

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR  
HOUSE BILLS 371 & 355

**51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

AN ACT

LIMITING THE ISSUANCE OF GENERAL OBLIGATION BONDS FOR  
INFRASTRUCTURE IMPROVEMENTS IN PUBLIC IMPROVEMENT DISTRICTS;  
REQUIRING AN APPLICATION FOR FORMATION OF A PUBLIC IMPROVEMENT  
DISTRICT TO BE SUBMITTED TO THE MUNICIPALITY OR COUNTY IN WHICH  
THE DISTRICT IS TO BE LOCATED; REQUIRING NOTICE TO BE PROVIDED  
TO A PURCHASER OF PROPERTY IN A PUBLIC IMPROVEMENT DISTRICT;  
AMENDING AND ENACTING SECTIONS OF THE NMSA 1978.

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

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

"5-11-1. SHORT TITLE.--~~[Sections 1 through 27 of this  
act]~~ Chapter 5, Article 11 NMSA 1978 may be cited as the  
"Public Improvement District Act"."

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

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

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

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

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

17 D. "development agreement" means an agreement  
18 between a property owner or developer and the county,  
19 municipality or district, concerning the improvement of  
20 specific property within the district, which agreement may be  
21 used to establish obligations of the owner or developer, the  
22 county or municipality or the district concerning the zoning,  
23 subdivision, improvement, impact fees, financial  
24 responsibilities and other matters relating to the development,  
25 improvement and use of real property within a district;

.193182.2

1           E. "district" means a public improvement district  
2 formed pursuant to the Public Improvement District Act by a  
3 municipality or by a county in an unincorporated area or in an  
4 incorporated area with the municipality's consent;

5           F. "district board" means the board of directors of  
6 the district, which shall be composed of members of the  
7 governing body, ex officio, or, at the option of the governing  
8 body, five directors appointed by the governing body of the  
9 municipality or county in which the district is located, until  
10 replaced by elected directors, which shall occur not later than  
11 six years after the date on which the resolution establishing  
12 the district is enacted, as provided in Section 5-11-9 NMSA  
13 1978;

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

16           H. "enhanced services" means public services  
17 provided by a municipality or county within the district at a  
18 higher level or to a greater degree than otherwise available to  
19 the land located in the district from the municipality or  
20 county, including such services as public safety, fire  
21 protection, street or sidewalk cleaning or landscape  
22 maintenance in public areas. "Enhanced services" does not  
23 include the basic operation and maintenance related to  
24 infrastructure improvements financed by the district pursuant  
25 to the Public Improvement District Act;

.193182.2

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

4 J. "governing body" means the body or board that by  
5 law is constituted as the governing body of the municipality or  
6 county in which the public improvement district is located;

7 K. "large property owner" means a single person or  
8 related entities that collectively own property a levy on which  
9 will produce thirty-three percent or more of the required  
10 annual debt service on the general obligation or special levy  
11 bond at issue;

12 [~~K.~~] L. "municipality" means an incorporated city,  
13 village or town;

14 [~~L.~~] M. "owner" means:

15 (1) the person who is listed as the owner of  
16 real property in the district on the current property tax  
17 assessment roll in effect at the time that the action,  
18 proceeding, hearing or election has begun. For purposes of  
19 voting in elections held pursuant to the Public Improvement  
20 District Act, when the owner of record title is a married  
21 person, only one spouse in whose name title is held may vote at  
22 such election. Where record title is held in more than one  
23 name, each owner may vote the number of fractions of acres  
24 represented by the owner's legal interest or proportionate  
25 share of and in the lands within the district;

.193182.2

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

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

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

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

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

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

17 N. "person" means any individual, estate, trust,  
18 receiver, cooperative association, club, corporation, company,  
19 firm, partnership, limited liability company, joint venture,  
20 syndicate or other association;

21 [M.] O. "public infrastructure improvements" means  
22 all improvements listed in this subsection and includes both  
23 on-site improvements and off-site improvements that directly or  
24 indirectly benefit the district. Such improvements include  
25 necessary or incidental work, whether newly constructed,

