

SENATE BILL 474

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Benny Shendo, Jr.

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO INDUSTRIAL REVENUE BONDS; AMENDING THE INDUSTRIAL REVENUE BOND ACT AND THE COUNTY INDUSTRIAL REVENUE BOND ACT REGARDING HOW CERTAIN PAYMENT-IN-LIEU-OF-TAXES PAYMENTS ARE SHARED AMONG SCHOOL DISTRICTS ~~SFC~~; **DECLARING AN EMERGENCY** ~~SFC~~

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

SECTION 1. Section 3-32-6 NMSA 1978 (being Laws 1965,

.224874.4AIC March 2, 2023 (5:01pm)

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Chapter 300, Section 14-31-3, as amended) is amended to read:

"3-32-6. ADDITIONAL POWERS CONFERRED ON MUNICIPALITIES.--

In addition to any other powers that it may now have, a municipality shall have the following powers:

A. to acquire, whether by construction, purchase, gift or lease, one or more projects that shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of the corporate limits of the municipality; provided that:

(1) urban transit buses qualifying as a project pursuant to Subsection B of Section 3-32-3 NMSA 1978 need not be continuously located within this state, but the commercial enterprise using the urban transit buses for leasing shall meet the location requirement of this subsection; and

(2) a municipality shall not acquire any electricity generation or transmission facility project unless the school districts within the municipality in which the project is located receive annual in-lieu tax payments; provided that the annual in-lieu tax payments required by this paragraph shall be:

(a) payable to the school districts for the period the municipality owns and leases the project;

(b) in an aggregate amount equal to the

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amount received by the municipality multiplied by the percentage determined by dividing the average of [~~the operating, capital improvement and bond~~] mills imposed by the school districts [~~in~~] within the municipality [~~and~~] plus state debt service mills as of the date of issuance of the bonds by the average of the mills imposed by all entities levying taxes on property in the municipality as of such date;

(c) [~~shared~~] divided among the school districts located within the municipality, [~~equally~~] if there is more than one school district in such municipality, and the in-lieu payment shall be allocated as follows: 1) fifty percent allocated equally among all school districts in which the project is located; 2) forty percent allocated to the school districts within the municipality in proportion to the area of each school district within the municipality; and 3) ten percent allocated to the school districts in proportion to the average of each school district's student membership pursuant to the Public School Code reported on the second and third reporting dates for the most recent school year for which data is available as of the date of issuance of the bonds; and

(d) [~~not be~~] for each individual school district located within the municipality, no less than the amount due to the school [~~districts~~] district in the tax year immediately preceding the issuance of the bonds from the property included in a project, had such project not been

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created;

B. to sell or lease or otherwise dispose of any or all of its projects upon such terms and conditions as the governing body may deem advisable and as shall not conflict with the provisions of the Industrial Revenue Bond Act;

C. to issue revenue bonds for the purpose of defraying the cost of acquiring by construction and purchase, or either, any project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. No municipality shall have the power to operate any project as a business or in any manner except as lessor;

D. to refinance one or more hospital or 501(c)(3) corporation projects and to acquire any such hospital or 501(c)(3) corporation project whether by construction, purchase, gift or lease, which hospital or 501(c)(3) corporation project shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but which shall not be located more than fifteen miles outside of the corporate limits of the municipality, and to issue revenue bonds to refinance and acquire a hospital or 501(c)(3) corporation project and to secure the payment of such bonds, all as provided in the Industrial Revenue Bond Act. A municipality shall not have the power to operate a hospital or 501(c)(3) corporation project as a business or in any manner except as

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lessor; and

E. to refinance one or more projects of any private institution of higher education and to acquire any such project, whether by construction, purchase, gift or lease; provided that the project shall be located within this state and may be located within or without the municipality or partially within or partially without the municipality, but the project shall not be located more than fifteen miles outside of the corporate limits of the municipality, and to issue revenue bonds to refinance and acquire any project of any private institution of higher education and to secure the payment of such bonds. A municipality shall not have the power to operate a project of a private institution of higher education as a business or in any manner except as lessor."

SECTION 2. Section 4-59-4 NMSA 1978 (being Laws 1975, Chapter 286, Section 4, as amended) is amended to read:

"4-59-4. ADDITIONAL POWERS CONFERRED ON COUNTIES.--In addition to any other powers that it may now have, each county shall have the following powers:

A. to acquire, whether by construction, purchase, gift or lease, one or more projects, which shall be located within this state and shall be located within the county outside the boundaries of any incorporated municipality; provided, however, that:

- (1) a class A county with a population of more

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than three hundred thousand may acquire projects located anywhere in the county; and

(2) a county shall not acquire any electricity generation or transmission facility project unless the school districts within the county in which the project is located receive annual in-lieu tax payments; provided that the annual in-lieu tax payments required by this paragraph shall be:

(a) payable to the school districts for the period the county owns and leases the project;

(b) in an aggregate amount equal to the amount received by the county multiplied by the percentage determined by dividing the average of all of the mills imposed by the school districts in the county, including the operating, capital improvement, building improvement, education technology and bond mills imposed by the school districts in the county [and] plus state debt service mills as of the date of issuance of the bonds by the average of the mills imposed by all entities levying taxes on property in the county as of such date;

(c) [~~shared~~] divided among the school districts located within the county, [~~equally~~] and if there is more than one school district in such county, the in-lieu payment shall be allocated as follows: 1) fifty percent allocated equally among all school districts in which the project is located; 2) forty percent allocated to the school

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districts within the county in proportion to the area of each school district within the county; and 3) ten percent allocated to the school districts in proportion to the average of each school district's student membership pursuant to the Public School Code reported on the second and third reporting dates for the most recent school year for which data is available as of the date of issuance of the bonds; and

(d) ~~[not be]~~ for each individual school district located within the county, no less than the amount due to the school ~~[districts]~~ district in the tax year immediately preceding the issuance of the bonds from the property included in a project, had such project not been created;

B. to sell or lease or otherwise dispose of any or all of its projects upon such terms and conditions as the commission may deem advisable and as shall not conflict with the provisions of the County Industrial Revenue Bond Act; and

C. to issue revenue bonds for the purpose of defraying the cost of acquiring, by construction and purchase or either, any project and to secure the payment of such bonds, all as provided in the County Industrial Revenue Bond Act. No county shall have the power to operate any project as a business or in any manner except as lessor thereof."

SFC → ~~SECTION 3. APPLICABILITY.--The provisions of this act apply to the distribution of in-lieu tax payments required to be made to school districts for industrial revenue bonds~~

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~~issued pursuant to the Industrial Revenue Bond Act and county industrial bonds issued pursuant to the County Industrial Revenue Bond Act on or after January 1, 2023.~~

~~SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.~~ ←SFC

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