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AN ACT

RELATING TO LOCAL GOVERNMENT; AMENDING SECTIONS OF THE PUBLIC
IMPROVEMENT DISTRICT ACT TO PROVIDE FOR OWNERS AND RESIDENTS
TO ELECT A DISTRICT BOARD AND TO PROVIDE FOR LIMITATION OF
PROPERTY TAX LEVIES TO PAY DEBT SERVICE ON BONDS.

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

Section 1. Section 5-11-2 NMSA 1978 (being Laws 2001,
Chapter 305, Section 2) is amended to read:

"5-11-2. DEFINITIONS.--As used in the Public
Improvement District Act:

A. "clerk" means the clerk of the municipality or
county, or any person appointed by the district board to be
the district clerk pursuant to Section 5-11-6 NMSA 1978;

B. "county" means a county that forms a public
improvement district pursuant to the Public Improvement
District Act in an unincorporated area or in an incorporated
area with the municipality's consent;

C. "debt service" means the principal of, interest
on and premium, if any, on the bonds, when due, whether at
maturity or prior redemption; the fees and costs of
registrars, trustees, paying agents or other agents necessary
to handle the bonds; and the costs of credit enhancement or
liquidity support;

D. "development agreement" means an agreement

1 between a property owner or developer and the county,
2 municipality or district, concerning the improvement of
3 specific property within the district, which agreement may be
4 used to establish obligations of the owner or developer, the
5 county or municipality or the district concerning the zoning,
6 subdivision, improvement, impact fees, financial
7 responsibilities and other matters relating to the
8 development, improvement and use of real property within a
9 district;

10 E. "district" means a public improvement district
11 formed pursuant to the Public Improvement District Act by a
12 municipality or by a county in an unincorporated area or in
13 an incorporated area with the municipality's consent;

14 F. "district board" means the board of directors
15 of the district, which shall be composed of members of the
16 governing body, ex officio, or, at the option of the
17 governing body, five directors appointed by the governing
18 body of the municipality or county in which the district is
19 located, until replaced by elected directors, which shall
20 occur not later than six years after the date on which the
21 resolution establishing the district is enacted, as provided
22 in Section 5-11-9 NMSA 1978;

23 G. "election" means an election held in compliance
24 with the provisions of Sections 5-11-6 and 5-11-7 NMSA 1978;

25 H. "enhanced services" means public services

1 provided by a municipality or county within the district at a
2 higher level or to a greater degree than otherwise available
3 to the land located in the district from the municipality or
4 county, including such services as public safety, fire
5 protection, street or sidewalk cleaning or landscape
6 maintenance in public areas. "Enhanced services" does not
7 include the basic operation and maintenance related to
8 infrastructure improvements financed by the district pursuant
9 to the Public Improvement District Act;

10 I. "general plan" means the general plan described
11 in Section 5-11-3 NMSA 1978, as the plan may be amended from
12 time to time;

13 J. "governing body" means the body or board that
14 by law is constituted as the governing body of the
15 municipality or county in which the public improvement
16 district is located;

17 K. "municipality" means an incorporated city,
18 village or town;

19 L. "owner" means:

20 (1) the person who is listed as the owner of
21 real property in the district on the current property tax
22 assessment roll in effect at the time that the action,
23 proceeding, hearing or election has begun. For purposes of
24 voting in elections held pursuant to the Public Improvement
25 District Act, when the owner of record title is a married

1 person, only one spouse in whose name title is held may vote
2 at such election. Where record title is held in more than
3 one name, each owner may vote the number of fractions of
4 acres represented by the owner's legal interest or
5 proportionate share of and in the lands within the district;

6 (2) the administrator or executor of an
7 estate holding record title to land within the district;

8 (3) the guardian of a minor or incompetent
9 person holding record title to land within the district,
10 appointed and qualified under the laws of the state;

11 (4) an officer of a corporation holding
12 record title to land within the district, which officer has
13 been authorized by resolution of the corporation's board of
14 directors to act with respect to such land;

15 (5) the general partner of a partnership
16 holding record title to land within the district;

17 (6) the trustee of a trust holding record
18 title to land within the district; or

19 (7) the manager or member of a limited
20 liability company holding record title to land within the
21 district who has been authorized to represent the company;

22 M. "public infrastructure improvements" means all
23 improvements listed in this subsection and includes both
24 on-site improvements and off-site improvements that directly
25 or indirectly benefit the district. Such improvements

