMERGENCY MEDICAL AND BEHAVIORAL
HEALTH SERVICES TAX REVENUE BONDS; SPECIFYING THAT REVENUE FROM
THOSE TAXES MAY BE USED TO PURCHASE EMERGENCY COMMUNICATIONS
EQUIPMENT FOR CERTAIN EMERGENCY COMMUNICATIONS CENTERS; MAKING
TECHNICAL AND CLARIFYING CHANGES TO LAW; MAKING AN
APPROPRIATION; DECLARING AN EMERGENCY.

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.--

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1 A. In addition to any other law authorizing a
2 county to issue revenue bonds, a county may issue revenue bonds
3 pursuant to Chapter 4, Article 62 NMSA 1978 for the purposes
4 specified in this section. The term "pledged revenues", as
5 used in Chapter 4, Article 62 NMSA 1978, means the revenues,
6 net income or net revenues authorized to be pledged to the
7 payment of particular revenue bonds as specifically provided in
8 Subsections B through [M] N of this section.

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

11 (1) constructing, purchasing, furnishing,
12 equipping, rehabilitating, making additions to or making
13 improvements to one or more public buildings or purchasing or
14 improving the ground [~~relating thereto, including but not~~
15 ~~necessarily limited to acquiring and improving parking lots, or~~
16 ~~any combination of the foregoing~~] of the building or buildings;

17 (2) acquiring or improving county or public
18 parking lots, structures or facilities [~~or any combination of~~
19 ~~the foregoing~~];

20 (3) purchasing, acquiring or rehabilitating
21 firefighting equipment [~~or any combination of the foregoing~~];

22 (4) acquiring, extending, enlarging,
23 bettering, repairing or otherwise improving or maintaining
24 storm sewers and other drainage improvements, sanitary sewers,
25 sewage treatment plants, water utilities or other water,

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1 wastewater or related facilities, [~~including but not limited~~
2 ~~to~~] which may include the acquisition of rights of way and
3 water and water rights [~~or any combination of the foregoing~~];

4 (5) reconstructing, resurfacing, maintaining,
5 repairing or otherwise improving existing alleys, streets,
6 roads or bridges [~~or any combination of the foregoing~~] or
7 laying off, opening, constructing or otherwise acquiring new
8 alleys, streets, roads or bridges, [~~or any combination of the~~
9 ~~foregoing; provided that any of the foregoing improvements~~]
10 which may include the acquisition of rights of way;

11 (6) purchasing, acquiring, constructing,
12 making additions to, enlarging, bettering, extending or
13 equipping airport facilities [~~or any combination of the~~
14 ~~foregoing, including without limitation~~], which may include the
15 acquisition of land, easements or rights of way;

16 (7) purchasing, [~~or~~] otherwise acquiring or
17 clearing land or purchasing, otherwise acquiring [~~and~~] or
18 beautifying land for open space;

19 (8) acquiring, constructing, purchasing,
20 equipping, furnishing, making additions to, renovating,
21 rehabilitating, beautifying or otherwise improving public
22 parks, public recreational buildings or other public
23 recreational facilities [~~or any combination of the foregoing~~];

24 (9) acquiring, constructing, extending,
25 enlarging, bettering, repairing, [~~or~~] otherwise improving or

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1 maintaining solid waste disposal equipment, equipment for
2 operation and maintenance of sanitary landfills, sanitary
3 landfills or solid waste facilities ~~[or any combination of the~~
4 ~~foregoing; or]~~; and

5 (10) acquiring, constructing, extending,
6 bettering, repairing or otherwise improving public transit
7 systems or ~~[any]~~ regional transit systems or facilities.

8 A county may pledge irrevocably any or all of the revenue
9 from the first one-eighth increment, the third one-eighth
10 increment and the one-sixteenth increment of the county gross
11 receipts tax and any increment of the county infrastructure
12 gross receipts tax and county capital outlay gross receipts tax
13 for payment of principal and interest due in connection with,
14 and other expenses related to, gross receipts tax revenue bonds
15 for any of the purposes authorized in this section or specific
16 purposes or for any area of county government services. If the
17 revenue from the first one-eighth increment, the third one-
18 eighth increment or the one-sixteenth increment of the county
19 gross receipts tax or any increment of the county
20 infrastructure gross receipts tax or county capital outlay
21 gross receipts tax is pledged for payment of principal and
22 interest as authorized by this subsection, the pledge shall
23 require the revenues received from that increment of the county
24 gross receipts tax or any increment of the county
25 infrastructure gross receipts tax or county capital outlay

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1 gross receipts tax to be deposited into a special bond fund for
2 payment of the principal, interest and expenses. At the end of
3 each fiscal year, money remaining in the special bond fund
4 after the annual obligations for the bonds are fully met may be
5 transferred to any other fund of the county.

