

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

## FISCAL IMPACT REPORT

SPONSOR Romero DATE TYPED 2/5/04 HB \_\_\_\_\_

SHORT TITLE Neighborhood Improvement District Act SB 238

ANALYST Wilson

### APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY04	FY05	FY04	FY05		
			See Narrative		

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)  
 Department of Finance & Administration (DFA)  
 Economic Development Department (EDD)  
 Mortgage Finance Authority (MFA)

### SUMMARY

#### Synopsis of Bill

Senate Bill 238 creates the Neighborhood Improvement District Act which enables municipalities to create by ordinance improvement districts for neighborhoods that petition for and agree to finance neighborhood improvement projects by a special assessment against the property benefited by the improvements. This bill prescribes the procedures, conditions and standards to be followed and applied in the creation of a neighborhood Improvement District (NID) and delineates responsibilities and membership requirements of the neighborhood management committees.

A NID may be created in a municipality only if the council has enacted an enabling ordinance specifying the procedures, conditions and standards to be used in creating and operating a NID. Such procedures and conditions must include the following:

- acceptable purposes for a NID;
- time frames for submitting petitions, studying the feasibility of a proposed district, holding public hearings and reaching a final decision regarding the creation of a district;
- information required in a petition proposing a district that will enable the council to reach

- a decision on the necessity and benefits of the district;
- standards and procedures for determining the geographical areas for NIDs; and,
- additional factors to be addressed in a study of a proposed district.

This bill authorizes various public improvements projects that may be financed by the assessment and requires that improvements shall be made on a public right of way or public easements or on private property if it directly and primarily benefits a public right of way or public easement.

This bill authorizes the council, upon recommendation of the management committee, to periodically assess a neighborhood improvement benefit fee upon all real property, exclusive of any real property owned by the United States or the state or any of its political subdivisions, located within the district. The council may make reasonable classifications regarding real property owners located within the district but the assessment shall be based on the taxable valuation distributed by the county assessor. The assessment shall be collected by the treasurer of the county in which the district is located and shall be in addition to any other municipal-imposed license fees or other taxes, fees or other charges assessed or levied for the general benefit and use of the municipality.

#### Significant Issues

The AGO states this bill expands on existing legislation concerning the creation of NIDs. Under this bill, the municipality, in its ordinance enabling the creation of NIDs, determines whether a NID district will be managed either by a management committee made up of the mayor and neighborhood residents or by the governing body of the municipality.

#### **FISCAL IMPLICATIONS**

DFA provided the following:

General obligation bonds (GOBs) finance a NID, unlike a limited obligation bond that normally backs a tax increment financing project. Since GOBs are secured by the general revenue of the city, such bonds are often perceived by the bond market as being more secure than limited obligations, and thus can frequently be sold at a lower interest rate. Further, a NID can be established anywhere, not just a neighborhood suffering from blight.

After receiving requisite voter approval or upon the filing of a proper petition, the governing body of a municipality must consider the advisability of the improvements and may approve a NID and the preliminary plans and specifications for the improvements. A base value of property tax revenues is set and, as with a business improvement district or tax increment financing, the margin above the base value is assigned to that NID to pay for identified improvements.

A municipality can choose to use existing financing and administrative tools already authorized by the State of New Mexico, such as a business improvement district, tax increment financing (TIF), or powers provided through the metropolitan redevelopment act. According to analysis by Armstrong Teasdale LLP of Missouri's NID law, property owners under a TIF pay nothing for public improvements, but they are ultimately responsible to bondholders if the tax revenue generated by the improvements is insufficient to make the payments. The municipality, on the other hand, has no financial responsibility to the bondholders, but along with the other affected taxing

jurisdictions, “pays” for improvements by foregoing a portion of the increased tax revenue until the bonds are paid off. Thus, TIF is appropriate when development is not likely to take place without the incentive that TIF offers, where it is not financially feasible for the property owner(s) to pay for the desired improvements.

In contrast, there is no requirement that a NID be declared blighted or that a finding be made that the improvements would not likely be constructed without the NID financing. NIDs, without any such limitation, have potentially broader application than TIFs, at least where it is financially feasible for property owners to foot the bill. And NIDs, by lowering the cost of financing, will make more projects feasible.

### **ADMINISTRATIVE IMPLICATIONS**

DFA notes this bill contains several features that enhance its administrative utility to a municipality. First, a NID can be established and an assessment imposed without a city-wide election. Also, since the city issues GOBs, the public improvements can be financed at lower interest rates. Third, the city oversees the formation of each NID and approves the plans and specifications of each project and, as such, may group two or more NID projects together into one bond issue to further reduce the costs. Fourth, SB238 allows for the financing of a broad range of public improvements without a requirement that the area to be improved suffer from blight.

SB238 creates a nonprofit management committee, with one member representing the mayor and others real property owners or district residents, to administer district improvements, recommend annual assessments, and file annual fiscal reports.

### **TECHNICAL ISSUES**

Section 4 (page 4, lines 5-7) allows improvement to be located on private property if it directly and primarily benefits a public right-of-way or public easement, but it is not clear whether property owner or public entity will be responsible for insurance or maintenance of improvement.

Section 11 (page 14, lines 4-25) authorizes periodic assessment of neighborhood improvement fee, but does not provide process for residents to object to assessment. This may be included in the enabling ordinance.

**DW/njw**