1 include necessary or incidental work, whether newly
2 constructed, renovated or existing, and all necessary or
3 desirable appurtenances. "Public infrastructure
4 improvements" includes:

5 (1) sanitary sewage systems, including
6 collection, transport, storage, treatment, dispersal,
7 effluent use and discharge;

8 (2) drainage and flood control systems,
9 including collection, transport, diversion, storage,
10 detention, retention, dispersal, use and discharge;

11 (3) water systems for domestic, commercial,
12 office, hotel or motel, industrial, irrigation, municipal or
13 fire protection purposes, including production, collection,
14 storage, treatment, transport, delivery, connection and
15 dispersal;

16 (4) highways, streets, roadways, bridges,
17 crossing structures and parking facilities, including all
18 areas for vehicular use for travel, ingress, egress and
19 parking;

20 (5) trails and areas for pedestrian,
21 equestrian, bicycle or other nonmotor vehicle use for travel,
22 ingress, egress and parking;

23 (6) pedestrian malls, parks, recreational
24 facilities and open space areas for the use of members of the
25 public for entertainment, assembly and recreation;

1 (7) landscaping, including earthworks,
2 structures, lakes and other water features, plants, trees and
3 related water delivery systems;

4 (8) public buildings, public safety
5 facilities and fire protection and police facilities;

6 (9) electrical generation, transmission and
7 distribution facilities;

8 (10) natural gas distribution facilities;

9 (11) lighting systems;

10 (12) cable or other telecommunications lines
11 and related equipment;

12 (13) traffic control systems and devices,
13 including signals, controls, markings and signage;

14 (14) school sites and facilities with the
15 consent of the governing board of the public school district
16 for which the site or facility is to be acquired, constructed
17 or renovated;

18 (15) library and other public educational or
19 cultural facilities;

20 (16) equipment, vehicles, furnishings and
21 other personalty related to the items listed in this
22 subsection; and

23 (17) inspection, construction management and
24 program management costs;

25 N. "public infrastructure purpose" means:

1 (1) planning, design, engineering,
2 construction, acquisition or installation of public
3 infrastructure, including the costs of applications, impact
4 fees and other fees, permits and approvals related to the
5 construction, acquisition or installation of such
6 infrastructure;

7 (2) acquiring, converting, renovating or
8 improving existing facilities for public infrastructure,
9 including facilities owned, leased or installed by an owner;

10 (3) acquiring interests in real property or
11 water rights for public infrastructure, including interests
12 of an owner;

13 (4) establishing, maintaining and
14 replenishing reserves in order to secure payment of debt
15 service on bonds;

16 (5) funding and paying from bond proceeds
17 interest accruing on bonds for a period not to exceed three
18 years from their date of issuance;

19 (6) funding and paying from bond proceeds
20 fiscal, financial and legal consultant fees, trustee fees,
21 discount fees, district formation and election costs and all
22 costs of issuance of bonds issued pursuant to the Public
23 Improvement District Act, including, but not limited to, fees
24 and costs for bond counsel, financial advisors, consultants
25 and underwriters, costs of obtaining credit ratings, bond

1 insurance premiums, fees for letters of credit and other
2 credit enhancement costs and printing costs;

3 (7) providing for the timely payment of debt
4 service on bonds or other indebtedness of the district;

5 (8) refinancing any outstanding bonds with
6 new bonds, including through the formation of a new public
7 improvement district; and

8 (9) incurring expenses of the district
9 incident to and reasonably necessary to carry out the
10 purposes specified in this subsection;

11 O. "resident qualified elector" means a person who
12 resides within the boundaries of a district or proposed
13 district and who is qualified to vote in the general
14 elections held in the state pursuant to Section 1-1-4 NMSA
15 1978;

16 P. "special levy" means a levy imposed against
17 real property within a district that may be apportioned
18 according to direct or indirect benefits conferred upon
19 affected real property, as well as acreage, front footage,
20 the cost of providing public infrastructure for affected real
21 property, or other reasonable method, as determined by the
22 governing body or district board, as applicable; and

23 Q. "treasurer" means the treasurer of the
24 governing body or the person appointed by the district board
25 as the district treasurer pursuant to Section 5-11-6 NMSA

1 1978."

