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HOUSE BILL 883

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

PAULINE K. GUBBELS

AN ACT

RELATING TO MUNICIPALITIES; AMENDING SECTIONS OF THE NMSA 1978
RELATING TO IMPROVEMENT DISTRICTS AND STREET IMPROVEMENT FUNDS.

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

Section 1. Section 3-33-3 NMSA 1978 (being Laws 1965,
Chapter 300, Section 14-32-3, as amended) is amended to read:

"3-33-3. IMPROVEMENT DISTRICT--PURPOSE. --An improvement
district may be created as authorized in Chapter 3, Article 33
NMSA 1978 in order to construct, acquire, repair or maintain in
one or more locations any one or any combination of the
following projects, including without limitation any right-of-
way, easement or privilege appurtenant or related thereto:

A. a street, road, bridge, walkway, overpass,
underpass, pathway, alley, curb, gutter or sidewalk project and
storm drainage projects associated with any of the foregoing

Underscored material = new
[bracketed material] = delete

1 projects, including without limitation median and divider
2 strips, parkways and boulevards, ramps and stairways,
3 interchanges, alleys and intersections, arches, support
4 structures and pilings and the grading, regrading, oiling,
5 surfacing, graveling, excavating, macadamizing, paving,
6 repairing, laying, backfilling, leveling, lighting, landscaping,
7 beautifying or in any manner improving all or any part of one
8 or more streets, roads, bridges, walkways, pathways, curbs,
9 gutters, ~~[or]~~ sidewalks or associated storm drainage
10 improvements or any combination of the foregoing;

11 B. a storm sewer project, sanitary sewer project or
12 water project, including without limitation ~~[investigation]~~
13 investigating, planning, constructing, acquiring, excavating,
14 laying, leveling, backfilling or in any manner improving all or
15 any part of one or more storm sewers, drains, sanitary sewers,
16 water lines, trunk lines, mains, laterals ~~[and]~~ or property
17 connections and acquiring or improving hydrants, meters, valves,
18 catch basins, inlets, outlets, lift or pumping stations and
19 machinery and equipment incidental thereto or any combination of
20 the foregoing;

21 C. a flood control or storm drainage project,
22 including without limitation the investigation, planning,
23 construction, improvement, replacement, repair or acquisition of
24 dams, dikes, levees, ditches, canals, basins and appurtenances
25 such as spillways, outlets, syphons and drop structures, channel

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1 construction, diversions, rectification and protection with
2 appurtenant structures such as concrete lining, banks,
3 revetments, culverts, inlets, bridges, transitions and drop
4 structures, rundowns and retaining walls, storm sewers and
5 related appurtenances such as inlets, outlets, manholes, catch
6 basins, syphons and pumping stations, appliances, machinery and
7 equipment and property rights connected therewith or incidental
8 thereto convenient and necessary to control floods or provide
9 drainage and lessen their danger and damages; or

10 D. a utility project providing gas, water,
11 electricity or telephone service."

12 Section 2. Section 3-33-31 NMSA 1978 (being Laws 1965,
13 Chapter 300, Section 14-32-24, as amended) is amended to read:

14 "3-33-31. IMPROVEMENT DISTRICT--ASSESSMENT FUNDS--
15 EXPENDITURES--MISUSE--PENALTIES.--

16 A. All money received by the municipality from any
17 special assessment or assessment within an improvement district
18 shall be held in a special fund or funds, and used to:

19 (1) pay the cost of the improvement for which
20 the assessment was made;

21 (2) reimburse the municipality for any work
22 performed by the municipality in constructing the improvement
23 and pay for administrative costs associated with [~~the~~] an
24 improvement district; or

25 (3) pay the interest and principal due on any

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1 outstanding bonds or assignable certificates;

2 B. Any person who uses money in an improvement
3 district fund other than as provided in this section is guilty
4 of a felony and shall be punished by a fine not exceeding one
5 thousand dollars (\$1,000) or by imprisonment in the state
6 penitentiary for not more than two years or by both such fine
7 and imprisonment in the discretion of the court. "

8 Section 3. Section 3-33-32 NMSA 1978 (being Laws 1965,
9 Chapter 300, Section 14-32-25, as amended) is amended to read:

10 "3-33-32. TRANSFER OF IMPROVEMENT DISTRICT FUNDS. --The
11 governing body may transfer to the general fund or to any other
12 fund of the municipality any money obtained from the levy of an
13 assessment for an improvement district if:

14 A. bonds or assignable certificates were issued to
15 finance the improvement;

16 B. the proceeds of the bonds or assignable
17 certificates were spent for the improvement;

18 C. the assessments were levied and collected for the
19 payment of the bonds or assignable certificates; and

20 D. either the bondholders or assignable certificate
21 holders are barred by the statute of limitations or a court
22 judgment or decree from collecting the indebtedness; or

23 E. the bonded indebtedness or assignable
24 certificates have been paid. "

25 Section 4. Section 3-34-2 NMSA 1978 (being Laws 1965,

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1 Chapter 300, Section 14-33-2, as amended) is amended to read:

2 "3-34-2. STREET IMPROVEMENT FUND--USE.-- Bonds or
3 assignable certificates authorized in Section 3-33-24 NMSA 1978
4 for the construction of a street, alley, curb, gutter, [ø] ~~or~~
5 sidewalk project or associated storm drainage improvements may
6 be purchased by the street improvement fund; provided that the
7 bonds or assignable certificates shall be held in trust by the
8 municipal treasurer, and any receipts from the sale of the bonds
9 or assignable certificates or from the payment of the assessment
10 made to pay the interest and principal of the bonds or
11 assignable certificates shall be credited to the street
12 improvement fund."

13 Section 5. Section 3-34-3 NMSA 1978 (being Laws 1965,
14 Chapter 300, Section 14-33-3, as amended) is amended to read:

15 "3-34-3. STREET IMPROVEMENT FUND--REPURCHASING BONDS OR
16 CERTIFICATES--PLEDGING INCOME.--

17 A. The governing body may, by ordinance approved by
18 three-fourths of all the members of the governing body and
19 irrevocable during the term of the contract and for a period
20 not exceeding twenty-one years, contract:

21 (1) to repurchase bonds or assignable
22 certificates authorized in Section 3-33-24 NMSA 1978 for the
23 construction of a street, alley, curb, gutter, [ø] sidewalk
24 project or associated storm drainage improvements with the money
25 in the street improvement fund; or

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1 (2) to pledge the ~~[income of]~~ amounts on
2 deposit in the street improvement fund to pay the interest and
3 principal of bonds or assignable certificates when default in
4 payment may occur by reason of nonpayment of any assessment
5 levied for the payment of a street, alley, curb, gutter, ~~[or]~~
6 sidewalk project or associated storm drainage improvements
7 authorized in Section 3-33-3 NMSA 1978.

8 B. The municipality may anticipate the annual
9 ~~[income]~~ distribution to be received by the street improvement
10 fund. The amount contracted or pledged to be expended each year
11 as authorized in this section shall not exceed the amount that
12 is accumulated in the street improvement fund.

13 C. The ordinance authorized in this section shall
14 state that:

15 (1) all disbursements made pursuant to the
16 contract shall be paid solely from the street improvement fund
17 and from no other source;

18 (2) the obligations created by the contract are
19 not general obligations of the municipality; and

20 (3) the contracting parties may not look to any
21 other fund for the performance of the contractual obligation.

22 D. In the event of disbursement from the street
23 improvement fund pursuant to the obligations created by the
24 contract, the municipality shall be subrogated for the benefit
25 of the street improvement fund to all the rights and remedies of

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the holders of the securities upon which payment is made. "

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State of New Mexico
House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

February 27, 1997

Mr. Speaker:

Your GOVERNMENT AND URBAN AFFAIRS COMMITTEE, to
whom has been referred

HOUSE BILL 883

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Lynda M. Lovejoy, Chairwoman

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

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Adopted _____ Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

Excused: Pederson, Taylor, JG

Absent: None

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**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

March 12, 1997

Mr. President:

Your CORPORATIONS & TRANSPORTATION COMMITTEE, to
whom has been referred

HOUSE BILL 883

has had it under consideration and reports same with
recommendation that it DO PASS.

Respectfully submitted,

Roman M. Maes, III, Chairman

Adopted _____ Not Adopted _____

**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 8 For 0 Against

Yes: 8

No: 0

Excused: Fidel, Robinson

Absent: None

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[bracketed material] = delete