

## ARTICLE 48A

### Special Hospital Districts

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#### 4-48A-1. Short title.

Chapter 4, Article 48A NMSA 1978 may be cited as the "Special Hospital District Act".

**History:** 1978 Comp., § 4-48A-1, enacted by Laws 1978, ch. 29, § 1; 1992, ch. 41, § 1.

The 1992 amendment, effective May 20, 1992, substituted "Chapter 4, Article 48A NMSA 1978" for "This act".

**Constitutionality.** — The Special Hospital District Act is not invalid because it contains no mechanism by which a property owner whose property is not directly benefited by inclusion within the special hospital district can request an independent tribunal to remove the land from the proposed district. The absence of any special benefit to a particular piece of property is not a sufficient ground for excluding the property from a district whose purpose is to promote the general welfare. If evidence establishing absence of a special benefit does not require exclusion, no forum to hear such evidence is required. State ex rel. Angel Fire Home & Land Owners Ass'n, Inc. v. South Central Colfax County Special Hosp. Dist., 110 N.M. 496, 797 P.2d 285 (Ct. App. 1990).

There appears to be no constitutional prohibition against including property within a special hospital district even though the property and its inhabitants

will not benefit from inclusion. Thus, the Special Hospital District Act is not unconstitutional on its face solely because the tax-benefit ratio for certain property owners may differ from that of others within a special hospital district. State ex rel. Angel Fire Home & Land Owners Ass'n, Inc. v. South Central Colfax County Special Hosp. Dist., 110 N.M. 496, 797 P.2d 285 (Ct. App. 1990).

**Proposed residential care unit would not be "hospital facility".** — Proposed residential care unit, which probably would not have a professional staff or provide medical services but would offer room, board and other nonmedical assistance to those who qualify, would not be a "hospital facility" qualified to receive district funds under the Special Hospital District Act. 1989 Op. Att'y Gen. No. 89-31.

Am. Jur. 2d, A.L.R. and C.J.S. references. — 40A Am. Jur. 2d Hospitals and Asylums § 53.

Opposition to construction of new hospital or expansion of existing hospital's facilities as violation of Sherman Act (15 USCS § 1 et seq.), 88 A.L.R. Fed. 478.

#### 4-48A-2. Definitions.

As used in the Special Hospital District Act [Chapter 4, Article 48A NMSA 1978]:

- A. "board of trustees" means the governing board of the special hospital district;
- B. "qualified elector" means a natural person resident in a proposed or existing special hospital district who is registered to vote in state general elections;
- C. "special hospital district" means a district wherein a public hospital is located or is proposed to be created and which:

(1) is composed of contiguous and compact territory lying wholly within a single county; or

(2) is composed of contiguous and compact territory which includes all or a portion of two or more counties or any combination thereof; and

(3) contains within its boundaries one or more incorporated municipalities; or whose boundaries coincide and are concurrent with the territorial areas of one or more political subdivisions within such county or counties;

D. "hospital facility" includes a medical facility or an outpatient clinic or both; and

E. "subdistrict" means, in the case of a special hospital district composed of all or a portion of two or more counties, the portion of the special hospital district which is located in one county.

**History:** 1978 Comp., § 4-48A-2, enacted by Laws 1978, ch. 29, § 2; 1979, ch. 134, § 1; 1981, ch. 84, § 1; 1987, ch. 273, § 1.

**Constitutionality.** — The provisions of Subsection C(3) are not irrational for a legislature to impose. Although these provisions bear no relation to the specific purpose of a special hospital district—the

creation and maintenance of hospitals—they do have a rational relationship to the establishment of a new local governmental body. State ex rel. Angel Fire Home & Land Owners Ass'n, Inc. v. South Central Colfax County Special Hosp. Dist., 110 N.M. 496, 797 P.2d 285 (Ct. App. 1990).

### **4-48A-3. Creation of special hospital district; power of counties to agree to create special hospital districts.**

A. There may be created special hospital districts within any county of this state for the purpose of constructing, acquiring, operating and maintaining one or more public hospital facilities for the benefit of the inhabitants of the district.

B. All counties shall have the power to enter into agreements with one or more other counties to create special hospital districts composed of all or a portion of each county which is a party to the agreement, but no district so created shall include within its territory any territory already included in another special hospital district. In any case, no county shall include the same territory in more than one special hospital district. Such agreement shall provide for generation of funds necessary for establishment and operation of a public hospital facility and for a plan of dissolution. Plans for the dissolution of the special hospital district must provide for the payment of all district debts and liabilities and for the distributing of all remaining assets to the county or counties in which the special hospital district lies.

C. A county may enter into an agreement with the board of trustees of an existing special hospital district to permit all or a portion of the county to become a subdistrict of the special hospital district, after certification of a petition and election as required in Sections 4-48A-4 and 4-48A-5 NMSA 1978. A member of the board of trustees shall be elected from the new subdistrict in the manner provided by law and shall be added to the board of trustees until the next regularly scheduled election, at which time a board member shall be elected as provided in Section 4-48A-6 NMSA 1978.