2 Section 2. Section 5-11-9 NMSA 1978 (being Laws 2001,
3 Chapter 305, Section 9) is amended to read:

4 "5-11-9. APPOINTMENT OF DIRECTORS--QUALIFICATIONS--
5 TERMS--RESUMPTION OF GOVERNANCE BY GOVERNING BODY.--

6 A. The governing body, at its option, may
7 authorize the appointment of a separate district board. In
8 the case of an appointed district board, three of the
9 appointed directors shall serve an initial term of six years.
10 Two of the appointed directors shall serve an initial term of
11 four years. The resolution forming the district shall state
12 which directors shall serve four-year terms and which shall
13 serve six-year terms. If a vacancy occurs on the district
14 board because of death, resignation or inability of the
15 director to discharge the duties of director, the governing
16 body shall appoint a director to fill the vacancy, who shall
17 hold office for the remainder of the unexpired term until a
18 successor is appointed or elected.

19 B. A director may be a director of more than one
20 district.

21 C. At the end of the appointed directors' terms,
22 the governing body shall hold an election of new directors by
23 majority vote of the qualified electors and owners."

24 Section 3. Section 5-11-19 NMSA 1978 (being Laws 2001,
25 Chapter 305, Section 19) is amended to read:

1 "5-11-19. GENERAL OBLIGATION BONDS--TAX LEVY--
2 EXCEPTION.--

3 A. At any time after the hearing on formation of
4 the district, the district board, or, if before formation,
5 the governing body may from time to time order and call a
6 general obligation bond election to submit to the owners and
7 qualified electors the question of authorizing the district
8 to issue general obligation bonds of the district to provide
9 money for any public infrastructure purposes consistent with
10 the general plan. The question shall include authorization
11 for a levy, including a limitation on the levy, of a property
12 tax to pay debt service on the bonds. The election may be
13 held in conjunction with the formation election.

14 B. If general obligation bonds are approved at an
15 election, the district board may issue and sell general
16 obligation bonds of the district.

17 C. Bonds may be sold in a public offering or in a
18 negotiated sale.

19 D. After the bonds are issued, the district board
20 shall enter in its minutes a record of the bonds sold and
21 their numbers and dates and shall annually levy and cause a
22 property tax to be collected, at the same time and in the
23 same manner as other property taxes are levied and collected
24 on all taxable property in the district, sufficient, together
25 with any money from the sources described in Section 5-11-17

1 NMSA 1978 to pay debt service on the bonds when due. Money
2 derived from the levy of property taxes that are pledged to
3 pay the debt service on the bonds shall be kept separately
4 from other funds of the district. Property tax revenues not
5 pledged to pay debt service on bonds may be used to pay other
6 costs of the district, including costs of formation,
7 administration, operation and maintenance, services or
8 enhanced services. A district's levy of property taxes shall
9 constitute a lien on all taxable property within the
10 district, including, without limitation, all leased property
11 or improvements to leased land, which shall be subject to
12 foreclosure in the same manner as other property tax liens
13 under the laws of this state. The lien shall include
14 delinquencies and interest thereon at a rate not to exceed
15 ten percent per year, the actual costs of foreclosure and any
16 other costs of the district resulting from the delinquency.
17 The proceeds of any foreclosure sale shall be deposited in
18 the special bond fund for payment of any obligations secured
19 thereby.

20 E. Subject to the election requirements of this
21 section, a district may issue general obligation bonds at
22 such times and in such amounts as the district deems
23 appropriate to carry out a project or projects in phases.

24 F. Pursuant to this section, the district may
25 issue and sell refunding bonds to refund general obligation

1 bonds of the district authorized by the Public Improvement
2 District Act. No election is required in connection with the
3 issuance and sale of refunding bonds. Refunding bonds issued
4 pursuant to this section shall have a final maturity date no
5 later than the final maturity date of the bonds being
6 refunded."

7 Section 4. Section 5-11-26 NMSA 1978 (being Laws 2001,
8 Chapter 305, Section 26) is amended to read:

9 "5-11-26. CUMULATIVE AUTHORITY.--The Public Improvement
10 District Act shall be deemed to provide an additional and
11 alternative method for the doing of things authorized by that
12 act and shall be regarded as supplemental and additional to
13 powers conferred by other laws and shall not be regarded as
14 in derogation of any powers now existing; provided that the
15 issuance of bonds under the provisions of the Public
16 Improvement District Act need not comply with the
17 requirements of any other law applicable to the issuance of
18 bonds, except the Public Securities Limitation of Action Act,
19 which shall apply." _____