

AN ACT  
RELATING TO IMPROVEMENT DISTRICTS; PROVIDING ADDITIONAL  
MEANS FOR FINANCING NEEDED PUBLIC IMPROVEMENTS IN  
MUNICIPALITIES AND COUNTIES; AMENDING AND ENACTING CERTAIN  
SECTIONS OF THE NMSA 1978.

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

Section 1. Section 3-33-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-32-1, as amended) is amended to read:

"3-33-1. IMPROVEMENT DISTRICT--AUTHORIZATION. --

A. Whenever a governing body determines that the creation of an improvement district is necessary for the public safety, health or welfare, the governing body may create an improvement district for any one or any combination of projects authorized in Chapter 3, Article 33 NMSA 1978 by the:

- (1) provisional order method; or
- (2) petition method.

B. The governing body may adopt any ordinance or resolution necessary or proper to accomplish the purposes of Chapter 3, Article 33 NMSA 1978.

C. The improvement district shall include, for the purpose of assessment or imposition of an improvement district property tax, all the property that the governing

body determines is benefitted by the improvement, including property lying without the municipality creating the improvement district if such property abuts or is served by improvements authorized by Chapter 3, Article 33 NMSA 1978 and including property utilized for public, governmental, charitable or religious purposes, except that of the United States or any agency, instrumentality or corporation thereof, in the absence of a consent of congress. "

Section 2. Section 3-33-2 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-32-2, as amended by Laws 1991, Chapter 17, Section 1 and also by Laws 1991, Chapter 199, Section 2) is amended to read:

"3-33-2. IMPROVEMENT DISTRICT--DEFINITIONS. --As used in Chapter 3, Article 33 NMSA 1978:

A. "adjustment of assessment" means the adjustment in the estimated maximum benefit or assessment resulting from the division of the property to be assessed or assessed into smaller tracts or parcels or the combining of smaller parcels into one or more larger parcels or the changing of the configuration or legal description of such parcels. "Adjustment of assessment" may also include the reallocation of the assessment lien, without loss of priority, among parcels under single ownership that are subject to the assessment lien in order to permit the removal of the lien from one or more parcels where adequate security for the lien is demonstrated by the assessed

parcels under such single ownership or provided by the owner;

B. "construct" or "construction" means to plan, design, engineer, construct, reconstruct, install, extend, better, alter, build, rebuild, improve, purchase or otherwise acquire any project authorized in Sections 3-33-3, 3-33-4, 3-33-4.1 and 3-33-6 NMSA 1978, except that it shall not include "to acquire" for the purposes of projects authorized in Section 3-33-6 NMSA 1978;

C. "engineer" means any person who is a professional engineer licensed to practice in New Mexico and who is a permanent employee of the municipality or employed in connection with an improvement by the municipality or by a property owner subject to the improvement district property tax imposed by Section 3-33-14.1 NMSA 1978;

D. "improvement" means any one or any combination of projects in one or more locations authorized in Sections 3-33-3, 3-33-4, 3-33-4.1 and 3-33-6 NMSA 1978;

E. "improvement district" means one or more streets or one or more public grounds or one or more locations wherein the improvement is to be constructed and one or more tracts or parcels of land to be assessed or upon which an improvement district property tax will be imposed to pay for the cost of the improvement; and

F. "premature subdivision" means a subdivision

that has been platted and sold into multiple private ownership prior to installation or financial guarantee of all required improvements for land development. Such subdivisions contain one or more developmental inadequacies under current local government standards and requirements, such as, but not limited to:

(1) inadequate street right of way or street access control;

(2) a lack of drainage easements of right of way;

(3) a lack of adequate park, recreation or open space area;

(4) a lack of an overall grading and drainage plan; or

(5) a lack of adequate subdivision grading both on and off the public right of way."