**History:** 1978 Comp., § 4-48A-3, enacted by Laws 1978, ch. 29, § 3; 1981, ch. 84, § 2; 1983, ch. 84, § 1.

#### **4-48A-3.1. Artesia special hospital district.**

The Artesia special hospital district is hereby created by act of the legislature. The district shall consist of all land lying within the Artesia public school district 16 lying within Eddy county. All previous acts and proceedings of the Artesia special hospital district created pursuant to Sections 4-48A-4 and 4-48A-5 NMSA 1978 heretofore had or taken, or purportedly had or taken, are hereby validated, ratified, approved and confirmed.

**History:** Laws 1989, ch. 7, § 1.

**4-48A-3.2. Nor-Lea special hospital district.**

The Nor-Lea special hospital district is hereby created by act of the legislature. The district shall consist of all land lying within the Lovington and Tatum school districts lying within Lea county. All previous acts and proceedings of the Nor-Lea special hospital district created pursuant to Sections 4-48A-4 and 4-48A-5 NMSA 1978 heretofore had or taken, or purportedly had or taken, are hereby validated, ratified, approved and confirmed.

History: Laws 1989, ch. 7, § 2.

**4-48A-3.3. Jal special hospital district.**

The Jal special hospital district is hereby created by act of the legislature. The district shall consist of all land lying within the Jal school district lying within Lea county. All previous acts and proceedings of the Jal special hospital district created pursuant to Sections 4-48A-4 and 4-48A-5 NMSA 1978 heretofore had or taken, or purportedly had or taken, are hereby validated, ratified, approved and confirmed.

History: Laws 1989, ch. 7, § 3.

**4-48A-4. Formation of special hospital district; petition.**

A. If creation of a special hospital district is proposed, there shall be a petition circulated in the county for the creation of a special hospital district in the county or in each subdistrict of a special hospital district composed of all or portions of two or more counties. Petitions for the creation of a special hospital district shall designate the name of the proposed district and the territorial area within and outside the county to be included within the district and whether the initial board of trustees shall be elected at large or from single-member districts. If the petition calls for election of the board from single-member districts, it shall describe the districts, which shall be contiguous, compact, as equal in population as practicable and otherwise in compliance with applicable law. Each petition shall be signed only by qualified electors of the proposed special hospital district. The name and post office address of each signer shall be indicated on the petition.

B. In the case of a special hospital district lying wholly within a county, the petition shall contain signatures in a number equal to or in excess of ten percent of the votes cast for governor in the territory of the proposed special hospital district in the last preceding general election at which a governor of the state was elected. In the case of a special hospital district composed of all or a portion of two or more counties, the petition for each subdistrict shall contain signatures in a number equal to or greater than ten percent of the votes cast for governor in the territory of the subdistrict in the last preceding general election at which a governor of the state was elected. For the purpose of determining the vote cast for governor in the territory of the proposed special hospital district or subdistrict, any portion of a precinct within the proposed district or subdistrict shall be construed as if the entire precinct were wholly within the territory of the proposed special hospital district.

C. The petition calling for the creation of the special hospital district shall be filed with the county clerk of the county in which the district or subdistrict is proposed. The county clerk shall verify that the petition complies with all the requirements of the Special Hospital District Act [Chapter 4, Article 48A NMSA 1978]. Upon such verification, the county clerk shall certify that fact, along with the petition, to the board of county commissioners. In the case of a special hospital district composed of all or portions of two or more counties, the board of county commissioners shall notify the boards of county commissioners of the other county or counties which are party to the agreement that a petition for the subdistrict within that county complying with all the requirements of the Special Hospital District Act has been certified and filed.

History: 1978 Comp., § 4-48A-4, enacted by Laws 1978, ch. 29, § 4; 1981, ch. 84, § 3; 1990, ch. 12, § 1.

#### **4-48A-5. Formation of special hospital district; election.**

A. Upon receipt of the county clerk's certification and the petition and, in the case of a special hospital district composed of all or portions of two or more counties, the notification provided for in Section 4-48A-4 NMSA 1978, the board of county commissioners shall issue a proclamation calling for an election to be held not less than sixty nor more than one hundred twenty days from the date of receipt of the county clerk's certification and the petition. The election shall be for the purpose of determining whether such hospital district shall be created and for the selection of members of the board of trustees.

B. Persons desiring to be a candidate in an election for a position on the board of trustees shall file a declaration of candidacy for one of the positions on the board of trustees with the county clerk not later than 5:00 p.m. on the thirtieth day after the issuance of the proclamation by the board of county commissioners. The declaration of candidacy shall be an affidavit as to the qualifications required by law of the declarant for such office. The declaration of candidacy shall be on a form prescribed and furnished by the county clerk.

C. Only qualified electors who reside in the territory of the proposed special hospital district shall vote in such election, and in the case of a special hospital district composed of all or portions of more than one county, only qualified electors who reside in the subdistricts shall vote in such election. In the case of a proposed district wholly within a county and divided into single-member districts, only qualified electors who reside in the territory of the single-member district shall vote on the candidates for trustee from that single-member district.

D. The proclamation of the election shall be published by the county clerk once each week for four consecutive weeks in a newspaper of general circulation in the territory of the proposed special hospital district or subdistrict, the last of such notice being published not more than one week from the date of the election.

E. The election shall be conducted, counted and canvassed in substantially the same manner as general elections are conducted, counted and canvassed in that county.