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

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

25 D. Environmental revenue bonds may be issued for

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1 the acquisition and construction of solid waste facilities,
2 water facilities, wastewater facilities, sewer systems and
3 related facilities. A county may pledge irrevocably any or all
4 of the county environmental services gross receipts tax revenue
5 for payment of principal and interest due in connection with,
6 and other expenses related to, environmental revenue bonds.
7 These bonds may be referred to in Chapter 4, Article 62 NMSA
8 1978 as "environmental revenue bonds".

9 E. Gasoline tax revenue bonds may be issued for the
10 acquisition of rights of way for and the construction,
11 reconstruction, resurfacing, maintenance, repair or other
12 improvement of county roads and bridges. A county may pledge
13 irrevocably any or all of the county gasoline tax revenue for
14 payment of principal and interest due in connection with, and
15 other expenses related to, county gasoline tax revenue bonds.
16 These bonds may be referred to in Chapter 4, Article 62 NMSA
17 1978 as "gasoline tax revenue bonds".

18 F. Utility revenue bonds or joint utility revenue
19 bonds may be issued for acquiring, extending, enlarging,
20 bettering, repairing or otherwise improving water facilities,
21 sewer facilities, gas facilities or electric facilities ~~[or for~~
22 ~~any combination of the foregoing purposes]~~. A county may
23 pledge irrevocably any or all of the net revenues from the
24 operation of the utility or joint utility for which the
25 particular utility or joint utility bonds are issued to the

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1 payment of principal and interest due in connection with, and
2 other expenses related to, utility or joint utility revenue
3 bonds. These bonds may be referred to in Chapter 4, Article 62
4 NMSA 1978 as "utility revenue bonds" or "joint utility revenue
5 bonds".

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

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1 governing body that facilities or equipment is reasonably
2 related to and constitutes a part of a specified revenue-
3 producing project shall be conclusive if set forth in the
4 proceedings authorizing the project revenue bonds. As used in
5 Chapter 4, Article 62 NMSA 1978:

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

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

11 H. Fire district revenue bonds may be issued for
12 acquiring, extending, enlarging, bettering, repairing,
13 improving, constructing, purchasing, furnishing, equipping and
14 rehabilitating ~~[any]~~ a fire district project, including,
15 ~~[where]~~ as applicable, purchasing, otherwise acquiring or
16 improving the ground ~~[therefor, or for any combination of the~~
17 ~~foregoing purposes]~~ for the project. The county may pledge
18 irrevocably any or all of the revenues received by the fire
19 district from the fire protection fund as provided in the Fire
20 Protection Fund Law and any or all of the revenues provided for
21 the operation of the fire district project for which the
22 particular bonds are issued to the payment of the interest on
23 and principal of the bonds. The revenues of a fire district
24 project shall not be pledged to the bonds issued for a fire
25 district project that clearly is unrelated in its purpose; but

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1 nothing in this section prevents the pledge to such bonds of
2 revenues received from existing, future or disconnected
3 facilities and equipment that are related to and that may
4 constitute a part of the particular fire district project. A
5 general determination by the governing body of the county that
6 facilities or equipment is reasonably related to and
7 constitutes a part of a specified fire district project shall
8 be conclusive if set forth in the proceedings authorizing
9 the fire district revenue bonds.

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

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

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1 payment of bonds or a loan for acquiring, equipping, remodeling
2 or improving a county hospital or county health facility.

3 K. Economic development gross receipts tax revenue
4 bonds may be issued for the purpose of furthering economic
5 development projects as defined in the Local Economic
6 Development Act. A county may pledge irrevocably any or all of
7 the county infrastructure gross receipts tax to the payment of
8 the interest on and principal of the economic development gross
9 receipts tax revenue bonds for the purpose authorized in this
10 subsection.

11 L. County education gross receipts tax revenue
12 bonds may be issued for public school or off-campus instruction
13 program capital projects as authorized in Section 7-20E-20 NMSA
14 1978. A county may pledge irrevocably any or all of the county
15 education gross receipts tax revenue to the payment of interest
16 on and principal of the county education gross receipts tax
17 revenue bonds for the purpose authorized in this section.