.193182.2

1 renovated or existing, and all necessary or desirable  
2 appurtenances. "Public infrastructure improvements" includes:

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

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

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

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

17 (5) trails and areas for pedestrian,  
18 equestrian, bicycle or other nonmotor vehicle use for travel,  
19 ingress, egress and parking;

20 (6) pedestrian malls, parks, recreational  
21 facilities and open space areas for the use of members of the  
22 public for entertainment, assembly and recreation;

23 (7) landscaping, including earthworks,  
24 structures, lakes and other water features, plants, trees and  
25 related water delivery systems;

.193182.2

1 (8) public buildings, public safety facilities  
2 and fire protection and police facilities;

3 (9) electrical generation, transmission and  
4 distribution facilities;

5 (10) natural gas distribution facilities;

6 (11) lighting systems;

7 (12) cable or other telecommunications lines  
8 and related equipment;

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

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

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

17 (16) equipment, vehicles, furnishings and  
18 other personalty related to the items listed in this  
19 subsection; and

20 (17) inspection, construction management and  
21 program management costs;

22 [N.] P. "public infrastructure purpose" means:

23 (1) planning, design, engineering,  
24 construction, acquisition or installation of public  
25 infrastructure, including the costs of applications, impact

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1 fees and other fees, permits and approvals related to the  
2 construction, acquisition or installation of such  
3 infrastructure;

4 (2) acquiring, converting, renovating or  
5 improving existing facilities for public infrastructure,  
6 including facilities owned, leased or installed by an owner;

7 (3) acquiring interests in real property or  
8 water rights for public infrastructure, including interests of  
9 an owner;

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

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

15 (6) funding and paying from bond proceeds  
16 fiscal, financial and legal consultant fees, trustee fees,  
17 discount fees, district formation and election costs and all  
18 costs of issuance of bonds issued pursuant to the Public  
19 Improvement District Act, including, but not limited to, fees  
20 and costs for bond counsel, financial advisors, consultants and  
21 underwriters, costs of obtaining credit ratings, bond insurance  
22 premiums, fees for letters of credit and other credit  
23 enhancement costs and printing costs;

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

.193182.2



1 (8) refinancing any outstanding bonds with new  
2 bonds, including through the formation of a new public  
3 improvement district; and

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

7 Q. "related entities" means two or more entities  
8 that are owned in an amount greater than fifty percent by the  
9 same person, either directly or through one or more persons;

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

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

21 [~~Q.~~] T. "treasurer" means the treasurer of the  
22 governing body or the person appointed by the district board as  
23 the district treasurer pursuant to Section 5-11-6 NMSA 1978."

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

.193182.2

1           "5-11-3. RESOLUTION DECLARING INTENTION TO FORM  
2 DISTRICT.--

3           A. If the public convenience and necessity require,  
4 and on presentation of an application required by Section 8 of  
5 this 2013 act that is supported by a petition signed by the  
6 owners of at least twenty-five percent of the real property by  
7 assessed valuation proposed to be included in the district, the  
8 governing body may adopt a resolution declaring its intention  
9 to form a public improvement district to include contiguous or  
10 noncontiguous property, which shall be wholly within the  
11 corporate boundaries of the municipality or county. If the  
12 governing body fails to act within ninety days following  
13 presentation of a petition to create a public improvement  
14 district, the petition shall be deemed to have been accepted by  
15 the governing body, which shall adopt a resolution and hold a  
16 public hearing pursuant to this section. The resolution shall  
17 state the following:

18                   (1) the area or areas to be included in the  
19 district;

20                   (2) the purposes for which the district is to  
21 be formed;

22                   (3) that a general plan for the district is on  
23 file with the clerk that includes a map depicting the  
24 boundaries of the district and the real property proposed to be  
25 included in the district, a general description of anticipated

.193182.2

1 improvements and their locations, general cost estimates,  
2 proposed financing methods and anticipated tax levies, special  
3 levies or charges, and that may include possible alternatives,  
4 modifications or substitutions concerning locations,  
5 improvements, financing methods and other information provided  
6 in the general plan;