Section 3. Section 3-33-3 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-32-3, as amended) is amended to read:

"3-33-3. IMPROVEMENT DISTRICT--PURPOSE. -- An improvement district may be created as authorized in Chapter 3, Article 33 NMSA 1978 in order to construct, acquire, repair or maintain in one or more locations any one or any combination of the following projects, including without limitation land served by any project and any right of way, easement or privilege appurtenant or related thereto:

A. a street, road, bridge, walkway, overpass, underpass, pathway, alley, curb, gutter or sidewalk project, including without limitation median and divider strips, parkways and boulevards, ramps and stairways, interchanges, alleys and intersections, arches, support structures and pilings and the grading, regrading, oiling, surfacing, graveling, excavating, macadamizing, paving, repairing, laying, backfilling, leveling, lighting, landscaping, beautifying or in any manner improving of all or any part of one or more streets, roads, bridges, walkways, pathways, curbs, gutters or sidewalks or any combination of the foregoing;

B. a storm sewer project, sanitary sewer project or water project, including without limitation investigating, planning, constructing, acquiring, excavating, laying, leveling, backfilling or in any manner improving all or any part of one or more storm sewers, drains, sanitary sewers, water lines, trunk lines, mains, laterals or property connections and acquiring or improving hydrants, meters, valves, catch basins, inlets, outlets, lift or pumping stations and machinery and equipment incidental thereto or any combination of the foregoing;

C. a flood control or storm drainage project, including without limitation the investigation, planning, construction, improvement, replacement, repair or acquisition of dams, dikes, levees, ditches, canals, basins

and appurtenances such as spillways, outlets, syphons and drop structures, channel construction, diversions, rectification and protection with appurtenant structures such as concrete lining, banks, revetments, culverts, inlets, bridges, transitions and drop structures, rundowns and retaining walls, storm sewers and related appurtenances such as inlets, outlets, manholes, catch basins, syphons and pumping stations, appliances, machinery and equipment and property rights connected therewith or incidental thereto convenient and necessary to control floods or provide drainage and lessen their danger and damages;

D. a utility project providing gas, water, electricity or telephone service;

E. railroad spurs, railroad tracks, railyards, rail switches and any necessary real property; or

F. on-site or off-site improvements required as a condition to obtaining required approvals of a development to be served by a project, including the payment of any fees or charges levied as a means of paying for all or part of such on-site or off-site improvements. "

Section 4. Section 3-33-14 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-32-7, as amended) is amended to read:

"3-33-14. IMPROVEMENT DISTRICT--PETITION METHOD-- REQUIREMENTS--DISTRIBUTION OF COSTS--NOTICE OF HEARING.--

A. Whenever the owners of sixty-six and two-

thirds percent or more of the total assessed valuation of the property to be benefited, exclusive of any land owned by the United States or the state of New Mexico, petition in writing the governing body to create an improvement district and construct the improvement described in the petition, the governing body may:

- (1) create the improvement district;
- (2) select the type of material and method of construction to be used; and
- (3) proceed with the construction of the improvement as authorized in Section 3-33-18 NMSA 1978 after complying with the requirements for a preliminary hearing required in this section. A governing body, board of county commissioners or local board of education may sign a petition seeking the improvement for any land under its control. The submission of separate petitions for any one improvement district within a six-month period shall be considered as a single petition.

B. The governing body may:

- (1) pay the cost of the improvement;
- (2) assess the cost of the improvement against the benefiting tracts or parcels of land;
- (3) pay part of the cost of the improvement and assess part of the cost of the improvement against the benefiting tracts or parcels of land; or
- (4) impose an improvement district property

tax pursuant to Section 3-33-14.1 NMSA 1978.

C. If any part or all of the cost of the improvement sought to be constructed as authorized in this section is to be assessed against the benefiting tracts or parcels of land or paid for by the imposition of an improvement district property tax, the governing body shall hold a preliminary hearing on the proposed improvement district and give notice of the preliminary hearing."

Section 5. A new Section 3-33-14.1 NMSA 1978 is enacted to read:

"3-33-14.1. IMPOSITION OF IMPROVEMENT DISTRICT PROPERTY TAX--LIMITATIONS.--

A. If in connection with the creation of the improvement district the governing body determines that it is in the best interest of the municipality to finance the district improvements by the imposition of an improvement district property tax and the issuance of improvement district general obligation bonds, the governing body shall enact an ordinance making the determination and provide in the ordinance the improvement district property tax rate to be imposed; the date, which may be a predetermined date or a date to be established in the future after completion of the improvements, of commencement of the tax; the amount of the bonds to be issued to finance the improvements; and any other matters the governing body deems necessary or appropriate. The governing body shall call an election



within the improvement district for the purpose of authorizing the governing body to issue general obligation bonds, the proceeds of the sale of which shall be used for constructing the improvements for which the district was created and to impose improvement district property taxes on all taxable property within the district for the purpose of paying the principal, debt service and other expenses incidental to the issuance and sale of the bonds. The ordinance shall also include procedures for the conduct of the election based upon the size of the improvement district and the number of voters entitled to vote.