F. In the event a majority of the qualified electors of the proposed special hospital district voting in the election votes in favor of creating the special hospital district, or in the event a majority of the qualified electors who reside in each subdistrict of a special hospital district composed of all or a portion of two or more counties voting in the election votes in favor of creating a special hospital district, and upon certification of that fact by the county canvassing board or boards, the board of county commissioners of each county shall by resolution declare the district to be created and that each of those candidates for a position on the board of trustees who received the vote of a majority of the qualified electors voting on such positions shall be certified as elected.

G. In the event a majority of the qualified electors of a county voting on the question rejects the creation of the special hospital district, such question shall not again be submitted in the county for a period of two years. In the case of a special hospital district composed of all or a portion of two or more counties; if a majority of the qualified electors of any subdistrict voting on the question rejects the creation of the special hospital district, such question shall not again be submitted in the subdistrict or any part thereof for a period of two years.

H. The expenses of calling and conducting the election shall be borne by each county in which an election is held; provided, if the election results in the creation of a special hospital district, such special hospital district shall reimburse each county for all expenditures made in the course of calling and conducting the election.

**History:** 1978 Comp., § 4-48A-5, enacted by Laws 1978, ch. 29, § 5; 1981, ch. 84, § 4; 1990, ch. 12, § 2.

**Constitutionality.** — The Special Hospital District Act does not unconstitutionally delegate legisla-

tive authority. State ex rel. Angel Fire Home & Land Owners Ass'n, Inc. v. South Central Colfax County Special Hosp. Dist., 110 N.M. 496, 797 P.2d 285 (Ct. App. 1990).

#### **4-48A-5.1. Voting in certain special hospital districts after formation.**

The board of trustees of a special hospital district included wholly within a county may determine, from time to time, whether trustees shall be elected at large or from single-member districts and, if the latter, shall determine, based upon the 1990 or a subsequent federal decennial census, the boundaries of such single-member districts, which shall be contiguous, compact, as equal in population as is practicable and otherwise in compliance with applicable law. The board shall redetermine the boundaries once following every federal decennial census, beginning with the 1990 census, in accordance with the same criteria. The board may change from at large elections to single-member districts or from single-member districts to at large elections and shall determine the procedure for transition from at large to single-member districts or vice versa.

**History:** 1978 Comp., § 4-48A-5.1, enacted by Laws 1990, ch. 12, § 3.

#### **4-48A-6. Board of trustees; terms; vacancies; removal.**

A. Subject to the requirements of Section 4-48A-3 NMSA 1978, the board of trustees of a special hospital district shall consist of the greater of five members or a number of members equal to the number of counties which agree to form a special hospital district:

(1) in the case of a special hospital district included wholly within a county, the members shall be elected at large or from single-member districts as provided in the Special Hospital District Act [Chapter 4, Article 48A NMSA 1978]; or

(2) in the case of a special hospital district that includes all or a portion of two or more counties, one member of the board shall be elected from each subdistrict by the qualified electors who reside in that subdistrict and the remainder shall be elected at large by the qualified electors who reside in the special hospital district.

B. Members shall be elected as follows:

(1) for the purposes of the first election of a board of trustees, the board of county commissioners shall designate in its proclamation five positions to be filled so that:

- (a) two members shall be elected for an initial term of two years;
- (b) two members shall be elected for an initial term of four years; and
- (c) one member shall be elected for an initial term of five years.

Thereafter, all members shall be elected for five-year terms; and

(2) for the purposes of staggering the terms of any nonstaggered terms of a board of trustees elected under the provisions of the Special Hospital District Act, the board of county commissioners may call an election to provide for five positions to be filled so that:

- (a) two members shall be elected for an initial term of two years;
- (b) two members shall be elected for an initial term of four years; and
- (c) one member shall be elected for an initial term of five years.

Thereafter, all members shall be elected for five-year terms.

C. Vacancies on the board of trustees created by a member elected from a subdistrict or a single-member district shall be filled by the board of county commissioners of the county in which the subdistrict or single-member district is located, and vacancies created by a member elected at large shall be filled by the remaining members of the board of trustees for the remainder of the unexpired term of the member creating the vacancy.

D. Members of the board of trustees shall be suspended or removed from office only as provided in Sections 10-4-1 through 10-4-29 NMSA 1978 or as provided in Section 4-8A-7 NMSA 1978 [4-48A-7 NMSA 1978].

**History:** 1978 Comp., § 4-48A-6, enacted by Laws 1978, ch. 29, § 6; 1979, ch. 134, § 2; 1981, ch. 84, § 6; 1989, ch. 155, § 1; 1990, ch. 12, § 4; 1993, ch. 23, § 1.

**Bracketed material.** — The bracketed material in Subsection D was inserted by the compiler as the apparently intended reference. It was not enacted by

the legislature and is not a part of the law.

The 1993 amendment, effective March 15, 1993, substituted "call an election to provide for five positions to be filled so" for "designate in its proclamation an election to be held no later than January 1, 1990 and" in the introductory language of Paragraph (2) of Subsection B.

