

AN ACT

RELATING TO COUNTIES; AMENDING CERTAIN SECTIONS OF THE NMSA 1978 PERTAINING TO ASSESSMENTS FOR IMPROVEMENT DISTRICTS AND ASSESSMENTS FOR THE MAINTENANCE OF LOCAL COUNTY ROADS.

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

Section 1. Section 4-55A-7 NMSA 1978 (being Laws 1980, Chapter 91, Section 7, as amended) is amended to read:

"4-55A-7. IMPROVEMENT DISTRICT--PROVISIONAL ORDER METHOD--PROCEDURE--PRELIMINARY LIEN--NOTICE OF PENDENCY OF DISTRICT--EFFECT. --

A. Whenever the board determines that the creation of an improvement district is necessary by the provisional order method, the board shall by resolution direct the engineer to prepare preliminary plans and an estimate of cost for the proposed improvement district.

B. The resolution shall:

(1) describe in general terms the property to be included in the improvement district; and

(2) require the engineer to prepare:

(a) an assessment plat showing the area to be included in the improvement district; and

(b) an addendum to the assessment plat showing the amount of maximum benefit estimated to be assessed against each tract or parcel in the improvement

district on an equitable basis, which shall be set forth in the resolution; provided, if the benefit to a tract or parcel is derived from a combination of improvements, the amount of maximum benefit estimated to be assessed against such tract or parcel may be based upon an appraisal or determination of the value of the improvements as a whole. As used in this subparagraph, "equitable basis" includes an assessment based on a front-foot, improved or unimproved property, zone or area basis or an assessed valuation basis where each tract or parcel bears the same percentage of total costs as the percentage that the tract's or parcel's assessed value bears to the total assessed value of the property included in the improvement district; and

(3) require the engineer to prepare preliminary plans for one or more types of construction showing:

(a) for each type of road, curb, gutter, sidewalk and street, a typical section of the contemplated improvement, the type of material to be used and the approximate thickness and width of the material;

(b) for each type of storm sewer or drain, sanitary sewer or waterline, the type of material and approximate diameter of any trunk lines, mains, laterals or house connections; or

(c) for each other type of project or

other major component of the foregoing types of projects, a general description.

C. The engineer shall include in the total cost estimate for the improvement district all expenses, including but not limited to advertising, appraising, tax reimbursement, capital improvement, expansion, construction period interest, reserve fund, financing, engineering and printing expenses, which the engineer deems necessary to pay the complete cost of the improvement.

D. The engineer shall submit to the county clerk the:

- (1) assessment plat;
- (2) preliminary plans of the type of construction; and
- (3) estimate of costs for the improvement.

E. After the board examines the assessment plat, preliminary plans and estimates of cost for the improvement district, the board may adopt a provisional order which:

- (1) orders the improvement to be constructed;
- (2) instructs the county clerk or engineer to give notice of a hearing on the provisional order; and
- (3) orders, if deemed necessary by the board and with the consent of the owners of the tracts or parcels to be encumbered with a preliminary assessment lien, the

immediate placement of a preliminary assessment lien on tracts or parcels in the improvement district based on the estimated maximum benefit to be assessed against such tracts or parcels in order to facilitate interim financing of the improvement and provides for times and terms of paying the preliminary assessment lien, for the adjustment of the preliminary assessment lien and the placement of a final assessment lien upon each such tract or parcel pursuant to the provisions of Sections 4-55A-18 and 4-55A-19 NMSA 1978. Both the preliminary and the final assessment liens shall be coequal with the lien for general ad valorem taxes and the lien of other improvement districts and are superior to all other liens, claims and titles. The consent of any owner in an improvement district to the placement of a preliminary assessment lien on the owner's property shall not alter the assessment on any other tracts or parcels in the improvement district.

F. Upon the adoption of the provisional order by the board, the estimated maximum benefit roll showing the legal description of the property to be included in the district and the owners thereof may be recorded with the clerk of the county in which the property is located, which recording shall constitute notice of the pendency of the special assessment district and shall be constructive notice to the owner, purchaser or encumbrancer of the property

concerned; and any person whose conveyance is subsequently recorded shall be considered a subsequent purchaser or encumbrancer and shall be subject to and bound by all the proceedings taken after the recording of the notice to the same extent as if he were made a party to such special assessment proceedings.

G. This notice need not be acknowledged to entitle it to be recorded.

H. Nothing in this section shall be construed to affect the priority of special assessment liens."

Section 2. Section 67-4-20 NMSA 1978 (being Laws 1969, Chapter 167, Section 1, as amended) is amended to read:

"67-4-20. LOCAL COUNTY ROADS--ASSESSMENT FOR MAINTENANCE-- LIEN. --

A. Any board of county commissioners may adopt a resolution determining that any streets totally within a subdivided area approved by the county commission, outside the corporate limits of any municipality, and which the board determines to have such a prospective population density as to require extraordinary street maintenance shall be maintained in part at the expense of the owner of any property which abuts upon the streets. The resolution shall only be adopted after a public hearing, notice of which has been advertised in a newspaper of general circulation within the county for two consecutive weeks, the first such

advertisement being at least ten days prior to the date of hearing. In the resolution, the board of county commissioners shall determine:

- (1) the expense of maintaining the streets;
- (2) the proportion of the expense to be borne by the property which abuts the streets;
- (3) the charge to be assessed against each lineal foot of frontage of the abutting property which shall not exceed one-half of the average cost per lineal foot of county road maintenance for the prior fiscal year nor be less than one dollar (\$1.00) for each assessment billing; and
- (4) the assessment, on an equitable basis, of each parcel or tract within the subdivided area according to its proportionate share of the expense of maintaining the streets. As used in this paragraph, "equitable basis" includes an assessment based on a front-foot, improved or unimproved property, zone or area basis or an assessed valuation basis where each tract or parcel bears the same percentage of total costs as the percentage that the tract's or parcel's assessed value bears to the total assessed value of the property included in the improvement district.

B. The assessment for the expense of maintaining the streets shall be billed and collected by the county treasurer at the same time as the property taxes and shall become delinquent thirty days after the date of billing.