B. If at the election described in Subsection A of this section the property tax imposition and the issuance of improvement district general obligation bonds are approved by a majority of the voters voting on the issues, the governing body shall impose the tax at a rate sufficient to pay the debt service on the bonds and retire them at maturity.

C. Imposition and collection of the improvement district property tax authorized in this section shall be made at the same time and in the same manner as impositions and collections of property taxes for use by municipalities and counties are made.

D. Bonds issued by the governing body for payment of the specified improvement district improvements shall be sold at a price that does not result in a net effective

interest rate exceeding the maximum net effective interest rate permitted by the Public Securities Act. The bonds may be sold at public or private sale and may be in denominations that the governing body determines.

E. The form and terms of the bonds, including a final maturity of thirty years and provisions for their payment and redemption, shall be as determined by the governing body. The bonds shall be executed in the name of and on behalf of the improvement district by the mayor and clerk of the municipality. The bonds may be executed and sealed in accordance with the provisions of the Uniform Facsimile Signature of Public Officials Act.

F. To provide for the payment of the interest and principal of the bonds issued and sold pursuant to this section, the governing body shall annually impose a property tax on all taxable property in the district in an amount sufficient to produce a sum equal to the principal and interest on all bonds as they mature.

G. The bonds authorized in this section are general obligation bonds of the district, and the full faith and credit of the district are pledged to the payment of the bonds. The proceeds obtained from the issuance of the bonds shall not be diverted or expended for any purposes other than those provided in Chapter 3, Article 33 NMSA 1978.

H. All bonds issued by an improvement district shall be fully negotiable and constitute negotiable

instruments within the meaning of and for all the purposes of the Uniform Commercial Code. If lost or completely destroyed, any bond may be reissued in the form and tenor of the lost or destroyed bond upon the owner furnishing to the satisfaction of the governing body:

- (1) proof of ownership;
- (2) proof of loss or destruction;
- (3) a surety bond in twice the face amount of the bond and coupons; and
- (4) payment of the cost of preparing and issuing the new bond and coupons.

I. The governing body may in any proceeding authorizing improvement district bonds provide for the initial issuance of one or more bonds aggregating the amount of the entire issue or may make provision for installment payments of the principal amount of any bond as it may consider desirable.

J. The governing body may issue bonds to be denominated refunding bonds, for the purpose of refunding any of the general obligation bonded indebtedness of the improvement district. Whenever the governing body deems it expedient to issue refunding bonds, it shall adopt an ordinance setting out the facts making the issuance of the refunding bonds necessary or advisable, the determination of the necessity or advisability by the governing body and the amount of refunding bonds that the governing body deems

necessary and advisable to issue. The ordinance shall fix the form of the bonds; the rate or rates of interest of the bonds, but the net effective interest rate of the bonds shall not exceed the maximum net effective interest rate permitted by the Public Securities Act; the date of the refunding bonds; the denominations of the refunding bonds; the maturity dates; and the place or places of payment within or without the state of both principal and interest. 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 and shall bear the signature or the facsimile signature of the mayor and clerk of the municipality. All refunding bonds may be exchanged dollar for dollar for the bonds to be refunded or they may be sold as directed by the governing body, and the proceeds of the sale shall be applied only to the purpose for which the bonds were issued and the payment of any incidental expenses.

K. The principal amount of improvement district general obligation bonds that may be issued by the governing body for any improvement district shall not exceed twenty-five percent of the final estimated value of properties in the district after completion of the projects to be financed with the improvement district general obligation bonds and after development of the properties in the improvement district in accordance with their planned use, as determined

by the governing body with the assistance of the engineer and other qualified professionals.