7 (4) the rate, method of apportionment and  
8 manner of collection of a special levy, if one is proposed, in  
9 sufficient detail to enable each owner or resident within the  
10 district to estimate the maximum amount of the proposed levy;

11 (5) a notice of public hearing in conformity  
12 with the requirements of Section 5-11-4 NMSA 1978;

13 (6) the place where written objections to the  
14 formation of the district may be filed by an owner;

15 (7) that formation of the district may result  
16 in the levy of property taxes or the imposition of special  
17 levies to pay the costs of public infrastructure constructed by  
18 the district and for their operation and maintenance and may  
19 result in the assessment of fees or charges to pay the cost of  
20 providing enhanced services;

21 (8) a reference to the Public Improvement  
22 District Act; and

23 (9) whether the district will be governed by a  
24 district board comprised of the members of the governing body,  
25 ex officio, or comprised of five directors initially appointed

.193182.2

1 by the governing body.

2 ~~[B. The resolution may direct that, prior to~~  
3 ~~holding a hearing on formation of the district, a study of the~~  
4 ~~feasibility and estimated costs of the improvements, services,~~  
5 ~~enhanced services and other benefits proposed to be provided~~  
6 ~~pursuant to the Public Improvement District Act be prepared by~~  
7 ~~the petitioners for consideration by the governing body at its~~  
8 ~~hearing on formation of the district. The study shall~~  
9 ~~substantially comply with the requirements of Section 5-11-16~~  
10 ~~NMSA 1978. The district may require that the persons~~  
11 ~~petitioning for formation of the district deposit with the~~  
12 ~~treasurer an amount equal to the estimated costs of conducting~~  
13 ~~the feasibility study and other estimated formation costs, to~~  
14 ~~be reimbursed if the district is formed and public improvements~~  
15 ~~are financed pursuant to the Public Improvement District Act.~~

16 ~~G.]~~ B. The resolution shall direct that a hearing  
17 on formation of the district be scheduled and that notice be  
18 mailed and published as provided in Section 5-11-4 NMSA 1978.

19 ~~[D.]~~ C. Before adopting a resolution pursuant to  
20 this section, a general plan for the district shall be filed  
21 with the clerk."

22 **SECTION 4.** Section 5-11-6 NMSA 1978 (being Laws 2001,  
23 Chapter 305, Section 6) is amended to read:

24 "5-11-6. ORDER FORMING DISTRICT--ELECTION.--

25 A. After the hearing, the governing body shall

.193182.2

1 determine whether the district should be formed based upon the  
 2 interests, convenience or necessity of the owners, residents of  
 3 the district and citizens of the municipality or county in  
 4 which the proposed district would be located. If the governing  
 5 body determines that the district should be formed, it shall  
 6 adopt a resolution ordering that the district be formed,  
 7 deleting any property determined not to be directly or  
 8 indirectly benefited by the district or modifying the general  
 9 plan and then ordering that an election be held on the question  
 10 whether to form the district. A resolution ordering a  
 11 formation of the district shall state that the district will be  
 12 governed by a district board consisting of members of the  
 13 governing body, ex officio, or, upon determination of the  
 14 governing body, five directors appointed by the governing body,  
 15 and shall contain the names of the five initial directors and  
 16 the terms of office of each. If the governing body appoints a  
 17 district board, it shall appoint a treasurer and a clerk from  
 18 the appointed members.

19 B. A formation election shall include the owners  
 20 unless a petition is presented to the governing body pursuant  
 21 to Subsection I of Section [~~7 of the Public Improvement~~  
 22 ~~District Act~~] 5-11-7 NMSA 1978. Each owner shall have the  
 23 number of votes or portions of votes equal to the number of  
 24 acres or portions of acres rounded upward to the nearest  
 25 one-fifth of an acre owned by that owner in the submitted

.193182.2

1 district. The right to vote on the question of formation of  
2 the district shall not be assigned or delegated to the property  
3 owners signing a petition submitted to the governing body for  
4 formation of a district or related entities of such property  
5 owners. The question shall also be submitted to a vote of the  
6 resident qualified electors. The conduct of a formation  
7 election shall meet the requirements of Section [~~7 of the~~  
8 ~~Public Improvement District Act~~] 5-11-7 NMSA 1978."

