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HOUSE BILL 475

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

ROBERTO "BOBBY" J. GONZALES

AN ACT

RELATING TO TAXATION; AMENDING THE LOCAL HOSPITAL GROSS RECEIPTS
TAX ACT TO PROVIDE FOR THE PLEDGE OF OTHER COUNTY REVENUES FOR
LOCAL HOSPITAL REVENUE BONDS; AUTHORIZING THE ISSUANCE OF
REFUNDING BONDS; AMENDING AND ENACTING CERTAIN SECTIONS OF THE
NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. Section 7-20C-2 NMSA 1978 (being Laws 1991,
Chapter 176, Section 2, as amended) is amended to read:

"7-20C-2. DEFINITIONS. -- As used in the Local Hospital
Gross Receipts Tax Act:

A. "county" means:

(1) a class B county having a population of
less than twenty-five thousand according to the most recent
federal decennial census and having a net taxable value for

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1 rate-setting purposes for the 1990 property tax year or any
2 subsequent year of more than two hundred fifty million dollars
3 (\$250,000,000);

4 (2) a class B county having a population of
5 less than forty-seven thousand but more than forty-four thousand
6 according to the 1990 federal decennial census and having a net
7 taxable value for rate-setting purposes for the 1992 property
8 tax year of more than three hundred million dollars
9 (\$300,000,000) but less than six hundred million dollars
10 (\$600,000,000); or

11 (3) a class B county [~~in New Mexico~~] having a
12 population of less than ten thousand according to the most
13 recent federal decennial census and having a net taxable value
14 for rate-setting purposes for the 1990 property tax year or any
15 subsequent year of more than one hundred million dollars
16 (\$100,000,000);

17 B. "department" means the taxation and revenue
18 department, the secretary of taxation and revenue or any
19 employee of the department exercising authority lawfully
20 delegated to that employee by the secretary;

21 C. "first one-eighth county gross receipts tax"
22 means the first one-eighth of one percent increment of the
23 county gross receipts tax imposed under the County Local Option
24 Gross Receipts Taxes Act;

25 [~~C.~~] D. "governing body" means the board of county

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1 commissioners of a county;

2 E. "hospital facility revenues" means all or a
3 portion of the net revenues of a hospital facility acquired,
4 constructed or equipped pursuant to and operated in accordance
5 with the Local Hospital Gross Receipts Tax Act;

6 [~~D.~~] F. "local hospital gross receipts tax" means
7 the tax authorized to be imposed under the Local Hospital Gross
8 Receipts Tax Act;

9 [~~E.~~] G. "person" means an individual or any other
10 legal entity; and

11 [~~F.~~] H. "state gross receipts tax" means the gross
12 receipts tax imposed under the Gross Receipts and Compensating
13 Tax Act. "

14 Section 2. Section 7-20C-9 NMSA 1978 (being Laws 1991,
15 Chapter 176, Section 9, as amended) is amended to read:

16 "7-20C-9. LOCAL HOSPITAL REVENUE BONDS--AUTHORITY TO
17 ISSUE-- PLEDGE OF REVENUES. --

18 A. A county, other than a county described in
19 Paragraph (2) of Subsection A of Section 7-20C-2 NMSA 1978, may
20 issue local hospital revenue bonds pursuant to the Local
21 Hospital Gross Receipts Tax Act for the purpose of acquiring
22 land for and designing, constructing, equipping and furnishing a
23 county hospital facility to be operated by the county or by
24 another party pursuant to a lease with the county.

25 B. The county issuing the local hospital revenue

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1 bonds pursuant to the Local Hospital Gross Receipts Tax Act
2 shall pledge irrevocably all of the net receipts derived from
3 the imposition of the local hospital gross receipts tax and may
4 pledge irrevocably any combination of the first one-eighth
5 county gross receipts tax, hospital facility revenues and any
6 other revenues as necessary for the payment of principal and
7 interest on the revenue bonds. "

8 Section 3. A new section of the Local Hospital Gross
9 Receipts Tax Act is enacted to read:

10 "[NEW MATERIAL] REVENUE BONDS--REFUNDING AUTHORIZATION. --

11 A. Any county having issued revenue bonds as
12 authorized in the Local Hospital Gross Receipts Tax Act may
13 issue refunding revenue bonds pursuant to an ordinance adopted
14 by majority vote of the governing body for the purpose of
15 refinancing, paying and discharging all or any part of such
16 outstanding revenue bonds of any one or more or all outstanding
17 issues:

18 (1) for the acceleration, deceleration or other
19 modification of the payment of such obligations, including
20 without limitation any capitalization of any interest thereon in
21 arrears or about to become due for any period not exceeding one
22 year from the date of the refunding bonds;

23 (2) for the purpose of reducing interest costs
24 or effecting other economies;

25 (3) for the purpose of modifying or eliminating

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1 restrictive contractual limitations pertaining to the issuance
2 of additional bonds, otherwise concerning the outstanding bonds
3 or to any facilities relating thereto; or

4 (4) for any combination of such purposes.