L. In connection with an improvement district project to be financed with the proceeds of improvement district general obligation bonds issued pursuant to this section, a property owner subject to the improvement district property tax or the governing body may enter into contracts to design, engineer, finance, construct or acquire a project with contractors and professionals, on such terms and with such persons as a property owner subject to the improvement district property tax or the governing body determines to be appropriate, without following the procedures or meeting the requirements of the Procurement Code or the requirements of Sections 6-15-1 through 6-15-22 NMSA 1978. "

Section 6. Section 3-33-15 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-32-8, as amended) is amended to read:

"3-33-15. IMPROVEMENT DISTRICT--NOTICE OF PRELIMINARY HEARING.--

A. The notice of the preliminary hearing required in Section 3-33-14 NMSA 1978 shall contain:

(1) the time and place when the governing body will hold a preliminary hearing on the proposed improvement;

(2) the estimated cost of the improvement;

- (3) the boundary of the improvement district;
- (4) the route of the improvement by streets or location of the improvements;
- (5) the location of the proposed improvement;
- (6) a description of each property to be assessed or against which an improvement district property tax is to be imposed;
- (7) the estimated amount of the assessment against or improvement district property tax to be imposed upon each tract or parcel of land; and
- (8) the amount of the cost to be assumed by the municipality, if any.

B. If the owners are found within the county, the notices shall be personally served on them at least thirty days prior to the day of the hearing. The notice shall also be published in a newspaper published in the municipality once each week for four successive weeks. The last publication shall be at least three days before the day of the preliminary hearing. "

Section 7. Section 3-33-16 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-32-9, as amended) is amended to read:

"3-33-16. IMPROVEMENT DISTRICT--PRELIMINARY HEARING--  
PROTEST--ACTION OF THE GOVERNING BODY--APPEAL TO DISTRICT

COURT. --

A. At the preliminary hearing of the governing body on the question of creating an improvement district as authorized in Section 3-33-14 NMSA 1978, an owner of a tract or parcel of land to be assessed or upon which it is proposed to impose an improvement district property tax may contest:

(1) the proposed assessment or improvement district property tax;

(2) the regularity of the proceedings relating to the improvement;

(3) the benefits of the improvement; or

(4) any other matter relating to the improvement district.

B. The governing body shall not assess the tract or parcel of land an amount greater than the actual benefit to the tract or parcel of land by reason of the enhanced value of the tract or parcel of land as a result of the improvement as ascertained at the hearing. The governing body may allow a fair price, based on its current value, as a set-off against any assessment against a tract or parcel of land if the owner has improved the tract or parcel of land in such a manner that the improvement may be made part of the proposed improvement.

C. At the hearing, the governing body may:

(1) correct a mistake or irregularity in

any proceeding relating to the improvement;

(2) correct an assessment made against or an improvement district property tax imposed upon any tract or parcel of land;

(3) in case of any invalidity, reassess the cost of the improvement against a benefiting tract or parcel of land; or

(4) recess the hearing.

D. An owner of a tract or parcel of land assessed or upon which it is proposed to impose an improvement district property tax, whether he appeared at the hearing or not, may commence an appeal in district court pursuant to the provisions of Section 39-3-1.1 NMSA 1978. "

Section 8. Section 3-33-24 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-32-17, as amended) is amended to read:

"3-33-24. IMPROVEMENT DISTRICT--AUTHORITY TO ISSUE BONDS OR ASSIGNABLE CERTIFICATES. --

A. To pay all or any part of the cost of the improvement, including those items set out in Subsection C of Section 3-33-11 NMSA 1978, the governing body may proceed pursuant to the provisions of Section 3-33-14.1 NMSA 1978 or may issue in the name of the municipality bonds in such form as the governing body may determine or assignable certificates in an amount not exceeding the total cost of the improvement and maturing not more than twenty years from



the date of issuance. If the bonds or assignable certificates recite that:

(1) the proceedings relating to making the improvement and levying the assessments as provided in Section 3-33-22 NMSA 1978 or placing the preliminary lien as provided in Section 3-33-11 NMSA 1978 to pay for the improvement have been done in compliance with law; and

(2) all prerequisites to the fixing of the assessment lien or placing the preliminary lien against the tract or parcel of land benefited by the improvement have been performed, such recital shall be conclusive evidence of the facts recited.