18 M. County area emergency communications and
19 emergency medical and behavioral health services tax revenue
20 bonds and countywide emergency communications and emergency
21 medical and behavioral health services tax revenue bonds may be
22 issued for the purpose of operating an emergency communications
23 center that has been determined by the local government
24 division of the department of finance and administration to be
25 a consolidated public safety answering point. That operation

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1 may include the purchase of emergency communications equipment
2 for the center. A county may pledge irrevocably any or all of
3 the county area emergency communications and emergency medical
4 and behavioral health services tax revenue and the countywide
5 emergency communications and emergency medical and behavioral
6 health services tax revenue to the payment of interest on and
7 principal of county area emergency communications and emergency
8 medical and behavioral health services tax revenue bonds and
9 countywide emergency communications and emergency medical and
10 behavioral health services tax revenue bonds for the purpose
11 authorized in this section.

12 [M-] N. PILT revenue bonds may be issued by a
13 county to 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-] O. Except for the purpose of refunding
21 previous revenue bond issues, no county may sell revenue bonds
22 payable from pledged revenue after the expiration of two years
23 from the date of the ordinance authorizing the issuance of the
24 bonds or, for bonds to be issued and sold to the New Mexico
25 finance authority as authorized in Subsection C of Section

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1 4-62-4 NMSA 1978, after the expiration of two years from the
2 date of the resolution authorizing the issuance of the bonds.
3 However, any period of time during which a particular revenue
4 bond issue is in litigation shall not be counted in determining
5 the expiration date of that issue.

6 ~~[P.]~~ P. No bonds may be issued by a county, other
7 than 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.]~~ Q. 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, the countywide emergency
25 communications and emergency medical and behavioral health

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1 services tax or the county area emergency communications and
2 emergency medical and behavioral health services tax, or that
3 affects any of those taxes, shall not be repealed or amended in
4 such a manner as to impair outstanding revenue bonds that are
5 issued pursuant to Chapter 4, Article 62 NMSA 1978 and that may
6 be secured by a pledge of those taxes unless the outstanding
7 revenue bonds have been discharged in full or for which
8 provision has been fully made. [~~therefor.~~

9 Q.] R. As used in this section:

10 [~~(1) "county infrastructure gross receipts tax~~
11 ~~revenue" means the revenue from the county infrastructure gross~~
12 ~~receipts tax transferred to the county pursuant to Section~~
13 ~~7-1-6.13 NMSA 1978;~~]

14 (1) "county area emergency communications and
15 emergency medical and behavioral health services tax revenue"
16 means the revenue from the county area emergency communications
17 and emergency medical and behavioral health services tax
18 transferred pursuant to Section 7-1-6.13 NMSA 1978;

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

23 (3) "county education gross receipts tax
24 revenue" means the revenue from the county education gross
25 receipts tax transferred to the county pursuant to Section

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1 7-1-6.13 NMSA 1978;

2 (4) "county environmental services gross
3 receipts tax revenue" means the revenue from the county
4 environmental services gross receipts tax transferred to the
5 county pursuant to Section 7-1-6.13 NMSA 1978;

6 (5) "county fire protection excise tax
7 revenue" means the revenue from the county fire protection
8 excise tax transferred to the county pursuant to Section
9 7-1-6.13 NMSA 1978;

10 (6) "county gross receipts tax revenue" means
11 the revenue attributable to the first one-eighth increment, the
12 third one-eighth increment and the one-sixteenth increment of
13 the county gross receipts tax transferred to the county
14 pursuant to Section 7-1-6.13 NMSA 1978 and any distribution
15 related to the first one-eighth increment made pursuant to
16 Section 7-1-6.16 NMSA 1978;

17 (7) "county infrastructure gross receipts tax
18 revenue" means the revenue from the county infrastructure gross
19 receipts tax transferred to the county pursuant to Section
20 7-1-6.13 NMSA 1978;

21 (8) "countywide emergency communications and
22 emergency medical and behavioral health services tax revenue"
23 means the revenue from the countywide emergency communications
24 and emergency medical and behavioral health services tax
25 transferred to the county pursuant to Section 7-1-6.13 NMSA

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1 1978;

2 [~~(7)~~] (9) "gasoline tax revenue" means the
3 revenue from that portion of the gasoline tax distributed to
4 the county pursuant to Sections 7-1-6.9 and 7-1-6.26 NMSA 1978;

5 [~~(8)~~] (10) "PILT revenue" means revenue
6 received by the county from the federal government as payments
7 in lieu of taxes; and

8 [~~(9)~~] (11) "public building" includes [~~but is~~
9 ~~not limited to~~] fire stations, police buildings, county or
10 regional jails, county or regional juvenile detention
11 facilities, libraries, museums, auditoriums, convention halls,
12 hospitals, buildings for administrative offices, courthouses
13 and garages for housing, repairing and maintaining county
14 vehicles and equipment.

15 [~~R-~~] S. As used in Chapter 4, Article 62 NMSA 1978,
16 [~~the term~~] "bond" means any obligation of a county issued under
17 Chapter 4, Article 62 NMSA 1978, whether designated as a bond,
18 note, loan, warrant, debenture, lease-purchase agreement or
19 other instrument, evidencing an obligation of a county to make
20 payments."