#### **4-48A-7. Board of trustees; qualifications; automatic removal.**

Each member of the board of trustees shall be a qualified elector, and each member of the board of trustees elected from a subdistrict or a single-member district shall be a resident of the subdistrict or the single-member district of the special hospital district. The office of any member of the board of trustees who does not continue to reside in the special hospital district, and in the case of a member who is elected from a subdistrict or a single-member district, who does not continue to reside in the subdistrict or the single-member district, is automatically declared vacant.

**History:** 1978 Comp., § 4-48A-7, enacted by Laws 1978, ch. 29, § 7; 1981, ch. 84, § 6; 1990, ch. 12, § 5.

#### **4-48A-8. Board of trustees; organization; bond.**

A. The board of trustees shall elect from its membership a chairman and secretary-treasurer.

B. Each member of the board of trustees shall receive no compensation for the performance of his duties, but shall be paid per diem and mileage for attendance at meetings of the board as provided in the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978].

C. Each member of the board of trustees shall furnish a corporate surety bond in the penal sum of ten thousand dollars (\$10,000) for the faithful performance of his duties and the accounting for all funds which shall come into his possession. Such bond shall run to the benefit of the special hospital district.

D. All authorizations for the payment or expenditure of money in the possession of the special hospital district shall be signed by the chairman and the secretary-treasurer.

**History:** 1978 Comp., § 4-48A-8, enacted by Laws 1978, ch. 29, § 8.

#### **4-48A-9. Board of trustees; powers.**

The board of trustees may;

A. acquire, construct, operate or maintain one or more hospital facilities in the special hospital district for the purposes for which the special hospital district was created;

B. receive and expend all funds accruing to the special hospital district pursuant to any provision of the Special Hospital District Act [Chapter 4, Article 48A NMSA 1978] through the sale of bonds or the levy of taxes, paid from any source on account of patients accommodated at the hospital, from any gift or bequest or from any federal, state or private grant;

C. enter into contracts, including contracts with the federal government and the departments and agencies thereof or the state government and the departments, institutions and agencies thereof, for the treatment of or the hospitalization of patients under the jurisdiction of such entities;

- D. adopt and use a seal to authenticate its official transactions;
- E. sue and be sued;
- F. adopt rules and regulations for the governing of the special hospital district;
- G. employ and fix the compensation of an executive director of the special hospital district and such other staff and clerical personnel it deems necessary;
- H. employ a hospital administrator for hospital facilities under its control and approve or disapprove the recommendations of such administrator pertaining to compensation and employment benefits for hospital employees;
- I. exercise all powers necessary and requisite for the accomplishment of the purposes for which the special hospital district is created;
- J. issue bonds in the manner provided by law for the issuance of special hospital district revenue bonds for the construction, purchase, renovation, remodeling, equipping or re-equipping of hospital facilities under its control and purchasing the necessary land therefor;
- K. charge for hospital services rendered;
- L. lease a hospital to any person, corporation or association for the operation and maintenance of the hospital upon such terms and conditions as the board of trustees may determine, provided that the lease may be terminated by the board of trustees without cause upon one hundred eighty days' notice after the first three years of the lease;
- M. enter into an agreement with another county or counties, another county or counties and another political subdivision or any other person, corporation or association that provides that the parties to the agreement shall join together for the purpose of making some or all purchases necessary for the operation of hospitals owned or operated by the parties; and to designate one of the parties as the central purchasing office, as defined in the Procurement Code [13-1-28 NMSA 1978], for the others, to make purchases for the parties to the agreement as they shall deem necessary and to comply with the provisions of the Procurement Code; and
- N. expend public money to recruit health care personnel to serve the sick of the special hospital district.

**History:** 1978 Comp., § 4-48A-9, enacted by Laws 1978, ch. 29, § 9; 1981, ch. 84, § 7; 2001, ch. 291, § 5.

The 2001 amendment, effective June 15, 2001,

added the proviso in Subsection L and substituted "Procurement Code" for "Public Purchases Act" twice in Subsection M.

#### **4-48A-10. Board of trustees; duties.**

- The board of trustees shall:
  - A. be the governing authority of the special hospital district;
  - B. comply with the provisions of law for local governments pertaining to the preparation and approval of budgets by the local government division of the department of finance and administration;
  - C. comply with the provisions of law pertaining to the audit of local governments by the state auditor; and
  - D. adopt rules and regulations for the management and operation of hospital facilities of the special hospital district.

**History:** 1978 Comp., § 4-48A-10, enacted by Laws 1978, ch. 29, § 10.

**4-48A-11. Board of trustees; acquisition of existing hospital facilities; agreements.**

A. The board of trustees may acquire by purchase, lease-purchase or lease for the use of the special hospital district, any existing hospital facility (including buildings, property, furniture and equipment).

B. The governing body of a political subdivision situated within the territorial boundaries of a special hospital district and owning a hospital facility already constructed and situated within such territorial boundaries of a special hospital district may, with the approval of the state board of finance, enter into agreement with the board of trustees of the special hospital district for the sale, operation or maintenance of such hospital facility by the special hospital district.

History: 1978 Comp., § 4-48A-11, enacted by Laws 1978, ch. 29, § 11.