B. The assignable certificates shall:

(1) declare the liability of the owner of the tract or parcel of land so assessed or the liability of the tract or parcel of land so assessed for payment of the assessment, interest and penalties;

(2) fix the terms and conditions of the certificates; and

(3) accurately describe the tract or parcel of land covered by the certificate.

C. The bonds shall:

(1) recite the terms and conditions for their issuance;

(2) be payable from money collected from the preliminary assessment lien authorized in Section 3-33-

11 NMSA 1978 and, if so payable, also payable from the proceeds of bonds payable from the final assessment lien authorized in Section 3-33-22 NMSA 1978; or

(3) be payable from the money collected from the assessments authorized in Section 3-33-22 NMSA 1978; provided that if assessments are made payable over more than one period of time as permitted by Section 3-33-23 NMSA 1978, specified portions of the bonds may be payable from money collected from those assessments payable over that period of time that generally corresponds to the period of time over which such specified portions of the bonds are payable; and

(4) bear a rate or rates of interest that shall not exceed the rate of interest on the deferred installments of the assessments or, if more than one rate of interest is specified for assessments as permitted by Section 3-33-23 NMSA 1978, on that portion of the deferred installments of assessments from which that specified portion of the bonds may be payable. Payment of the bonds issued for the construction of a project described in Subsection A of Section 3-33-3 NMSA 1978 may be supplemented from gasoline tax money in the street improvement fund authorized by Section 3-34-1 NMSA 1978 on or before a date not more than twelve months after the last deferred installment of an assessment is due from the owner of a tract or parcel of land so assessed.

D. The bonds may be issued to the contractor in payment for the construction of the improvement or may be issued and sold:

(1) in payment of the municipality's proportion of the cost of the improvement;

(2) in payment of the proportionate cost if the improvement is done in cooperation with another governmental agency;

(3) in payment of the construction of the improvement done under contract; or

(4) in reimbursement to the municipality if the municipality constructed the improvement with municipally owned or leased equipment and municipal employees.

E. Any municipality creating a street improvement fund as authorized by Section 3-34-1 NMSA 1978 may contract for the issuance and sale of bonds or assignable certificates.

F. Bonds or assignable certificates may be sold at public or private sale at a discount. "

Section 9. Section 4-55A-2 NMSA 1978 (being Laws 1980, Chapter 91, Section 2, as amended) is amended to read:

"4-55A-2. IMPROVEMENT DISTRICT--DEFINITIONS. --As used in the County Improvement District Act:

A. "adjustment of assessment" means the adjustment in the estimated maximum benefit or assessment

resulting from the division of the property to be assessed or assessed into smaller tracts or parcels or the combining of smaller parcels into one or more larger parcels or the changing of the configuration or legal description of such parcels. "Adjustment of assessment" may also include the real location of the assessment lien, without loss of priority, among parcels under single ownership that are subject to the assessment lien in order to permit the removal of the lien from one or more parcels where adequate security for the lien is demonstrated by the assessed parcels under such single ownership or provided by the owner;

B. "board" means the board of county commissioners;

C. "construct" or "construction" means to plan, design, engineer, construct, reconstruct, install, extend, better, alter, build, rebuild, improve, purchase or otherwise acquire any project authorized in the County Improvement District Act;

D. "county" means any county except an H class county;

E. "engineer" means any person who is a professional engineer licensed to practice in New Mexico and who is a permanent employee of the county or employed in connection with an improvement by the county or by a property owner subject to the improvement district property

tax imposed by Section 4-55A-12.1 NMSA 1978;

F. "improvement" means any one or any combination of projects in one or more locations authorized in the County Improvement District Act;

G. "improvement district" means one or more streets or one or more public grounds or one or more locations wherein the improvement is to be constructed and one or more tracts or parcels of land to be assessed or upon which an improvement district property tax will be imposed to pay for the cost of the improvement; and

H. "premature subdivision" means a subdivision that has been platted and sold into multiple private ownership prior to installation or financial guarantee of all required improvements for land development. Such subdivisions contain one or more developmental inadequacies under current local government standards and requirements, such as, but not limited to:

(1) inadequate street right of way or street access control;

(2) a lack of drainage easements of right of way;

(3) a lack of adequate park, recreation or open space area;

(4) a lack of an overall grading and drainage plan; or

(5) a lack of adequate subdivision grading

both on and off the public right of way."

