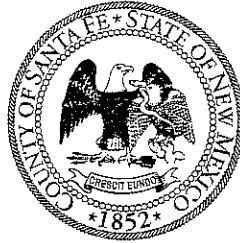


Henry P. Roybal
Commissioner, District 1

Anna Hansen
Commissioner, District 2

Robert A. Anaya
Commissioner, District 3



Anna T. Hamilton
Commissioner, District 4

Ed Moreno
Commissioner, District 5

Katherine Miller
County Manager

Office of the County Attorney

To: Board of County Commissioners
From: Gregory S. Shaffer, County Attorney *GS*
Date: May 23, 2017

**Re: Authorization to Publish Title and General Summary of Ordinance No. 2017-___,
An Ordinance Adopting A County Gross Receipts Tax**

Issue. Until June 30, 2017, the Board of County Commissioners (BCC) of Santa Fe County (County) has the authority to enact an ordinance imposing either (i) the additional one-twelfth of the county gross receipts tax or (ii) the additional one-sixteenth of the county gross receipts tax. At its May 9, 2017, FY 2018 Budget Study Session, the BCC authorized County staff to publish the title and general summary of an ordinance imposing the additional one-sixteenth of the county gross receipts tax, the public hearing on which is May 30, 2017. So as to provide the BCC with maximum flexibility with respect to gross receipts tax increases, staff also put on the agenda of the May 30 meeting authorization to publish title and general summary of an ordinance imposing the additional one-twelfth of the county gross receipts tax.

Adoption of the ordinance imposing the additional one-sixteenth of the county gross receipts tax would preclude this option. In addition, authorization to publish title and general summary of this ordinance imposing the additional one-twelfth of the county gross receipts tax means that final action on the ordinance could not occur until June 27, 2017.

Background. Until June 30, 2017, the BCC has the authority to enact an ordinance imposing an additional increment of the county gross receipts tax. Specifically, Section 7-20E-9(E) NMSA 1978 provides as follows:

E. Until June 30, 2017, in addition to the increments authorized pursuant to Subsection A of this section, the majority of the members of the governing body of a county, except a class A county with a hospital that is operated and maintained pursuant to a lease or operating agreement with a state educational institution named in Article 12, Section 11 of the constitution of New Mexico, may enact an ordinance imposing an excise tax of one-sixteenth percent or one-twelfth percent of the gross receipts of any person engaging in business in the county for the privilege of engaging in business in the county.

This additional increment of the county gross receipts tax:

- Is not subject to negative or positive referendum, meaning it is not subject to voter approval;
- May be used for any County purpose, though the enacting ordinance may dedicate revenue to specific purposes; and
- May be enacted either at the rate of one-sixteenth percent or one-twelfth percent.

The subject ordinance would enact the additional one-twelfth of the county gross receipts tax.¹ More technically, it would impose on any person engaging in business in Santa Fe County, for the privilege of engaging in business in the County, an excise tax equal to one-twelfth of one percent (.0833%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. This amounts to \$0.0833 on a \$100 purchase of taxable goods or services.

The proposed ordinance would dedicate revenue from the additional one-twelfth of the county gross receipts tax to:

- A. [County general purposes or Capital, maintenance, and operating expenditures for the Sheriff's Office, Fire Department, Corrections Division, and behavioral health services]; and
- B. The payment of the principal, interest on, and other costs, including costs of issuance, related to revenue bonds issued for any purpose.

With regard to the optional language in Paragraph A, the proposed ordinance states that the "[f]inal dedication will be decided after the public hearing on the proposed ordinance."

The additional one-twelfth of the county gross receipts tax would be effective either January 1 or July 1, whichever date occurs first after the expiration of three months from the date the proposed ordinance is adopted.

Recommendation. Assuming that action on the proposed ordinance is not precluded by the earlier adoption of the ordinance imposing the additional one-sixteenth of the county gross receipts tax, decide whether to authorize staff to publish title and general summary of the proposed ordinance.

Exhibit.

A – An Ordinance Adopting a County Gross Receipts Tax (Concerning the So-Called Additional One-Twelfth of the County Gross Receipts Tax)

¹ Again, adoption of the ordinance imposing the additional one-sixteenth of the county gross receipts tax would obviate the need to consider this item, since the BCC can only enact the additional one-twelve or the additional one-sixteenth of the county gross receipts tax.

Additional 1/12th County GRT Increment -- Dedicated to County General Purposes or Public Safety and Behavioral Health Services and Revenue Bonds for Any Purpose.

SANTA FE COUNTY

ORDINANCE NO. 2017-_____

AN ORDINANCE ADOPTING A COUNTY GROSS RECEIPTS TAX

BE IT ORDAINED BY THE GOVERNING BODY OF SANTA FE COUNTY:

Section 1. Imposition of Tax. There is imposed on any person engaging in business in Santa Fe County, for the privilege of engaging in business in Santa Fe County, an excise tax equal to one-twelfth of one percent (.0833%) of the gross receipts reported or required to be reported by the person pursuant to the New Mexico Gross Receipts and Compensating Tax Act as it now exists or as it may be amended. The tax imposed under this ordinance is pursuant to the County Local Option Gross Receipts Taxes Act as it now exists or as it may be amended and shall be known as the "additional one-twelfth of the county gross receipts tax."

Section 2. General Provisions. This ordinance hereby adopts by reference all definitions, exemptions and deductions contained in the Gross Receipts and Compensating Tax Act as it now exists or as it may be amended.

Section 3. Specific Exemptions. No additional one-twelfth of the county gross receipts tax shall be imposed on the gross receipts arising from:

- A. transporting persons or property for hire by railroad, motor vehicle, air transportation or any other means from one point within the county to another point outside the county; or
- B. direct broadcast satellite service

Section 4. Dedication. Revenue from the additional one-twelfth of the county gross receipts tax will be used for one or more of the purposes listed below:

- A. [County general purposes or Capital, maintenance, and operating expenditures for the Sheriff's Office, Fire Department, Corrections Division, and behavioral health services]¹ and
- B. The payment of the principal, interest on, and other costs, including costs of issuance, related to revenue bonds issued for any purpose.

Section 5. Effective Date. The effective date of the additional one-twelfth of the county gross receipts tax shall be either January 1 or July 1, whichever date occurs first after the expiration of three months from the date this ordinance is adopted.

PASSED, APPROVED, AND ADOPTED BY THE GOVERNING BODY OF SANTA FE COUNTY THIS 27th DAY OF JUNE, 2017.

BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

Henry P. Roybal, Chairperson

¹ Final dedication will be decided after the public hearing on the proposed ordinance.

Additional 1/12th County GRT Increment -- Dedicated to County General Purposes or Public Safety and Behavioral Health Services and Revenue Bonds for Any Purpose.

ATTEST:

Geraldine Salazar, County Clerk

Approved as to Form:

Gregory S. Shaffer, County Attorney

5.23.2017 Draft

