



The Legislature
of the
State of New Mexico

49th Legislature, Second Session

LAWS 2010

CHAPTER 82

SENATE BILL 162

Introduced by

SENATOR JOHN M. SAPIEN



Chapter 82

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

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

(1) constructing, purchasing, furnishing, equipping, rehabilitating, making additions to or making improvements to one or more public buildings or purchasing or improving ground relating thereto, including but not

1 necessarily limited to acquiring and improving parking lots,
2 or any combination of the foregoing;

3 (2) acquiring or improving county or public
4 parking lots, structures or facilities or any combination of
5 the foregoing;

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

8 (4) acquiring, extending, enlarging,
9 bettering, repairing or otherwise improving or maintaining
10 storm sewers and other drainage improvements, sanitary
11 sewers, sewage treatment plants, water utilities or other
12 water, wastewater or related facilities, including but not
13 limited to the acquisition of rights of way and water and
14 water rights, or any combination of the foregoing;

15 (5) reconstructing, resurfacing,
16 maintaining, repairing or otherwise improving existing
17 alleys, streets, roads or bridges or any combination of the
18 foregoing or laying off, opening, constructing or otherwise
19 acquiring new alleys, streets, roads or bridges or any
20 combination of the foregoing; provided that any of the
21 foregoing improvements may include the acquisition of rights
22 of way;

23 (6) purchasing, acquiring, constructing,
24 making additions to, enlarging, bettering, extending or
25 equipping airport facilities or any combination of the

1 foregoiing, including without limitation the acquisition of
2 land, easements or rights of way;

3 (7) purchasing or otherwise acquiring or
4 clearing land or purchasing, otherwise acquiring and
5 beautifying land for open space;

6 (8) acquiring, constructing, purchasing,
7 equipping, furnishing, making additions to, renovating,
8 rehabilitating, beautifying or otherwise improving public
9 parks, public recreational buildings or other public
10 recreational facilities or any combination of the foregoing;

11 (9) acquiring, constructing, extending,
12 enlarging, bettering, repairing or otherwise improving or
13 maintaining solid waste disposal equipment, equipment for
14 operation and maintenance of sanitary landfills, sanitary
15 landfills, solid waste facilities or any combination of the
16 foregoing; or

17 (10) acquiring, constructing, extending,
18 bettering, repairing or otherwise improving public transit
19 systems or any regional transit systems or facilities.

20 A county may pledge irrevocably any or all of the
21 revenue from the first one-eighth increment, the third
22 one-eighth increment and the one-sixteenth increment of the
23 county gross receipts tax and any increment of the county
24 infrastructure gross receipts tax and county capital outlay
25 gross receipts tax for payment of principal and interest due

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

19 Revenues in excess of the annual principal and interest
20 due on gross receipts tax revenue bonds secured by a pledge
21 of gross receipts tax revenue may be accumulated in a debt
22 service reserve account. The governing body of the county
23 may appoint a commercial bank trust department to act as
24 trustee of the proceeds of the tax and to administer the
25 payment of principal of and interest on the bonds.

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

14 D. Environmental revenue bonds may be issued for
15 the acquisition and construction of solid waste facilities,
16 water facilities, wastewater facilities, sewer systems and
17 related facilities. A county may pledge irrevocably any or
18 all of the county environmental services gross receipts tax
19 revenue for payment of principal and interest due in
20 connection with, and other expenses related to, environmental
21 revenue bonds. These bonds may be referred to in Chapter 4,
22 Article 62 NMSA 1978 as "environmental revenue bonds".

23 E. Gasoline tax revenue bonds may be issued for
24 the acquisition of rights of way for and the construction,
25 reconstruction, resurfacing, maintenance, repair or other

1 improvement of county roads and bridges. A county may pledge
2 irrevocably any or all of the county gasoline tax revenue for
3 payment of principal and interest due in connection with, and
4 other expenses related to, county gasoline tax revenue bonds.
5 These bonds may be referred to in Chapter 4, Article 62 NMSA
6 1978 as "gasoline tax revenue bonds".

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

20 G. Project revenue bonds may be issued for
21 acquiring, extending, enlarging, bettering, repairing,
22 improving, constructing, purchasing, furnishing, equipping or
23 rehabilitating any revenue-producing project, including as
24 applicable purchasing, otherwise acquiring or improving the
25 ground therefor and including but not limited to acquiring

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

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

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

25 H. Fire district revenue bonds may be issued for

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

24 I. Law enforcement protection revenue bonds may be
25 issued for the repair and purchase of law enforcement

1 apparatus and equipment that meet nationally recognized
2 standards. The county may pledge irrevocably any or all of
3 the revenues received by the county from the law enforcement
4 protection fund distributions pursuant to the Law Enforcement
5 Protection Fund Act to the payment of the interest on and
6 principal of the law enforcement protection revenue bonds.

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

18 K. Economic development gross receipts tax revenue
19 bonds may be issued for the purpose of furthering economic
20 development projects as defined in the Local Economic
21 Development Act. A county may pledge irrevocably any or all
22 of the county infrastructure gross receipts tax to the
23 payment of the interest on and principal of the economic
24 development gross receipts tax revenue bonds for the purpose
25 authorized in this subsection.

1 L. County education gross receipts tax revenue
2 bonds may be issued for public school or off-campus
3 instruction program capital projects as authorized in Section
4 7-20E-20 NMSA 1978. A county may pledge irrevocably any or
5 all of the county education gross receipts tax revenue to the
6 payment of interest on and principal of the county education
7 gross receipts tax revenue bonds for the purpose authorized
8 in this section.

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

18 N. Except for the purpose of refunding previous
19 revenue bond issues, no county may sell revenue bonds payable
20 from pledged revenue after the expiration of two years from
21 the date of the ordinance authorizing the issuance of the
22 bonds or, for bonds to be issued and sold to the New Mexico
23 finance authority as authorized in Subsection C of
24 Section 4-62-4 NMSA 1978, after the expiration of two years
25 from the date of the resolution authorizing the issuance of

1 the bonds. However, any period of time during which a
2 particular revenue bond issue is in litigation shall not be
3 counted in determining the expiration date of that issue.

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

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

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

5 Q. As used in this section:

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

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

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

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

22 (5) "county fire protection excise tax
23 revenue" means the revenue from the county fire protection
24 excise tax transferred to the county pursuant to Section
25 7-1-6.13 NMSA 1978;

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

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

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

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

21 R. As used in Chapter 4, Article 62 NMSA 1978,
22 the term "bond" means any obligation of a county issued under
23 Chapter 4, Article 62 NMSA 1978, whether designated as a
24 bond, note, loan, warrant, debenture, lease-purchase
25 agreement or other instrument evidencing an obligation of a

1 county to make payments."

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

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Diane D. Denish

Diane D. Denish, President
Senate

Lenore M. Naranjo
Lenore M. Naranjo, Chief Clerk
Senate

Ben Lujan

Ben Lujan, Speaker
House of Representatives

Stephen R. Arias
Stephen R. Arias, Chief Clerk
House of Representatives

Approved by me this 8th day of March, 2010

Bill Richardson

Governor Bill Richardson
State of New Mexico

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