9 SECTION 5. Section 5-11-16 NMSA 1978 (being Laws 2001,  
10 Chapter 305, Section 16) is amended to read:

11 "5-11-16. PROJECT APPROVAL.--

12 A. Before constructing or acquiring any public  
13 infrastructure improvement, the district board shall [~~cause~~]  
14 have approved a study of the feasibility and benefits of the  
15 public infrastructure improvement project to be prepared, which  
16 shall include:

17 (1) a description of the public infrastructure  
18 improvement to be constructed or acquired and enhanced services  
19 to be provided and estimated costs thereof, if any, and other  
20 information reasonably necessary to understand the project;

21 (2) a map showing, in general, the location of  
22 the project within the district;

23 (3) an estimate of the cost to construct,  
24 acquire, operate and maintain the project;

25 (4) an estimated schedule for completion of

1 the project, a map or description of the area to be benefited  
2 by the project and a plan for financing the project;

3 (5) an estimated or projected annual mill or  
4 special levy for all owners in the proposed district;

5 (6) the current, direct and overlapping tax  
6 and assessment burden on taxable property that is proposed to  
7 be taxed and the assessed valuation of the taxable property as  
8 shown on the most recent assessment roll;

9 (7) the expected market absorption of the  
10 development within the district and the effect of the bond  
11 issuance by the district on tax rates within the district,  
12 calculated at the beginning, middle and end of the market  
13 absorption period or based on the phasing of the project to be  
14 financed, as applicable;

15 (8) projections of working capital needs for a  
16 period that shall be the longer of:

17 (a) thirty years following the creation  
18 of a tax upon the district taxable property; or

19 (b) the final maturity date of any bonds  
20 issued by the district;

21 (9) an analysis of:

22 (a) the impact of the proposed debt  
23 financing, operation and maintenance costs, user charges and  
24 other district costs on the ultimate end users of the property,  
25 including projected property tax rates, special levies, fees,

.193182.2

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1 charges and other costs that would be borne by the property in  
2 the district;

3 (b) the impact that the costs described  
4 in Subparagraph (a) of this paragraph will have on the  
5 marketability of the private development; and

6 (c) a comparison of proposed tax rates  
7 and charges in adjoining and similar areas outside of the  
8 proposed district;

9 (10) a financing plan for any private  
10 development in the district that is not to be dedicated to the  
11 municipality or county; and

12 (11) a market absorption study for the private  
13 development in the district prepared by an independent  
14 consultant, which shall include estimates of the revenue to be  
15 generated by the development, the ability of the market to  
16 absorb the private development and a market absorption calendar  
17 for the private development.

18 B. Prior to approval of a project, the district  
19 board shall provide notice and opportunity to comment to the  
20 owners and the municipality or county.

21 C. In the event that project approval and formation  
22 of the public improvement district are occurring concurrently,  
23 a single feasibility study may be used to satisfy the  
24 requirement in Subsection A of this section and Paragraph (3)  
25 of Subsection A of Section 8 of this 2013 act.



1           D. For public infrastructure improvement projects  
 2 undertaken by a district after formation, the district board  
 3 shall hold a public hearing on the study and provide notice of  
 4 the hearing by publication not less than two weeks in advance  
 5 in the official newspaper of the municipality or county or, if  
 6 there are none in the municipality or county, a newspaper of  
 7 general circulation in the county. If the district board is  
 8 composed of members other than the governing body, the notice  
 9 shall be mailed to the governing body of the municipality or  
 10 county in which the district is located. After the hearing,  
 11 the district board may reject, amend or approve the report. If  
 12 the report is amended substantially, a new hearing shall be  
 13 held before approval. If the report is approved, the district  
 14 board shall adopt a resolution approving the public  
 15 infrastructure improvement of the project, identifying the  
 16 areas benefited, the expected method of financing and an  
 17 appropriate system of providing revenues to operate and  
 18 maintain the project."