**4-48A-12. Board of trustees; issue of bonds.**

A. Upon approval of a majority of the qualified electors voting upon the question, the board of trustees may issue general obligation bonds of the special hospital district for the purposes of:

(1) constructing, acquiring or purchasing a hospital facility for the special hospital district;

(2) equipping, furnishing, remodeling or renovating a hospital facility owned or operated by the special hospital district;

(3) purchasing or acquiring real property deemed necessary to the construction, operation or maintenance of a hospital facility owned or operated by the special hospital district; or

(4) refunding outstanding general obligation bonded indebtedness.

B. No general obligation bonds of the special hospital district shall be issued which creates a total bonded indebtedness of the special hospital district in excess of three percent of the assessed valuation of the taxable property within the special hospital district as shown by the most recent general assessment. The debt limitation specified in this section shall be in excess of other existing debt limitations provided by law.

C. The board of trustees shall comply with the requirements and procedures set forth in Section 6-15-1 NMSA 1978 with respect to the proposed issuance of general obligation bonds. The local government division of the department of finance and administration shall apply the procedures set forth in Section 6-15-2 NMSA 1978 to the proposed issuance of general obligation bonds by the special hospital district.

History: 1978 Comp., § 4-48A-12, enacted by Laws 1978, ch. 29, § 12.

**4-48A-13. Bonds; form; interest; maturities.**

A. General obligation bonds issued by a special hospital district shall mature not more than twenty years from their date and be numbered from one upwards consecutively. Interest on all such bonds shall be payable either annually or semiannually, as provided by resolution of the board of trustees; provided, that the first installment of interest coming due may be for any period of time which shall not exceed one year from the date of the bonds.

B. The resolution authorizing the bonds may provide for the creation of a sinking fund to secure payment of principal and interest on the bonds and may provide for mandatory annual payments to be made to the sinking fund from the taxes levied and collected pursuant to Section 14 [4-48A-14 NMSA 1978] of the Special Hospital District Act.



C. The board of trustees shall designate the maximum coupon rate of interest the general obligation bonds shall bear, which shall not be in excess of the maximum coupon rate which is permitted by the Public Securities Act [6-14-1 to 6-14-3 NMSA 1978] as hereafter amended, and shall designate the maximum net effective interest rate which shall not exceed the maximum permitted by the Public Securities Act as hereafter amended.

D. The procedure which shall be followed by the board of trustees for the sale of general obligation bonds shall be the same as that set forth in Section 6-15-5 NMSA 1978 for other political subdivisions.

History: 1978 Comp., § 4-48A-13, enacted by  
Laws 1978, ch. 29, § 13.

#### **4-48A-14. Imposition of tax for payment of bonds.**

A. The officials now or hereafter charged by law with the duty of levying ad valorem taxes for the payment of bonds and interest shall, in the manner provided by law, make an annual levy sufficient to meet the annual or semiannual payments of principal and interest on the maturing general obligation bonds or the refunding bonds or the mandatory sinking fund payments, if such fund is created by the board of trustees.

B. The provisions of Subsection A of this section shall not be construed as to prevent the special hospital district from applying any other funds that it may have or investment income actually received from sinking fund investments and available for that purpose to the payment of the interest on or the principal of, or any prior redemption premium in connection with, such bonds as the same become due; and upon such payments, the levy or levies provided in this section may thereupon to that extent be diminished.

History: 1978 Comp., § 4-48A-14, enacted by  
Laws 1978, ch. 29, § 14.

#### **4-48A-15. Refunding bonds.**

A. The board of trustees may issue bonds in such form as the board of trustees may determine for the purpose of refunding any of the general obligation bonded indebtedness of the special hospital district which has or may hereafter become due and payable, or which has or may hereafter become payable at the option of the special hospital district or by consent of the bondholder, or by any lawful means.

B. The procedures set forth in Sections 6-15-12 through 6-15-22 NMSA 1978 shall govern the board of trustees with respect to the issuance, sale and payment of principal and interest on refunding bonds of the special hospital district.

History: 1978 Comp., § 4-48A-15, enacted by  
Laws 1978, ch. 29, § 15; 1983, ch. 265, § 16.

#### **4-48A-16. Special tax imposed for special hospital district.**

A. In each special hospital district, the board of trustees may adopt a resolution calling for an election for the purpose of authorizing the imposition of an ad valorem tax on all taxable property within the special hospital district. The revenue from such tax shall be used for current operations and maintenance of hospitals, including hospital facilities owned and operated by the special hospital district or for hospitals operated and maintained by the special hospital district pursuant to an agreement with a political subdivision as provided in Subsection B of Section 4-48A-11 NMSA 1978, and to pay the operational costs of the special hospital district.

B. In the case of a special hospital district located wholly within one county, if authorized by a majority of the qualified electors of the special hospital district voting on the question, the board of county commissioners of the county in which the special hospital district is

located shall levy such tax at the same time and in the same manner as levies for ad valorem taxes for school districts are made and in the amount certified by the board of trustees as necessary to meet its approved annual budget, but in no event shall the tax levied exceed the rate limitation approved by the voters or the rate limitations provided in Subsection D of this section.

C. In the case of a special hospital district which is composed of all or a portion of two or more counties, if a majority of the qualified electors of each subdistrict voting on the question authorize a tax levy, the boards of county commissioners of the counties which agreed to form the special hospital district shall levy such tax in the manner provided in Subsection B of this section.

