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FISCAL IMPACT REPORT

ORIGINAL DATE 2/28/2007

SPONSOR Ortiz y Pino LAST UPDATED _____ HB _____

SHORT TITLE Business Improvement District Property Types SB 1113

ANALYST Schuss

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

Attorney General's Office (AGO)

SUMMARY

Synopsis of Bill

Senate Bill 1113 amends Section 3-63-5 NMSA 1978 of the Business Improvement District Act to exempt multifamily residential rental property with at least four units or homeowners associations of multifamily ownership properties from the district benefit fee assessment schedule. It also exempts residential real property located within an existing district that became eligible for a business improvement benefit fee assessment after the district was created, unless the ordinance that created the district is amended to include the new business or property after notice and hearing in accordance with Section 3-63-10 NMSA 1978.

The Bill then amends Section 3-63-13 to state that the council may annually assess a business improvement benefit fee exclusive of governmentally owned real property, residential real property other than multifamily residential rental property with at least four units or homeowners associations of multifamily ownership properties and residential real property located within an existing district that became eligible for a business improvement benefit fee assessment after the district was created, unless the ordinance that created the district is amended to include the new business or property after notice and hearing in accordance with Section 3-63-10 NMSA 1978.

SIGNIFICANT ISSUES

The AGO has included the following in their analysis:

The Business Development Improvement Act, NMSA Sections 3-63-1 to 3-63-16, allows a municipality to create a business improvement district in order to provide services that will attempt to restore or promote the economic vitality of the district and the general welfare of the incorporated municipality. The municipality may levy and assess a business improvement benefit fee on real property located within the district, with certain exceptions. Residential real property is currently exempted from the fee. This bill would exempt multifamily residential rental property with at least four units, or homeowners associations of multifamily ownership properties, from the fee exception for residential real property, apparently in an attempt to include that property and those organizations within the fee schedule. However, it would then exempt that “property” from the fee if it became eligible for the fee assessment after the district was created, presumably by increasing the number of rental units or becoming organized as a homeowner’s association. The bill would then subject that property and organizations to the fee if the ordinance is amended to include that property.

By exempting certain real property from the exemption for residential real property, the bill appears intended to actually *include* that property within the fee schedule. If so, the real property included will be multifamily residential real property with at least four units, or homeowners associations of multifamily ownership properties, presumably without regard to the number of units. However, homeowners associations are not normally considered to be real property. They are organizations of owners or residents owning or occupying real property. It is unclear whether the bill intends to confer real property status or characteristics on the organizations themselves.

According to DFA, redeveloping downtowns in New Mexico cities reflect a nationwide trend of accommodating persons seeking to live there, either as renters or owners. Buildings reincarnated from banks, retail or other business uses into lofts lead many a downtown's turnaround. While this trend brings life back to downtowns, it also means a greater demand on services, often at rates above that which city coffers can afford. Business Improvement Districts, or BIDs, have sprung up around the country since 1990, offering to provide those services, including events management, graffiti removal, panhandling reduction, promotional activities and other things that promote downtowns. The Downtown Action Team in Albuquerque runs the first one in the state, encompassing 82 blocks. A second BID is planned for downtown Gallup. BIDs as authorized under state statute are funded by an assessment of businesses located within a BID district.

BS/nt