19           **SECTION 6.** Section 5-11-19 NMSA 1978 (being Laws 2001,  
 20 Chapter 305, Section 19, as amended) is amended to read:

21           "5-11-19. GENERAL OBLIGATION BONDS--TAX LEVY--  
 22 EXCEPTION.--

23           A. At any time after the hearing on formation of  
 24 the district, the district board, or, if before formation, the  
 25 governing body may from time to time order and call a general

.193182.2

1 obligation bond election to submit to the owners and qualified  
2 electors the question of authorizing the district to issue  
3 general obligation bonds of the district to provide money for  
4 any public infrastructure purposes consistent with the general  
5 plan. The question shall include authorization for a levy,  
6 including a limitation on the levy, of a property tax to pay  
7 debt service on the bonds. The election may be held in  
8 conjunction with the formation election.

9 B. If general obligation bonds are approved at an  
10 election, the district board may issue and sell general  
11 obligation bonds of the district, provided that the district  
12 board shall have determined by resolution that the principal  
13 amount of all district general obligation bonds currently  
14 outstanding and the district general obligation bonds proposed  
15 for issuance and sale shall constitute, in total, no more than  
16 twenty-five percent of the total appraised value of the land  
17 within the district, including all infrastructure and vertical  
18 construction, which is owned by owners other than large  
19 property owners.

20 C. Bonds may be sold in a public offering or in a  
21 negotiated sale.

22 D. After the bonds are issued, the district board  
23 shall enter in its minutes a record of the bonds sold and their  
24 numbers and dates and shall annually levy and cause a property  
25 tax to be collected, at the same time and in the same manner as

.193182.2

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

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

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

8 SECTION 7. Section 5-11-20 NMSA 1978 (being Laws 2001,  
9 Chapter 305, Section 20) is amended to read:

10 "5-11-20. SPECIAL LEVY--BONDS--IMPOSITION.--

11 A. At any time after the hearing on formation of  
12 the district, the district board may from time to time order  
13 that a hearing be held to determine whether a special levy  
14 should be imposed and special levy bonds issued to provide  
15 money for any public infrastructure purpose consistent with the  
16 general plan. The question of imposing a special levy may be  
17 considered at the hearing on district formation upon notice  
18 that both issues will be heard at that time, which notice shall  
19 include the information required in Subsection B of this  
20 section.

21 B. Notice of hearing shall be provided at least two  
22 weeks in advance of the hearing itself in a newspaper of  
23 general circulation in the municipality or county in which the  
24 district is located. The notice shall include the following:

25 (1) a description of the method by which the

1 amount of the proposed special levy will be determined for each  
2 class of property to which the levy is proposed to apply, in  
3 sufficient detail to enable the owner of the affected parcel to  
4 determine the amount of the special levy;

5 (2) a description of the project to be  
6 financed with special levy bonds or revenues; and

7 (3) a statement that any person affected by  
8 the proposed special levy may object in writing or in person at  
9 the hearing.

10 C. Prior to issuing special levy bonds, the  
11 district board shall set a maximum levy for each class of  
12 property that may be imposed for debt service on the special  
13 levy bonds.

14 D. Unless a local government has enacted an  
15 ordinance providing a greater limitation, no special levy may  
16 be imposed that will cause the total tax and assessment  
17 obligation for such property, including projected ad valorem  
18 taxes and special levies, to exceed one and ninety-five  
19 hundredths percent of the anticipated market value of the  
20 property at the time of issuance as determined by a member  
21 appraiser of the appraisal institute.

22 [~~G.~~] E. Special levy bonds may be sold in a public  
23 offering or in a negotiated sale.