D. The tax authorized in this section shall not exceed four dollars twenty-five cents (\$4.25), or any lower maximum amount required by operation of the rate limitation provisions of Section 7-37-7.1 NMSA 1978 upon any tax imposed under this section, on each one thousand dollars (\$1,000) of net taxable value, as that term is defined in the Property Tax Code [Articles 35 to 38 of Chapter 7 NMSA 1978], of all taxable property of the county within the hospital district for a period of time greater than four years. An election upon the question of continuing the levy may be called by the board of trustees immediately prior to the expiration of the period of assessment previously approved by the qualified electors.

**History:** 1978 Comp., § 4-48A-16, enacted by Laws 1978, ch. 29, § 16; 1981, ch. 84, § 8; 1986, ch. 32, § 3; 1987, ch. 273, § 2.

#### **4-48A-17. Election procedures.**

A. In all elections held pursuant to the provisions of the Special Hospital District Act [Chapter 4, Article 48A NMSA 1978], except as otherwise provided in that act, the board of trustees shall give notice of the election in a newspaper of general circulation in the special hospital district and, in the case of a special hospital district composed of all or portions of two or more counties, in the subdistrict [subdistricts], at least once a week for three consecutive weeks, the last insertion to be not less than two weeks prior to the proposed election.

B. All elections of the special hospital district, unless otherwise provided in the Special Hospital District Act, shall be called, conducted and canvassed in substantially the same manner as school district elections are called, conducted and canvassed. The board of trustees shall be the canvassing board for such elections.

C. The expenses of elections conducted by the special hospital district shall be budgeted for and paid from the operating funds of the special hospital district.

**History:** 1978 Comp., § 4-48A-17, enacted by Laws 1978, ch. 29, § 17; 1981, ch. 84, § 9.

**Cross references.** — As to manner of conducting school district elections, see 1-22-1 NMSA 1978 et seq.

**Bracketed material.** — The bracketed material in Subsection A was added by the compiler. It was not enacted by the legislature, and it is not part of the law.

#### **4-48A-18. Dissolution of the special hospital district.**

A special hospital district shall be dissolved in the following manner:

A. there shall be submitted a petition for dissolution to the board of county commissioners signed by at least ten percent of the qualified electors residing within the district or, in the case of a special hospital district composed of all or portions of two or more counties, at least ten percent of the qualified electors residing in any subdistrict of the special hospital district. Upon receipt of a proper petition, the board of county commissioners shall call a special election for the purpose of referring to the qualified electors residing in the district or subdistrict the question of dissolution;

B. if the board of county commissioners finds that a majority of the qualified electors voting on the issue at the special election have authorized the dissolution, the board of trustees shall proceed with the approved plan. Upon completion of the plan, the board of trustees shall submit a full report to the board of county commissioners of each county in which the special hospital district is located; and

C. upon receipt of the final report of the board of trustees, the board or boards of county commissioners shall examine the report to determine whether or not any outstanding obligations still exist and whether the terms of the approved plan have been accomplished. If, upon determination by the board or boards of county commissioners, no obligations are yet outstanding and the provisions of the plan have been fulfilled, they shall formally declare the special hospital district dissolved.

History: 1978 Comp., § 4-48A-18, enacted by Laws 1978, ch. 29, § 18; 1981, ch. 84, § 10.

#### 4-48A-19. Reserved.

#### 4-48A-20. Hospital revenue bonds; authority to issue; pledge of revenues.

A. A special hospital district may issue revenue bonds pursuant to the Special Hospital District Act [Chapter 4, Article 48A NMSA 1978] for the purposes of:

- (1) constructing, acquiring or purchasing a hospital facility for the special hospital district;
- (2) equipping, furnishing, remodeling or renovating a hospital facility owned or operated by the special hospital district; or
- (3) purchasing or acquiring real property deemed necessary to the construction, operation or maintenance of a hospital facility owned or operated by the special hospital district.

B. The special hospital district may pledge irrevocably all or a portion of the revenues derived from the ownership and operation of a hospital facility and revenues derived from the leasing of or other contractual arrangement for the operation of a hospital facility for the payment of principal of and interest on such revenue bonds.

C. For the purpose of the Special Hospital District Act, "equipping" or "re-equipping" means the purchase or lease of property of a character subject to the allowance for depreciation under the Internal Revenue Code of 1954 § 167 and regulations promulgated thereunder, as amended.

History: 1978 Comp., § 4-48A-20, enacted by Laws 1981, ch. 84, § 11.

Internal Revenue Code. — The provision con-

cerning depreciation, referred to in Subsection C, appears as 26 U.S.C.S. § 167.

#### 4-48A-21. Use of proceeds of bond issue.

It is unlawful to divert, use or expend any money received from the issuance of bonds for any purpose other than the purpose for which the bonds were issued; provided, however, that bond proceeds may be used for reserves and to pay the costs of issuance.

History: 1978 Comp., § 4-48A-21, enacted by Laws 1981, ch. 84, § 12.