Section 10. Section 4-55A-4 NMSA 1978 (being Laws 1980, Chapter 91, Section 4, as amended) is amended to read:

"4-55A-4. IMPROVEMENT DISTRICT--PURPOSE. -- An improvement district may be created as authorized in the County Improvement District Act in order to construct, acquire, repair or maintain in one or more locations any one or any combination of the following projects, including land served by any project and any right of way, easement or privilege appurtenant or related thereto:

A. a street, road, bridge, walkway, overpass, underpass, parkway, alley, curb, gutter or sidewalk project, including median and divider strips, parkways and boulevards, ramps and stairways, interchanges, alleys and intersections, arches, support structures and pilings and the grading, regrading, oiling, surfacing, graveling, excavating, macadamizing, paving, repairing, laying, backfilling, leveling, lighting, landscaping, beautifying or in any manner improving of all or any part of one or more streets, roads, bridges, walkways, pathways, curbs, gutters or sidewalks or any combination of the foregoing;

B. any utility project for providing gas, water, electricity or telephone service;

C. any storm sewer project, sanitary sewer project or water project, including investigating, planning, constructing, acquiring, excavating, laying, leveling,

backfilling or in any manner improving all or any part of one or more storm sewers, drains, sanitary sewers, water lines, trunk lines, mains, laterals and property connections and acquiring or improving hydrants, meters, valves, catch basins, inlets, outlets, lift or pumping stations and machinery and equipment incidental thereto or any combination of the foregoing;

D. a flood control or storm drainage project, including the investigation, planning, construction, improvement, replacement, repair or acquisition of dams, dikes, levees, ditches, canals, basins and appurtenances such as spillways, outlets, syphons and drop structures, channel construction, diversions, rectification and protection with appurtenant structures such as concrete lining, banks, revetments, culverts, inlets, bridges, transitions and drop structures, rundowns and retaining walls, storm sewers and related appurtenances such as inlets, outlets, manholes, catch basins, syphons and pumping stations, appliances, machinery and equipment and property rights connected therewith or incidental thereto convenient and necessary to control floods or to provide drainage and lessen their danger and damages;

E. railroad spurs, railroad tracks, railyards, rail switches and any necessary real property; or

F. on-site or off-site improvements required as a condition to obtaining required approvals of a development

to be served by a project, including the payment of any fees or charges levied as a means of paying for all or part of such on-site or off-site improvements. "

Section 11. Section 4-55A-12 NMSA 1978 (being Laws 1980, Chapter 91, Section 12, as amended) is amended to read:

"4-55A-12. IMPROVEMENT DISTRICT--PRELIMINARY HEARING--  
PROTEST--ACTION OF THE BOARD--ACTION IN DISTRICT COURT.--

A. At the preliminary hearing of the board on the question of creating an improvement district as authorized in Section 4-55A-10 NMSA 1978, any owner of a tract or parcel of land to be assessed or upon which it is proposed to impose an improvement district property tax may contest:

- (1) the proposed assessment or tax;
- (2) the regularity of the proceedings relating to the improvement;
- (3) the benefits of the improvement; or
- (4) any other matter relating to the improvement district.

B. The board shall not assess the tract or parcel of land an amount greater than the actual benefit to the tract or parcel of land by reason of the enhanced value of the tract or parcel of land as a result of the improvement as ascertained at the hearing. The board may allow a fair price, based on its current value, as a setoff against any assessment against a tract or parcel of land if the owner



has improved the tract or parcel of land in such a manner that the improvement may be made part of the proposed improvement.

C. At the hearing, the board may:

(1) correct any mistake or irregularity in any proceeding relating to the improvement;

(2) correct an assessment to be made against or an improvement district property tax to be imposed upon any tract or parcel of land;

(3) in case of any invalidity, reassess the cost of the improvement against a benefiting tract or parcel of land; or

(4) recess the hearing from time to time.