24 [~~D.~~] F. After the bonds are issued, the district  
25 board shall enter in its minutes a record of the bonds sold and

.193182.2

1 their numbers and dates and shall annually impose and cause a  
2 special levy to be collected, at the same time and in the same  
3 manner as property taxes are levied and collected on all  
4 property within the district that may be subject to the levy,  
5 including, without limitation, all leased property or  
6 improvements to leased land, sufficient, together with any  
7 other money lawfully available to pay debt service on the bonds  
8 when due, except to the extent that the district board has  
9 provided for other imposition, collection and foreclosure  
10 procedures in connection with special levies. Money derived  
11 from the imposition of the special levy when collected that is  
12 pledged to pay the debt service on the bonds shall be kept  
13 separately from other funds of the district. Special levy  
14 revenues not pledged to pay debt service on bonds may be used  
15 to pay other costs of the district, including costs of  
16 formation, administration, operation and maintenance, service  
17 or enhanced services.

18 ~~[E.]~~ G. The district board shall specify conditions  
19 under which the obligation to pay special levies may be prepaid  
20 and permanently satisfied.

21 ~~[F.]~~ H. Special levies against privately owned  
22 residential property shall be subject to the following  
23 provisions:

24 (1) the ~~[maximum]~~ amount of special levy that  
25 may be imposed shall not be increased over time by an amount

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[bracketed material] = delete

1 exceeding two percent per year, except that the amount of  
 2 special levy actually imposed may be increased by up to ten  
 3 percent as a result of the delinquency or default by the owner  
 4 of any other parcel within the district, but in no case shall  
 5 the amount of the special levy imposed exceed the maximum  
 6 special levy provided in the rate and method of apportionment;

7 (2) the special levy shall be imposed for a  
 8 specified time period, after which no further special levy  
 9 shall be imposed and collected, except that special levies  
 10 imposed solely to finance the cost of ongoing district  
 11 services, maintenance or operations or enhanced services may be  
 12 levied while such services, maintenance or operations or  
 13 enhanced services are continuing; and

14 (3) nothing in this subsection shall preclude  
 15 the establishment of different categories of residential  
 16 property or changing the amount of the special levies for a  
 17 parcel whose size or use is changed. A change in the amount of  
 18 a special levy imposed upon a parcel due to a change in its  
 19 size or use shall not require voter approval if the method for  
 20 changing the amount of special levy was approved in the  
 21 election approving the special levy in sufficient detail to  
 22 enable the owner of the affected parcel to determine how the  
 23 change in size or use of the parcel would affect the amount of  
 24 the special levy.

25 [~~G.~~] I. A district's imposition of a special levy

.193182.2

1 shall constitute a lien on the property within the district  
2 subject to the special levy, including property acquired by the  
3 state or its political subdivisions after imposition of the  
4 special levy, which shall be effective during the period in  
5 which the special levy is imposed and shall have priority  
6 co-equal to the lien of property taxes. A special levy shall  
7 be subject to foreclosure by the district at any time after six  
8 months following written notice of delinquency to the owner of  
9 the real property to which the delinquency applies. The lien  
10 shall include delinquencies, penalties and interest thereon at  
11 a rate not to exceed the maximum legal rate of interest per  
12 year and penalties otherwise applicable for delinquent property  
13 taxes, the district's actual costs of foreclosure and any other  
14 costs of the district resulting from the delinquency. All  
15 rights of redemption applicable to property sold in connection  
16 with property tax foreclosures pursuant to the laws of this  
17 state shall apply to property sold following foreclosure of a  
18 special levy lien. The portion of proceeds of any foreclosure  
19 sale necessary to discharge the lien for the special levy shall  
20 be deposited in the special bond fund for payment of any  
21 obligations secured thereby.

22 [H.] J. No holder of special levy bonds issued  
23 pursuant to the Public Improvement District Act may compel any  
24 exercise of the taxing power of the district, municipality or  
25 county to pay the bonds or the interest on the bonds. Special

.193182.2



1 levy bonds issued pursuant to that act are not a debt of the  
2 district, municipality or county, nor is the payment of special  
3 levy bonds enforceable out of any money other than the revenue  
4 pledged to the payment of the bonds.

5 ~~[F.]~~ K. Subject to the requirements of this  
6 section, a district may issue special levy bonds at such times  
7 and in such amounts as the district deems appropriate to carry  
8 out a project or projects in phases.