#### 4-48A-22. Revenue bonds; terms.

Special hospital district revenue bonds:

A. shall bear interest payable annually or semiannually and may or may not be evidenced by coupons; provided, the first interest payment date may be for interest accruing for any period not exceeding one year;

B. may be subject to a prior redemption at the option of the special hospital district at such time or times, and upon such terms and conditions, with or without the payment of such premium or premiums, as may be provided by resolution;

C. may mature at any time or times not exceeding thirty years after the date of issuance;

D. may be serial in form and maturity or may consist of one bond payable at one time or in installments or may be in any other form as may be provided in the resolution authorizing the bonds;

E. shall be sold for cash at, above or below par and at a price which results in a net effective interest rate which does not exceed the maximum permitted by the Public Securities Act [6-14-1 to 6-14-3 NMSA 1978]; and

F. may be sold at public or private sale.

History: 1978 Comp., § 4-48A-22, enacted by Laws 1981, ch. 84, § 13; 1983, ch. 265, § 17.

#### **4-48A-23. Resolution authorizing revenue bonds.**

At a regular or special meeting called for the purpose of issuing revenue bonds as authorized pursuant to the Special Hospital District Act [Chapter 4, Article 48A NMSA 1978], the board of trustees may adopt a resolution that:

A. declares the necessity for issuing revenue bonds;

B. authorizes the issuance of revenue bonds by an affirmative vote of a majority of all the members of the board of trustees of the special hospital district; or

C. designates the source of the pledge [pledged] revenues.

History: 1978 Comp., § 4-48A-23, enacted by Laws 1981, ch. 84, § 14.

Bracketed material. — The bracketed word "pledged" in Subsection C was inserted by the com-

piler for clarity. The bracketed material was not enacted by the legislature and is not law.

#### **4-48A-24. Revenue bonds not general obligations of special hospital district.**

Revenue bonds issued by a special hospital district under the authority of the Special Hospital District Act [this article] shall not be construed or held to be general obligations of such special hospital district or the counties in which the special hospital district is located and shall be collectible only out of all or a portion of the revenues derived from the ownership and operation of a hospital facility and the revenues derived from the leasing of or other contractual arrangement for the operation of a hospital facility which revenue is so pledged, and each of the bonds of any issue or revenue bonds so issued shall recite on its face that it is payable and collectible solely from the pledged revenues hereinbefore mentioned and that the holders hereof may not look to any general or other fund for the payment of principal or interest of such obligations.

History: 1978 Comp., § 4-48A-24, enacted by Laws 1981, ch. 84, § 15.

#### **4-48A-25. Revenue bonds; security.**

A. The principal of and interest on any revenue bonds issued under the authority of the Special Hospital District Act [Chapter 4, Article 48A NMSA 1978] shall be secured by a pledge of the revenues out of which such bonds shall be made payable, and may be secured

by a mortgage covering all or any part of the hospital facility from which the revenues so pledged may be derived.

B. The resolution and proceedings under which such revenue bonds are authorized to be issued or any such mortgage may contain any agreement and provisions customarily contained in instruments securing bonds, including, without limiting the generality of the foregoing, provisions respecting the designation and collection of revenues from a hospital facility covered by such proceedings or mortgage, the maintenance and insurance of such hospital facility, the creation and maintenance of special funds derived from the revenues relating to such hospital facility and the rights and remedies available in the event of default to the bondholders or to the trustee under a mortgage, all as the board of trustees of the special hospital district shall deem advisable and as shall not be in conflict with the provisions of the Special Hospital District Act.

History: 1978 Comp., § 4-48A-25, enacted by Laws 1981, ch. 84, § 16.

#### **4-48A-26. Revenue bonds; exemption from taxation.**

The revenue bonds issued under authority of the Special Hospital District Act [Chapter 4, Article 48A NMSA 1978] and the income from said bonds, all mortgages or other security instruments executed as security for such bonds, shall be exempt from all taxation by the state or any subdivision thereof.

History: 1978 Comp., § 4-48A-26, enacted by Laws 1981, ch. 84, § 17.

#### **4-48A-27. Election not required.**

The Special Hospital District Act [Chapter 4, Article 48A NMSA 1978] shall not be construed to require an election by the voters of a special hospital district prior to the issuance of revenue bonds hereunder by the special hospital district.

History: 1978 Comp., § 4-48A-27, enacted by Laws 1981, ch. 84, § 18.

#### **4-48A-28. No notice or publication required.**

No notice, consent or approval by any governmental body, commission, board or public officer shall be required as a prerequisite to the sale or issuance of any revenue bonds or the making of a mortgage under the authority of the Special Hospital District Act [Chapter 4, Article 48A NMSA 1978], except as provided herein.

History: 1978 Comp., § 4-48A-28, enacted by Laws 1981, ch. 84, § 19.

#### **4-48A-29. Agreements with the New Mexico hospital equipment loan council; authority; security; restrictions and limitations and other details.**

A. A special hospital district may enter into a lease, loan or other financing agreement, with a term not exceeding thirty years from the date of execution, with the New Mexico hospital equipment loan council created under the Hospital Equipment Loan Act [Chapter 58, Article 23 NMSA 1978] to acquire funds for the construction, purchase, renovation, remodeling, equipping, reequipping or refinancing of hospital facilities under its control, for the purchase of the land necessary therefor and for refunding revenue bonds previously issued for any of the foregoing purposes or for any combination thereof.

