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HOUSE BILL 450

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

INTRODUCED BY

Thomas C. Taylor

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

8 "3-63-5. DISTRICT--AUTHORITY--CREATION. --

9 ~~[A. A district shall include, for the purpose of a~~
10 ~~business improvement benefit fee, all real property which is~~
11 ~~determined to be benefited by the improvements specified in~~
12 ~~the business improvement district plan, exclusive of any real~~
13 ~~property owned by the state or the United States or any of its~~
14 ~~agencies or instrumentalities.]~~

15 A. A district shall assess a business improvement
16 benefit fee on any real property or business located within
17 the district.

18 B. A district shall include any real property or
19 business that benefits by the improvements set out in the
20 business improvement district plan and that is located within
21 the district's geographic boundaries.

22 C. The district benefit fee assessment schedule
23 shall not include:

- 24 (1) governmentally owned real property;
25 (2) residential real property; or

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(3) real property owned by a nonprofit corporation.

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

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

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

A. Whenever a majority of the ~~[real property by assessed valuation and real property owners within a proposed district]~~ owners of fifty-one percent of the real property within a proposed district, measured by the value of the acreage of real property for property taxation purposes, exclusive of any real property owned by the United States or the state or any of its political subdivisions, ~~[petition]~~ or a majority of business owners within a proposed district petitions the council in writing to create a district, the council shall refer the petition to a planning group to prepare a plan pursuant to the provisions of ~~[this]~~ the Business Improvement District Act to implement the creation of the district. The plans shall:

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

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

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1 (3) provide an assessment plat of the area to
2 be included in the district showing an estimate of the
3 benefits to such real property and an amount estimated to be
4 assessed against each parcel of real property; [and]

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

7 (5) in the case of a petition brought by a
8 majority of business owners within a proposed district,
9 describe in general terms both the real property and the
10 businesses included in the district; and

11 (6) in the case of a petition brought by a
12 majority of business owners within a proposed district,
13 provide a formula to be used to assess businesses in the
14 district for the business improvement benefit fee to be
15 collected along with the municipal property tax.

16 B. After the completion of the plan, the planning
17 group shall have the municipal clerk give notice of a hearing
18 on the proposed plan.

19 C. If after the hearing the planning group
20 recommends to the council the creation of the district as
21 proposed or amended, the council may adopt by ordinance the
22 proposed district requested by petition and as described by
23 the plan. "

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

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1 "3-63-7. ORDINANCE CREATING THE DISTRICT. -- The ordinance
2 to create a district shall include:

3 A. a list of improvements to be provided by the
4 district;

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

7 C. a description of the real property or
8 businesses to be assessed a business improvement benefit fee;

9 D. the assessment method to be used to finance the
10 improvements of the district;

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

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

15 Section 5. Section 3-63-10 NMSA 1978 (being Laws 1988,
16 Chapter 32, Section 10) is amended to read:

17 "3-63-10. NOTICE AND HEARING. --

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

20 (1) the time and place where the planning
21 committee will hold a hearing on the proposed district and
22 improvements;

23 (2) the estimated cost of improvements;

24 (3) the boundary of the district; and

25 (4) the recommended formula or the

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1 preliminary estimate of assessment of a business improvement
2 benefit fee against each tract or parcel of real property or
3 business.

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

12 C. Any citizen, business owner or real property
13 owner affected by the proposed district shall be given
14 opportunity to appear at the public hearing and present his
15 views on the creation of the district as outlined in the
16 preliminary plan.

17 D. Upon completion of the hearing, the planning
18 group shall present its recommendation on the creation of the
19 proposed district. If the recommendation is against the
20 creation of the district, the council may not adopt an
21 ordinance creating the district. "

22 Section 6. Section 3-63-11 NMSA 1978 (being Laws 1988,
23 Chapter 32, Section 11) is amended to read:

24 "3-63-11. MANAGEMENT COMMITTEE-- CREATION-- DUTIES. --
25 [A. ~~If the council adopts the ordinance creating~~

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1 ~~the district, the council shall appoint a management committee~~
2 ~~from lists of names submitted by local area owners of~~
3 ~~businesses and owners of real property located in the~~
4 ~~district. The management committee shall be responsible for~~
5 ~~the operation of the district.]~~

6 A. The council, upon adoption of an ordinance
7 creating a district, shall appoint a management committee that
8 shall be responsible for the operation of the district in one
9 of the following manners:

10 (1) the council shall appoint an existing
11 downtown, community or central business district
12 revitalization nonprofit corporation that operates within the
13 boundaries of the district, to administer and implement the
14 business improvement district plan; or

15 (2) the council shall appoint a management
16 committee to administer and implement the business improvement
17 district plan from nominees submitted by the owners of
18 businesses and the owners of real property located in the
19 district.

20 B. The management committee shall prepare and file
21 annually with the council for its review and approval a budget
22 and progress report for the district.

23 C. The management committee shall administer all
24 improvements within the district.

25 D. The management committee shall recommend the

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1 annual assessment to be made by the council.

2 E. The management committee shall file annually
3 with the council a report of the district activities for the
4 preceding fiscal year, which report shall include a complete
5 financial statement setting forth its assets, liabilities,
6 income and operating expenses as of the end of the fiscal year
7 and the benefits of the district's program to the real
8 property and business owners of the district.