D. Within thirty days after the hearing, any owner of a tract or parcel of land to be assessed or upon which it is proposed to impose an improvement district property tax, whether he appeared at the hearing or not, may commence an action in district court seeking an account of any error or invalidity of the proceedings relating to the improvement district to set aside or correct the assessment or any proceedings relating to the improvement district. Thereafter, any owner or his heirs, assigns, successors or personal representatives are perpetually barred from any action or any defense of error or invalidity in the proceedings or assessments. Where no owner of a tract or parcel to be assessed has presented a protest during the

hearing and all owners of the property to be assessed, upon conclusion of the hearing, submit written statements in favor of the creation of the improvement district for the types and character of improvements indicated in the petition, such owners shall be deemed to have waived their right to bring any action in district court seeking an account of any error or invalidity of the proceedings relating to the improvement district or to set aside or correct the assessment or any proceedings relating to the improvement district."

Section 12. Section 4-55A-12.1 NMSA 1978 (being Laws 1998, Chapter 47, Section 7) is amended to read:

"4-55A-12.1. IMPOSITION OF IMPROVEMENT DISTRICT PROPERTY TAX--LIMITATIONS.--

A. If in connection with the creation of the improvement district the board determines that it is in the best interest of the county to finance the district improvements by the imposition of an improvement district property tax and the issuance of improvement district general obligation bonds, the board shall enact an ordinance making the determination and provide in the ordinance the improvement district property tax rate to be imposed; the date, which may be a predetermined date or a date to be established in the future after completion of the improvements, of commencement of the tax; the amount of the bonds to be issued to finance the improvements; and any

other matters the board deems necessary or appropriate. The board shall call an election within the improvement district for the purpose of authorizing the board to issue general obligation bonds, the proceeds of the sale of which shall be used for constructing the improvements for which the district was created and to impose property taxes on all taxable property within the district for the purpose of paying the principal, debt service and other expenses incidental to the issuance and sale of the bonds. The ordinance shall also include procedures for the conduct of the election based upon the size of the improvement district and the number of voters entitled to vote.

B. If at the election described in Subsection A of this section the property tax imposition and the issuance of improvement district general obligation bonds are approved by a majority of the voters voting on the issues, the board shall impose the tax at a rate sufficient to pay the debt service on the bonds and retire them at maturity.

C. Imposition and collection of the improvement district property tax authorized in this section shall be made at the same time and in the same manner as impositions and collections of property taxes for use by counties are made.

D. Bonds issued by the board for payment of the specified improvement district improvements shall be sold at a price that does not result in a net effective interest

rate exceeding the maximum net effective interest rate permitted by the Public Securities Act. The bonds may be sold at public or private sale and may be in denominations that the board determines.

E. The form and terms of the bonds, including a final maturity of thirty years and provisions for their payment and redemption, shall be as determined by the board. The bonds shall be executed in the name of and on behalf of the improvement district by the chairman of the board. The bonds may be executed and sealed in accordance with the provisions of the Uniform Facsimile Signature of Public Officials Act.

F. To provide for the payment of the interest and principal of the bonds issued and sold pursuant to this section, the board shall annually impose a property tax on all taxable property in the district in an amount sufficient to produce a sum equal to the principal and interest on all bonds as they mature.

G. The bonds authorized in this section are general obligation bonds of the district, and the full faith and credit of the district are pledged to the payment of the bonds. The proceeds obtained from the issuance of the bonds shall not be diverted or expended for any purposes other than those provided in the County Improvement District Act.

H. All bonds issued by an improvement district shall be fully negotiable and constitute negotiable

instruments within the meaning of and for all the purposes of the Uniform Commercial Code. If lost or completely destroyed, any bond may be reissued in the form and tenor of the lost or destroyed bond upon the owner furnishing to the satisfaction of the board:

- (1) proof of ownership;
- (2) proof of loss or destruction;
- (3) a surety bond in twice the face amount of the bond and coupons; and
- (4) payment of the cost of preparing and issuing the new bond and coupons.

I. The board may in any proceedings authorizing improvement district bonds provide for the initial issuance of one or more bonds aggregating the amount of the entire issue or may make provision for installment payments of the principal amount of any bond as it may consider desirable.