B. The special hospital district entering into agreement with the New Mexico hospital equipment loan council may pledge irrevocably all or a portion of the revenues derived from the operation of a hospital facility and revenues derived from the leasing of or other contractual arrangement for the operation of a hospital facility for the payment of rentals, principal and interest and any other amount or obligation required under the lease, loan or other financing agreement with the New Mexico hospital equipment loan council.

C. At a regular or special meeting called for the purpose of approving the execution and delivery of a lease, loan or other financing agreement with the New Mexico hospital equipment loan council as authorized in this section, the board of trustees may adopt a resolution declaring the necessity for entering into the lease, loan or other financing agreement with the New Mexico hospital equipment loan council; authorizing the entering into of the lease, loan or other financing agreement with the New Mexico hospital equipment loan council; and designating the source of the pledged revenues for the payment or repayment of rentals, principal and interest and any other amounts and obligations required under the lease, loan or other financing agreement with the New Mexico hospital equipment loan council.

D. The rentals, principal and interest and any other amounts and obligations owed under a lease, loan or other financing agreement with the New Mexico hospital equipment loan council shall be payable solely out of all or a portion of the revenues derived from the ownership and operation of a hospital facility and revenues derived from the leasing of or other contractual arrangement for the operation of a hospital facility for which the lease, loan or other financing agreement with the New Mexico hospital equipment loan council is entered into. The amount and obligations under a lease, loan or other financing agreement with the New Mexico hospital equipment loan council entered into under the authority of the Special Hospital District Act [Chapter 4, Article 48A NMSA 1978] shall never constitute an indebtedness of the special hospital district or the county or counties in which the special hospital district is located within the meaning of any state constitutional provision or statutory limitation and shall never constitute or give rise to a pecuniary liability of the special hospital district or the county or counties in which the special hospital district is located or charge against its general credit or taxing power.

E. The rentals, principal and interest and any other amounts and obligations owed under a lease, loan or other financing agreement with the New Mexico hospital equipment loan council shall be secured by the pledge of the revenues out of which such rentals, principal and interest and any other amounts and obligations shall be payable and may be secured by a mortgage covering all or any part of a hospital facility from which the revenues so pledged may be derived.

F. The resolution or proceedings under which the lease, loan or other financing agreement are authorized to be entered into or any mortgage relating thereto may contain any agreement and provisions customarily contained in instruments securing leases, loans or other financing arrangements including, without limiting the generality of the foregoing, provisions respecting the designation and collection of the revenues from a hospital facility covered by such proceedings or mortgage, the maintenance and insurance of such hospital facility, the creation and maintenance of special funds derived from the revenues relating to such hospital facility and the rights and remedies available in event of default to the New Mexico hospital equipment loan council under a mortgage, all as the board of trustees shall deem advisable and as shall not conflict with the provisions of the Special Hospital District Act.

G. No notice, consent or approval by any governmental body, commission or public officer shall be required as a prerequisite to the entering into of a lease, loan or other financing agreement with the New Mexico hospital equipment loan council or the making of a mortgage under the authority of the Special Hospital District Act, except as provided in this section.

**History:** 1978 Comp., § 4-48A-29, enacted by Laws 1987, ch. 49, § 10; 1992, ch. 41, § 2.

The 1992 amendment, effective May 20, 1992, substituted all of the present language of Subsection A following "equipping" for "or reequipping of hospital facilities under its control, and may purchase the

land necessary therefor or for any combination of the foregoing purposes", substituted "in this section" for "herein" in Subsections C and G, and substituted "resolution or proceedings" for "resolution, ordinance and proceedings" in Subsection F.

#### 4-48A-30. Refunding revenue bonds.

The board of trustees of a special hospital district may issue refunding bonds for the purpose of refunding any of the revenue bonds of the special hospital district. The board of trustees shall adopt a resolution stating the facts making the issuance of the refunding bonds necessary or advisable, the determination of the necessity or advisability by the board of trustees and the amount of refunding bonds that the board of trustees concludes as necessary and advisable to issue. The resolution shall establish the form of the bonds; the rate or rates of interest of the bonds, provided the net effective interest rate of the bonds shall not exceed the maximum net effective interest rate permitted by the Public Securities Act [6-14-1 to 6-14-3 NMSA 1978]; the date of the refunding bonds; the denominations of the refunding bonds; the maturity dates, the last of which shall not be more than thirty years from the date of the refunding bonds; and the place or places of payment of both principal and interest either within or outside of the state. Refunding bonds when issued, except for bonds issued in book entry or similar form without the delivery of physical securities, shall be negotiable in form, bear the signature or the facsimile signature of the chairman of the board, bear the seal of the district and be attested by the secretary of the board. All refunding bonds may be exchanged dollar for dollar for the bonds to be refunded or they may be sold at a public or private sale as directed by the board of trustees. The proceeds of the sale shall be applied only to the purpose for which the refunding bonds were issued, including but not limited to establishment and funding of an escrow with a bank or trust company from which the refunded bonds may be paid and the payment of any expenses incidental thereto.

**History:** 1978 Comp., § 4-48A-30, enacted by Laws 1992, ch. 41, § 3.

## ARTICLE 48B

### Hospital Funding

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|-----------|--|-----------|---|
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