9 ~~[J.]~~ L. Pursuant to this section, the district may  
10 issue and sell refunding bonds to refund any special levy bonds  
11 of the district authorized by the Public Improvement District  
12 Act. Refunding bonds issued pursuant to this section shall  
13 have a final maturity date no later than the final maturity  
14 date of the bonds being refunded."

15 **SECTION 8.** A new section of the Public Improvement  
16 District Act is enacted to read:

17 "[NEW MATERIAL] FORMATION OF A PUBLIC IMPROVEMENT  
18 DISTRICT--APPLICATION REQUIREMENTS.--

19 A. An application for the formation of a district  
20 shall be submitted to the governing body. Each application  
21 shall be supported by a petition signed by the owners of at  
22 least twenty-five percent of the real property by assessed  
23 valuation proposed to be included in the district and shall  
24 contain, at a minimum, the following:

- 25 (1) a description of the proposed district,

.193182.2

underscoring material = new  
[bracketed material] = delete

1 including:

2 (a) a legal description of its  
3 boundaries;

4 (b) the identity and addresses of all  
5 persons or entities with any interest in the property,  
6 including submitting a current title report on the property as  
7 evidence of the names of persons with any interest in the  
8 property;

9 (c) the names and addresses of any  
10 resident qualified electors located within the proposed  
11 boundaries, if applicable;

12 (d) an explanation as to how the  
13 district boundaries were chosen;

14 (e) adequate information to establish  
15 financial parameters for the operation the district, if  
16 applicable; and

17 (f) information regarding the future  
18 ownership and maintenance of the public infrastructure  
19 improvements or enhanced services;

20 (2) a detailed description of the types of  
21 public infrastructure improvements or enhanced services to be  
22 provided by the district, including, if applicable:

23 (a) the estimated construction or  
24 acquisition costs of the public infrastructure improvements,  
25 including costs for repair and replacement of public

.193182.2

1 infrastructure improvements;

2 (b) the estimated annual operation and  
3 maintenance costs of the public infrastructure improvements;

4 (c) projection of working capital needs  
5 for enhanced services; and

6 (d) any governmental approvals and  
7 licenses that are expected to be required for both the public  
8 and private improvements to be constructed and operated;

9 (3) a feasibility study containing the  
10 information required in Subsection A of Section 5-11-16 NMSA  
11 1978;

12 (4) a description of the applicant's  
13 professional experience and evidence demonstrating its  
14 financial capacity to undertake the development associated with  
15 the public infrastructure, enhanced services and private  
16 development, as applicable;

17 (5) a disclosure form to owners describing:

18 (a) that the applicant intends to file  
19 an application for formation of a public improvement district;

20 (b) the purpose of the proposed public  
21 improvement district;

22 (c) a description of what a public  
23 improvement district is; and

24 (d) the rate, method of apportionment  
25 and manner of collection of a special levy, if one is proposed,

.193182.2

1 in sufficient detail to enable each owner or resident within  
2 the district to estimate the maximum amount of the proposed  
3 levy;

4 (6) certification that the disclosure pursuant  
5 to Paragraph (5) of this subsection has been provided to each  
6 owner;

7 (7) a description of how the proposed district  
8 meets the existing development objectives of the municipality  
9 or county, to the extent that the municipality or county has  
10 adopted policies identifying such objectives, including how the  
11 district is consistent with:

12 (a) the goals of promoting orderly  
13 development;

14 (b) the municipality's or county's  
15 comprehensive plan;

16 (c) growth management policies and  
17 zoning requirements; and

18 (d) the municipality's or county's  
19 applicable policies for development, growth management and  
20 zoning; and

21 (8) any other information that the governing  
22 body may reasonably require after its initial review of the  
23 application.

24 B. The requirements of Paragraph (5) of Subsection  
25 A of this section shall not apply if the petition is signed by

.193182.2

1 the owner of all the land in the district described in the  
2 petition submitted to the governing body.

3 C. The governing body may charge a fee to be  
4 applied by the governing body to the costs incurred in  
5 connection with the processing and review of the application  
6 and formation of the district in accordance with this section.  
7 Upon formation of the district, the governing body may charge  
8 an additional administrative expense fee to be applied by the  
9 governing body to the costs and expenses incurred in the  
10 formation of the district, specifically the review of the  
11 feasibility study and current appraisal of the project."