J. The board may issue bonds to be denominated refunding bonds, for the purpose of refunding any of the general obligation bonded indebtedness of the district. Whenever the board deems it expedient to issue refunding bonds, it shall adopt a resolution setting out the facts making the issuance of the refunding bonds necessary or advisable, the determination of the necessity or advisability by the board and the amount of refunding bonds that the board deems necessary and advisable to issue. The resolution shall fix the form of the bonds; the rate or

rates of interest of the bonds, but the net effective interest rate of the bonds shall not exceed the maximum net effective interest rate permitted by the Public Securities Act; the date of the refunding bonds; the denominations of the refunding bonds; the maturity dates; and the place or places of payment within or without the state of both principal and interest. 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 and shall bear the signature or the facsimile signature of the chairman of the board. All refunding bonds may be exchanged dollar for dollar for the bonds to be refunded or they may be sold as directed by the board, and the proceeds of the sale shall be applied only to the purpose for which the bonds were issued and the payment of any incidental expenses.

K. The principal amount of improvement district general obligation bonds that may be issued by the board for any improvement district shall not exceed twenty-five percent of the final estimated value of properties in the improvement district after completion of the projects to be financed with the improvement district general obligation bonds and after development of the properties in the improvement district in accordance with their planned use, as determined by the board with the assistance of the engineer and other qualified professionals.

L. In connection with an improvement district project to be financed with the proceeds of improvement district general obligation bonds issued pursuant to this section, a property owner subject to the improvement district property tax or the board may enter into contracts to design, engineer, finance, construct or acquire a project with contractors and professionals, on such terms and with such persons as the property owner subject to the improvement district property tax or the board determines to be appropriate, without following the procedures or meeting the requirements of the Procurement Code or the requirements of Sections 6-15-1 through 6-15-22 NMSA 1978. "

Section 13. Section 13-1-98 NMSA 1978 (being Laws 1984, Chapter 65, Section 71, as amended) is amended to read:

"13-1-98. EXEMPTIONS FROM THE PROCUREMENT CODE. --The provisions of the Procurement Code shall not apply to:

A. procurement of items of tangible personal property or services by a state agency or a local public body from a state agency, a local public body or external procurement unit except as otherwise provided in Sections 13-1-135 through 13-1-137 NMSA 1978;

B. procurement of tangible personal property or services for the governor's mansion and grounds;

C. printing and duplicating contracts involving materials that are required to be filed in connection with

proceedings before administrative agencies or state or federal courts;

D. purchases of publicly provided or publicly regulated gas, electricity, water, sewer and refuse collection services;

E. purchases of books and periodicals from the publishers or copyright holders thereof;

F. travel or shipping by common carrier or by private conveyance or to meals and lodging;

G. purchase of livestock at auction rings or to the procurement of animals to be used for research and experimentation or exhibit;

H. contracts with businesses for public school transportation services;

I. procurement of tangible personal property or services, as defined by Sections 13-1-87 and 13-1-93 NMSA 1978, by the corrections industries division of the corrections department pursuant to regulations adopted by the corrections commission, which shall be reviewed by the purchasing division of the general services department prior to adoption;

J. minor purchases not exceeding five thousand dollars (\$5,000) consisting of magazine subscriptions, conference registration fees and other similar purchases where prepayments are required;

K. municipalities having adopted home rule



charters and having enacted their own purchasing ordinances;

L. the issuance, sale and delivery of public securities pursuant to the applicable authorizing statute, with the exception of bond attorneys and general financial consultants;

M. contracts entered into by a local public body with a private independent contractor for the operation, or provision and operation, of a jail pursuant to Sections 33-3-26 and 33-3-27 NMSA 1978;

N. contracts for maintenance of grounds and facilities at highway rest stops and other employment opportunities, excluding those intended for the direct care and support of persons with handicaps, entered into by state agencies with private, nonprofit, independent contractors who provide services to persons with handicaps;

O. contracts and expenditures for services to be paid or compensated by money or other property transferred to New Mexico law enforcement agencies by the United States department of justice drug enforcement administration;

P. contracts for retirement and other benefits pursuant to Sections 22-11-47 through 22-11-52 NMSA 1978;

Q. contracts with professional entertainers;

R. contracts and expenditures for litigation expenses in connection with proceedings before administrative agencies or state or federal courts, including experts, mediators, court reporters, process

servers and witness fees, but not including attorney contracts; and

S. contracts for service relating to the design, engineering, financing, construction and acquisition of public improvements undertaken in improvement districts pursuant to Subsection L of Section 3-33-14.1 NMSA 1978 and in county improvement districts pursuant to Subsection L of Section 4-55A-12.1 NMSA 1978. "

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