5 B. To pay the principal and interest on refunding
6 bonds, the county may pledge irrevocably revenues authorized to
7 be pledged to revenue bonds issued pursuant to the Local
8 Hospital Gross Receipts Tax Act.

9 C. Bonds for refunding and bonds for any purpose
10 permitted by the Local Hospital Gross Receipts Tax Act may be
11 issued separately or issued in combination in one series or
12 more. "

13 Section 4. A new section of the Local Hospital Gross
14 Receipts Tax Act is enacted to read:

15 "[NEW MATERIAL] REFUNDING BONDS--ESCROW-DETAIL. --

16 A. Refunding bonds issued pursuant to the provisions
17 of the Local Hospital Gross Receipts Tax Act shall be authorized
18 by ordinance. Any revenue bonds that are refunded under the
19 provisions of this section shall be paid at maturity or on any
20 permitted prior redemption date in the amounts, at the time and
21 places, and if called prior to maturity, in accordance with any
22 applicable notice provisions, all as provided in the proceedings
23 authorizing the issuance of the refunded bonds or otherwise
24 appertaining thereto, except for any such bond that is
25 voluntarily surrendered for exchange or payment by the holder or

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1 owner.

2 B. Provision shall be made for paying the bonds
3 refunded at the time or places provided in Subsection A of this
4 section. The principal amount of the refunding bonds may
5 exceed, be less than or be the same as the principal amount of
6 the bonds being refunded as long as provision is duly and
7 sufficiently made for the payment of the refunded bonds.

8 C. The proceeds of refunding bonds, including any
9 accrued interest and premium appertaining to the sale of
10 refunding bonds, shall either be immediately applied to the
11 retirement of the bonds being refunded or be placed in escrow in
12 a commercial bank or trust company that possesses and is
13 exercising trust powers and that is a member of the federal
14 deposit insurance corporation, to be applied to the payment of
15 the principal of, interest on and any prior redemption premium
16 due in connection with the bonds being refunded; provided that
17 such refunding bond proceeds, including any accrued interest and
18 any premium appertaining to a sale of refunding bonds, may be
19 applied to the establishment and maintenance of a reserve fund
20 and to the payment of expenses incidental to the refunding and
21 the issuance of the refunding bonds, the interest on the
22 refunding bonds and the principal of the refunding bonds or both
23 interest and principal as the county may determine. Nothing in
24 this section requires the establishment of an escrow if the
25 refunded bonds become due and payable within one year from the

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1 date of the refunding bonds and if the amounts necessary to
2 retire the refunded bonds within that time are deposited with
3 the paying agent for the refunded bonds. Any such escrow shall
4 not necessarily be limited to proceeds of refunding bonds but
5 may include other money available to retire the refunded bonds.
6 Any proceeds in escrow pending such use may be invested in
7 bills, certificates of indebtedness, notes or bonds that are
8 direct obligations of, or the principal and interest of which
9 obligations are unconditionally guaranteed by the United States
10 of America or in certificates of deposit of banks that are
11 members of the federal deposit insurance corporation, the par
12 value of which certificates of deposit is collateralized by a
13 pledge of obligations of, or the payment of which is
14 unconditionally guaranteed by, the United States of America, the
15 par value of which obligations is at least seventy-five percent
16 of the par value of the certificates of deposit. Such proceeds
17 and investments in escrow together with any interest or other
18 income to be derived from any such investment shall be in an
19 amount at all times sufficient as to principal, interest, any
20 prior redemption premium due and any charges of the escrow agent
21 payable therefrom to pay the bonds being refunded as they become
22 due at their respective maturities or due at any designated
23 prior redemption date or dates in connection with which the
24 county shall exercise a prior redemption option. Any purchaser
25 of any refunding bond issued pursuant to the provisions of the

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1 Local Hospital Gross Receipts Tax Act is in no manner
2 responsible for the application of the proceeds thereof by the
3 county or any of its officers, agents or employees.

4 D. Refunding bonds may be sold at a public or
5 negotiated sale and may bear such additional terms and
6 provisions as may be determined by the county subject to the
7 limitations in the Local Hospital Gross Receipts Tax Act. The
8 terms, provisions and authorization of the refunding bonds are
9 not subject to the provisions of any other statute, provided
10 that the Public Securities Limitation of Action Act shall be
11 fully applicable to the issuance of refunding bonds. "

12 Section 5. EMERGENCY.--It is necessary for the public
13 peace, health and safety that this act take effect immediately.