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SENATE BILL 267

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Cisco McSorley

AN ACT

RELATING TO MUNICIPALITIES; AMENDING THE BUSINESS IMPROVEMENT
DISTRICT ACT TO INCLUDE BUSINESS OWNERS.

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

Section 1. Section 3-63-2 NMSA 1978 (being Laws 1988,
Chapter 32, Section 2) is amended to read:

"3-63-2. PURPOSE OF ACT. -- The purpose of the Business
Improvement District Act is to:

A. promote and restore the economic vitality of
areas within municipalities by allowing the establishment of
business improvement districts with the powers to provide for
the administration and financing of additional and extended
services to businesses within business improvement districts;
[and to]

B. finance local improvements within those

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1 districts; and
2 C. provide municipalities and entrepreneurs a more
3 flexible and proactive vehicle to partner in the
4 revitalization efforts of their downtowns and central business
5 districts. "

6 Section 2. Section 3-63-3 NMSA 1978 (being Laws 1988,
7 Chapter 32, Section 3) is amended to read:

8 "3-63-3. DEFINITIONS. --As used in the Business
9 Improvement District Act:

10 A. "business" means a fixed place of business
11 within an incorporated municipality where one or more persons
12 are employed or engaged in the purchase, sale, provision or
13 manufacturing of commodities, products or services and
14 includes the ownership of unoccupied real property that is
15 held for commercial investment purposes, for sale or for
16 lease;

17 B. "council" means the governing body of the
18 incorporated municipality within which the district is found;

19 C. "district" means an entity having a contiguous
20 area of clearly defined boundaries within an incorporated
21 municipality in which at least [~~three-quarters~~] three-fourths
22 of the area is zoned and used for business or mixed commercial
23 or retail use, that is established pursuant to the Business
24 Improvement District Act in which the improvements are to be
25 constructed and upon which the business improvement benefit

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1 fee for the costs of the improvements is to be imposed;

2 D. "improvement" means any one or any combination
3 of services or projects in one or more locations authorized
4 pursuant to the Business Improvement District Act;

5 E. "management committee" means the district
6 management committee as established pursuant to the Business
7 Improvement District Act;

8 F. "planning group" means a group appointed by the
9 council to prepare the proposed district plans as provided in
10 the Business Improvement District Act; and

11 G. "real property" means real property that is
12 used to engage in the purchase, sale, provision or
13 manufacturing of commodities, products or services and
14 unoccupied real property that is held for commercial
15 investment purposes, for sale or for lease. "

16 Section 3. Section 3-63-5 NMSA 1978 (being Laws 1988,
17 Chapter 32, Section 5) is amended to read:

18 "3-63-5. DISTRICT--AUTHORITY--CREATION.--

19 [~~A. A district shall include, for the purpose of a
20 business improvement benefit fee, all real property which is
21 determined to be benefited by the improvements specified in
22 the business improvement district plan, exclusive of any real
23 property owned by the state or the United States or any of its
24 agencies or instrumentalities.~~]

25 A. A district shall impose a business improvement

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1 benefit fee on any real property or business located within
2 the district.

3 B. A district shall include any real property or
4 business that benefits by the improvements set out in the
5 business improvement district plan and that is located within
6 the district's geographic boundaries.

7 C. The district shall not include:
8 (1) governmentally owned real property;
9 (2) residential real property; or
10 (3) real property owned by a nonprofit
11 corporation.

12 ~~[B.]~~ D. A district may be created by petition of
13 real property owners or by petition of business owners in a
14 proposed district after notice and public hearing. "

15 Section 4. Section 3-63-6 NMSA 1978 (being Laws 1988,
16 Chapter 32, Section 6) is amended to read:

17 "3-63-6. CREATION BY PETITION. --

18 A. Whenever a majority of the ~~[real property by~~
19 ~~assessed valuation and real property owners within a proposed~~
20 ~~district]~~ owners of fifty-one percent of the real property
21 within a proposed district, measured by the value of the
22 acreage of real property for property taxation purposes,
23 exclusive of any real property owned by the United States or
24 the state or any of its political subdivisions, [petition] or
25 a majority of business owners petitions the council in writing

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1 to create a district, the council shall refer the petition to
2 a planning group to prepare a plan pursuant to the provisions
3 of [~~this~~] the Business Improvement District Act to implement
4 the creation of the district. The plans shall:

5 (1) state the purpose for the creation of the
6 district;

7 (2) describe in general terms the real
8 property to be included in the district;

9 (3) provide an assessment plat of the area to
10 be included in the district showing an estimate of the
11 benefits to such real property and an amount estimated to be
12 assessed against each parcel of real property; [~~and~~]

13 (4) provide such other information as the
14 council deems necessary for the proper evaluation of the plan;

15 (5) in the case of a petition brought by a
16 majority of business owners, describe in general terms both
17 the real property and the businesses included in the district;
18 and

19 (6) in the case of a petition brought by a
20 majority of business owners, provide a formula used to assess
21 businesses in the district.

22 B. After the completion of the plan, the planning
23 group shall have the municipal clerk give notice of a hearing
24 on the proposed plan.