9 F. The management committee shall be a nonprofit
10 corporation created pursuant to [~~Chapter 53, Article 8 NMSA~~
11 ~~1978~~] the Nonprofit Corporation Act. "

12 Section 7. Section 3-63-13 NMSA 1978 (being Laws 1988,
13 Chapter 32, Section 13) is amended to read:

14 "3-63-13. ANNUAL ASSESSMENT--SPECIAL ACCOUNT. --

15 A. The council, upon recommendation of the
16 management committee, may annually assess a business
17 improvement benefit fee as defined by the ordinance upon all
18 real property owners and business owners, exclusive of any
19 real property owned by the United States or the state or any
20 of its political subdivisions located within the district.
21 The council may make reasonable classifications regarding real
22 property owners located within the district. The annual
23 assessment may be based on the amount of space used for
24 business purposes, street front footage, building or land
25 square footage or such other factors or combination of factors

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1 as shall be deemed reasonable. The annual assessment shall be
2 in addition to any other incorporated municipal-imposed
3 license fees or other taxes, fees or other charges assessed or
4 levied for the general benefit and use of the incorporated
5 municipality.

6 B. All money received by the municipality from the
7 district assessment shall be held in a special account for the
8 benefit of the district.

9 C. In the case of a district that was created by a
10 majority of real property owners, the amount owed by a
11 commercial tenant shall be proportional to the square footage
12 of space that the tenant rents but shall not be more than
13 seventy-five percent of the total business improvement benefit
14 fee assessed on the property. The property owner shall pay at
15 least twenty-five percent of the business improvement benefit
16 fee.

17 D. In the case of a district that was created by a
18 majority of businesses, the business improvement benefit fee
19 shall be collected at the same time that the real property
20 owner's property taxes are collected. Businesses shall be
21 assessed for one hundred percent of the business fee assessed
22 to the property. "

23 Section 8. REPEAL. -- Section 3-63-8 NMSA 1978 (being Laws
24 1988, Chapter 32, Section 8) is repealed.

1 FORTY- FOURTH LEGISLATURE

2 FIRST SESSION, 1999

3
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6 February 20, 1999

7
8 Mr. Speaker:

9
10 Your GOVERNMENT AND URBAN AFFAIRS COMMITTEE, to
11 whom has been referred

12
13 HOUSE BILL 450

14
15 has had it under consideration and reports same with
16 recommendation that it DO PASS, amended as follows:

17 1. On page 2, line 4, after "downtowns", insert
18 ", commercial districts".,

19
20 and thence referred to the JUDICIARY COMMITTEE.
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HGUAC/HB 450

Page 11

Respectfully submitted,

James G. Taylor, Chairman

Adopted _____
(Chief Clerk)

Not Adopted _____
(Chief Clerk)

Date _____

The roll call vote was 6 For 0 Against

Yes: 6

Excused: Abeyta

Absent: None

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1 FORTY- FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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5 February 27, 1999
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7 Mr. Speaker:
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9 Your JUDICIARY COMMITTEE, to whom has been referred
10

11 HOUSE BILL 450, as amended
12

13 has had it under consideration and reports same with
14 recommendation that it DO PASS, amended as follows:

15 1. On page 1, line 12, before the period insert "
16 DECLARING AN EMERGENCY".

17 2. On page 3, line 9, strike "a majority of".
18

19 3. On page 9, between lines 24 and 25, insert the
20 following new section:
21

22 "Section 9. EMERGENCY.--It is necessary for the public
23 peace, health and safety that this act take effect
24 immediately. "
25

FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

HJC/HB 450, aa

Page 13

Respectfully submitted,

R. David Pederson, Chairman

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 11 For 0 Against

Yes: 11

Excused: Luna

Absent: None

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FORTY- FOURTH LEGISLATURE
FIRST SESSION

March 3, 1999

HOUSE FLOOR AMENDMENT number _____ to HOUSE BILL 450, as amended

Amendment sponsored by Representative

1. Strike House Judiciary Committee Amendment 2.

2. On page 2, line 3, strike "partner" and insert in lieu thereof "collaborate".

3. On page 3, line 9, after "Whenever" strike the remainder of the line and strike all of lines 10 through 16 and insert in lieu thereof "ten or more business owners comprising at least fifty-one percent of the total business owners in the proposed district or whenever five or more real property owners comprising at least fifty-one percent of the total real property owners in the proposed district, exclusive of any real property owned by the United States or the state or any of its political subdivisions,".

4. On page 3, line 17, strike "petitions" and insert in lieu

FORTY- FOURTH LEGISLATURE
FIRST SESSION

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HF1/ HB 450, aa

Page 15

thereof "petition".

Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

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FORTY-FOURTH LEGISLATURE
FIRST SESSION

HF1/HB 450, aa

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

March 8, 1999

Mr. President:

Your CORPORATIONS & TRANSPORTATION COMMITTEE, to whom
has been referred

HOUSE BILL 450, as amended

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

Respectfully submitted,

Roman M. Maes, Chairman

Adopted _____ Not Adopted _____

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FORTY- FOURTH LEGISLATURE
FIRST SESSION

1 HF1/ HB 450, aa

Page 17

2 (Chief Clerk)

(Chief Clerk)

3

4

5

Date _____

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8 The roll call vote was 6 For 0 Against

9 Yes: 6

10 No: 0

11 Excused: Macias, McKibben, Robinson, Maes

12 Absent: None

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