12 SECTION 9. A new section of the Public Improvement  
13 District Act is enacted to read:

14 "[NEW MATERIAL] NOTICE OBLIGATIONS TO PURCHASER--  
15 REQUIREMENTS.--

16 A. Prior to accepting an offer to purchase, a  
17 seller or agent of a seller of residential real property that  
18 is located in a district established pursuant to the Public  
19 Improvement District Act has an affirmative duty to provide to  
20 the purchaser of the property a written notice, in addition to  
21 the disclosure required by Section 47-13-4 NMSA 1978, that  
22 includes:

23 (1) information that the property is within a  
24 public improvement district;

25 (2) the purpose of the district;

.193182.2

1 (3) an explanation that the purchaser is  
2 obligated to pay any property tax or special levy that is  
3 imposed by the district board;

4 (4) an explanation that the property tax or  
5 special levy imposed by the district board is in addition to  
6 any other state, county or other local governmental taxes and  
7 assessments;

8 (5) for special levies:

9 (a) if a special levy has not been  
10 authorized the district board, information that a special levy  
11 has not been authorized; or

12 (b) if a special levy has been  
13 authorized by the district board: 1) the maximum special levy  
14 that is authorized to be imposed upon the property in the  
15 district; or 2) that the special levy to be imposed on the  
16 property in the district has been prepaid in full as provided  
17 in the rate or method of apportionment;

18 (6) for general obligation bonds:

19 (a) if general obligation bonds have not  
20 been issued, information that general obligation bonds have not  
21 been issued; or

22 (b) if general obligation bonds have  
23 been issued: 1) the amount of general obligation bonds that  
24 are outstanding; 2) the amount of annual debt service on  
25 outstanding general obligation bonds; 3) that the maximum rate

.193182.2

1 and amount of property taxes that may be imposed upon the  
2 property in the district are limited only by the amount of debt  
3 outstanding; and 4) the estimated or projected annual mill levy  
4 or special levy per one thousand dollars (\$1,000) of assessed  
5 value as of the date of the disclosure with an explanation that  
6 the estimated levy or rate may be increased by the district  
7 board when necessary to meet debt obligations;

8 (7) information that the failure to pay the  
9 property tax or special levy could result in the foreclosure of  
10 the property;

11 (8) information that more information  
12 concerning the rate of the property tax or the amount of the  
13 assessment and the due dates of each may be obtained from the  
14 governing body that authorized the formation of the district;  
15 and

16 (9) information that a feasibility study was  
17 completed as part of the formation of the district and that the  
18 feasibility study is available through the governing body that  
19 authorized the formation of the district.

20 B. The provisions of Paragraphs (5) through (7) of  
21 Subsection A of this section shall be set apart in a clear and  
22 conspicuous manner and in at least twelve-point bold type.

23 C. This section does not apply to a transfer:

24 (1) of property under a court order or  
25 foreclosure sale;

.193182.2

- 1 (2) of property by a trustee in bankruptcy;
- 2 (3) of property to a mortgagee by a mortgagor
- 3 or successor in interest or to a beneficiary of a deed of trust
- 4 by a trustor or successor in interest;
- 5 (4) of property by a mortgagee or a
- 6 beneficiary under a deed of trust who has acquired the land at
- 7 a sale conducted under a power of sale under a deed of trust or
- 8 a sale under a court-ordered foreclosure or has acquired the
- 9 land by a deed in lieu of foreclosure;
- 10 (5) of property by a fiduciary in the course
- 11 of the administration of a decedent's estate, guardianship,
- 12 conservatorship or trust;
- 13 (6) of property from one co-owner to another
- 14 co-owner of an undivided interest in the real property; or
- 15 (7) of only a mineral interest or leasehold
- 16 interest.

17 D. In the event of a finalized sale, failure to  
18 provide notice pursuant to this section shall constitute a  
19 violation of the Unfair Practices Act."