25 C. If after the hearing the planning group

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1 recommends to the council the creation of the district as
2 proposed or amended, the council may adopt by ordinance the
3 proposed district requested by petition and as described by
4 the plan. "

5 Section 5. Section 3-63-7 NMSA 1978 (being Laws 1988,
6 Chapter 32, Section 7) is amended to read:

7 "3-63-7. ORDINANCE CREATING THE DISTRICT. -- The ordinance
8 to create a district shall include:

9 A. a list of improvements to be provided by the
10 district;

11 B. the amount of benefit estimated to be conferred
12 on each tract or parcel of real property;

13 C. a description of the real property or business
14 to be assessed a business improvement benefit fee;

15 D. the assessment method to be used to finance the
16 improvements of the district;

17 E. the amount of the assessment to be imposed on
18 each real property owner; and

19 F. the terms of members, method of appointment and
20 duties of the management committee for the district. "

21 Section 6. Section 3-63-10 NMSA 1978 (being Laws 1988,
22 Chapter 32, Section 10) is amended to read:

23 "3-63-10. NOTICE AND HEARING. --

24 A. The notice of public hearing required by the
25 Business Improvement District Act shall contain:

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1 (1) the time and place where the planning
2 committee will hold a hearing on the proposed district and
3 improvements;

4 (2) the estimated cost of improvements;

5 (3) the boundary of the district; and

6 (4) the recommended formula or the
7 preliminary estimate of assessment of a business improvement
8 benefit fee against each tract or parcel of real property or
9 business.

10 B. The notice of the public hearing shall be
11 mailed to the affected real property owners or business owners
12 in the proposed district at least thirty days prior to the
13 date of the hearing. In addition, notice shall be published
14 once each week for [~~four~~] two successive weeks in a newspaper
15 of general circulation in the municipality in which the
16 proposed district lies. The last publication shall be at
17 least three days before the date of the hearing.

18 C. Any citizen, business owner or real property
19 owner affected by the proposed district shall be given
20 opportunity to appear at the public hearing and present his
21 views on the creation of the district as outlined in the
22 preliminary plan.

23 D. Upon completion of the hearing, the planning
24 group shall present its recommendation on the creation of the
25 proposed district. If the recommendation is against the

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1 creation of the district, the council may not adopt an
2 ordinance creating the district. "

3 Section 7. Section 3-63-11 NMSA 1978 (being Laws 1988,
4 Chapter 32, Section 11) is amended to read:

5 "3-63-11. MANAGEMENT COMMITTEE-- CREATION-- DUTIES. --

6 ~~[A. If the council adopts the ordinance creating~~
7 ~~the district, the council shall appoint a management committee~~
8 ~~from lists of names submitted by local area owners of~~
9 ~~businesses and owners of real property located in the~~
10 ~~district. The management committee shall be responsible for~~
11 ~~the operation of the district.]~~

12 A. The council, upon adoption of an ordinance
13 creating a district, shall appoint a management committee that
14 shall be responsible for the operation of the district in one
15 of the following manners:

16 (1) the council shall appoint an existing
17 downtown, community or central business district
18 revitalization nonprofit corporation that operates within the
19 boundaries of the district, to administer and implement the
20 business improvement district plan; or

21 (2) the council shall appoint a management
22 committee to administer and implement the business improvement
23 district plan from nominees submitted by the owners of
24 businesses and the owners of real property located in the
25 district.

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1 B. The management committee shall prepare and file
2 annually with the council for its review and approval a budget
3 and progress report for the district.

4 C. The management committee shall administer all
5 improvements within the district.

6 D. The management committee shall recommend the
7 annual assessment to be made by the council.

8 E. The management committee shall file annually
9 with the council a report of the district activities for the
10 preceding fiscal year, which report shall include a complete
11 financial statement setting forth its assets, liabilities,
12 income and operating expenses as of the end of the fiscal year
13 and the benefits of the district's program to the real
14 property and business owners of the district.

15 F. The management committee shall be a nonprofit
16 corporation created pursuant to [~~Chapter 53, Article 8 NMSA~~
17 ~~1978~~] the Nonprofit Corporation Act. "

18 Section 8. Section 3-63-13 NMSA 1978 (being Laws 1988,
19 Chapter 32, Section 13) is amended to read:

20 "3-63-13. ANNUAL ASSESSMENT--SPECIAL ACCOUNT.--

21 A. The council, upon recommendation of the
22 management committee, may annually assess a business
23 improvement benefit fee as defined by the ordinance upon all
24 real property owners and business owners, exclusive of any
25 real property owned by the United States or the state or any

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1 of its political subdivisions or business located within the
2 district. The council may make reasonable classifications
3 regarding real property owners located within the district.
4 The annual assessment may be based on the amount of space used
5 for business purposes, street front footage, building or land
6 square footage or such other factors or combination of factors
7 as shall be deemed reasonable. The annual assessment shall be
8 in addition to any other incorporated municipal-imposed
9 license fees or other taxes, fees or other charges assessed or
10 levied for the general benefit and use of the incorporated
11 municipality.

12 B. All money received by the municipality from the
13 district assessment shall be held in a special account for the
14 benefit of the district.

15 C. In the case of a district that was created by a
16 majority of real property owners, the amount owed by the
17 commercial tenant shall be proportional to the square footage
18 of space that he rents but shall not be more than seventy-five
19 percent of the total business improvement benefit fee. The
20 property owner shall pay at least twenty-five percent of the
21 business improvement benefit fee.

22 D. In the case of a district that was created by a
23 majority of businesses, the business improvement benefit fee
24 shall be collected at the same time that the real property
25 owner's property taxes are collected. Businesses assessed for

1 the business improvement fee shall pay one hundred percent of
2 the business fee assessed to the building. "

3 Section 9. REPEAL. -- Section 3-63-8 NMSA 1978 (being Laws
4 1988, Chapter 32, Section 8) is repealed.

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1 FORTY- FOURTH LEGI SLATURE

2 FIRST SESSI ON, 1999

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5 February 4, 1999

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7 Mr. Presi dent:

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9 Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
10 whom has been referred
11

12
13 SENATE BILL 267

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS, and thence referred to the
17 JUDICIARY COMMITTEE.

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19 Respectfully submi tted,
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Roman M. Maes, Chairman

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Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 2 Against

Yes: 5

No: McKibben, Rawson

Excused: Fidel, Macias, Robinson

Absent: None

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