THE BOND BUYER

Commissioners consider industrial revenue bonds for wind projects

By

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Published

December 29 2017, 10:14am EST

Lincoln County, N.M., commissioners are considering issuing industrial revenue bonds for one or more of the companies pursuing development of wind farms in northern areas of the county.

But before they act, commissioners told a consultant last week they want to see an analysis of different formulas to determine the value of the alternate power sources, delineation of the methods of repayment and comparisons with other locales in New Mexico that have approved industrial bonds.

Erik Harrigan with RBC Capital Markets, the county's financial advisor, said IRBs "basically act as conduit issuance that allows for abatement of property taxes and possibly gross receipts taxes. Since (the project) won't be on the tax rolls, the taxes are negotiated between the government entity and company that is asking for the bonds."

The school district within which the site falls must be included in discussions.

"Nothing in state law says how much goes to the school district, only that it is involved," he said.

Clean Line Energy Partners seems the most likely to ask for the county to issue IRBs, he said.

Commissioner Dallas Draper asked Harrigan about the time line, if bonds were approved.

"The first thing is an inducement resolution comes to county commission, which announces the commission is considering adopting industrial revenue bond and lays out some of the specifics in that resolution," he said. "In some counties that includes the payment in lieu of taxes."

"The resolution is not binding and just recognizes they submitted a proposal," he said. "The next step would be adoption of an ordinance and at that time, the payment in lieu of taxes would be finalized and the repayment schedule."

The closing documents should be presented in three to four months after the adoption of an ordinance. County Manager Nita Taylor said she would shoot for the inducement resolution to be on the commission's February meeting or earlier. She said she doubted the consultants could be ready for the January commission meeting, which was moved up to Jan. 9.

Someone is designated to handle negotiations for the county and then, once the bonds come before the commission, the documents will include the details, Harrigan said.

The bonds can mature after 20 years to 30 years, typically, he said.

"None are exactly the same, because every project is different and the type of transmission resources available and economics of the transaction differ," Harrigan said.

Draper said the major benefit to the county seems to be developing the industry in a way that doesn't actually cost the taxpayer.

With industrial revenue bonds, a payment in lieu of taxes beyond what the company normally would have paid in taxes would be imposed, Harrigan said. The bonds are considered tax-free and in most cases, a company self-finances, making a loan to itself, he said. In other cases, a bond package might be sold to investors.

Beside approving the bonds, what other obligation would the county be under, Commissioner Tom Stewart asked.

Harrigan said under no obligation.

"The county is not pledging any revenue," he said. "If a company was to go bankrupt, there is no recourse for any bond holders to look to the county. By approving an IRB, the county is foregoing taxes it would have collected and that's why a payment in lieu of taxes is negotiated."

Payments could be based on power production, property/equipment value or a combination of several items, the consulting team consisting of Harrigan and Eddie Duffy of the Sutin, Thayer & Browne law firm, said.

"Property is taxed one way and equipment another," Harrigan said. "The county assessor is very aware of that. There is a lot of flexibility on how to determine the payment. Some counties take less at the beginning and more at the end. We have to make sure the payments are in best interest of the county and not just the company.

"We haven't started our analysis of what the company is proposing and what the county actually would receive. We will have more specifics on the economics and how (the proposal) compares to other IRBs that have been done."

For most projects, heavy job creation occurs at the front end during construction and then settles into a much lower permanent job situation when the project is operational, he said. The state benefits from a new industry, he said.

The project will be in the name of the county for tax purposes, Duffy said.

"Without an IRB, a lot of these projects would not be a go," he said.