21 **SECTION 2.** Section 7-20E-22 NMSA 1978 (being Laws 2002,
22 Chapter 14, Section 1, as amended) is amended to read:

23 "7-20E-22. COUNTY EMERGENCY COMMUNICATIONS AND EMERGENCY
24 MEDICAL AND BEHAVIORAL HEALTH SERVICES TAX--AUTHORITY TO IMPOSE
25 COUNTYWIDE OR ONLY IN THE COUNTY AREA--ORDINANCE REQUIREMENTS--

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1 USE OF REVENUE--ELECTION.--

2 A. The majority of the members of the governing
3 body of an eligible county that does not have in effect a tax
4 imposed pursuant to Subsection B of this section may enact an
5 ordinance imposing an excise tax at a rate not to exceed
6 one-fourth percent of the gross receipts of a person engaging
7 in business in the county for the privilege of engaging in
8 business. The tax imposed by this subsection may be referred
9 to as the "countywide emergency communications and emergency
10 medical and behavioral health services tax".

11 B. The majority of the members of the governing
12 body of an eligible county that does not have in effect a tax
13 imposed pursuant to Subsection A of this section may enact an
14 ordinance imposing an excise tax at a rate not to exceed
15 one-fourth percent of the gross receipts of a person engaging
16 in business in the county area for the privilege of engaging in
17 business. The tax imposed by this subsection may be referred
18 to as the "county area emergency communications and emergency
19 medical and behavioral health services tax".

20 C. The [~~tax~~] taxes authorized in Subsections A and
21 B of this section may be imposed in one or more increments of
22 one-sixteenth percent not to exceed an aggregate rate of
23 one-fourth percent.

24 D. The governing body, at the time of enacting an
25 ordinance imposing a rate of tax authorized in Subsection A or

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1 B of this section, shall dedicate the revenue to one or more of
2 the following purposes:

3 (1) operation of an emergency communications
4 center that has been determined by the local government
5 division of the department of finance and administration to be
6 a consolidated public safety answering point. That operation
7 may include the purchase of emergency communications equipment
8 for the center;

9 (2) operation of emergency medical services
10 provided by the county; or

11 (3) provision of behavioral health services,
12 including alcohol abuse and substance abuse treatment.

13 E. An ordinance imposing any increment of the
14 countywide emergency communications and emergency medical and
15 behavioral health services tax or the county area emergency
16 communications and emergency medical and behavioral health
17 services tax shall not go into effect until after an election
18 is held and a majority of the voters voting in the election
19 votes in favor of imposing the tax. In the case of an
20 ordinance imposing an increment of the countywide emergency
21 communications and emergency medical and behavioral health
22 services tax, the election shall be conducted countywide. In
23 the case of an ordinance imposing the county area emergency
24 communications and emergency medical and behavioral health
25 services tax, the election shall be conducted only in the

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1 county area. The governing body shall adopt a resolution
2 calling for an election within seventy-five days of the date
3 the ordinance is adopted on the question of imposing the tax.
4 The question may be submitted to the voters as a separate
5 question at a general election or at a special election called
6 for that purpose by the governing body. A special election
7 shall be called, conducted and canvassed in substantially the
8 same manner as provided by law for general elections. In any
9 election held, the ballot shall clearly state the purpose to
10 which the revenue will be dedicated pursuant to Subsection D of
11 this section. If a majority of the voters voting on the
12 question approves the imposition of the countywide emergency
13 communications and emergency medical and behavioral health
14 services tax or the county area emergency communications and
15 emergency medical and behavioral health services tax, the
16 ordinance shall become effective in accordance with the
17 provisions of the County Local Option Gross Receipts Taxes Act.
18 If the question of imposing the tax fails, the governing body
19 shall not again propose the imposition of any increment of
20 either tax for a period of one year from the date of the
21 election.

22 F. For the purposes of this section, "eligible
23 county" means:

24 (1) a county that operates or, pursuant to a
25 joint powers agreement, is served by an emergency

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1 communications center that has been determined by the local
2 government division of the department of finance and
3 administration to be a consolidated public safety answering
4 point; or

5 (2) in the case of a county imposing the tax
6 for the purposes provided in Paragraph (3) of Subsection D of
7 this section, a county that operates or contracts for the
8 operation of a behavioral health services facility providing
9 alcohol abuse, substance abuse and inpatient and outpatient
10 behavioral health treatment."

11 SECTION 3. EMERGENCY.--It is necessary for the public
12 peace, health and safety that this act take effect immediately.