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HOUSE BILL 306

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

James E. Smith

AN ACT

RELATING TO FLOOD CONTROL DISTRICTS; AMENDING THE EASTERN SANDOVAL COUNTY ARROYO FLOOD CONTROL ACT TO REQUIRE THAT THE AUTHORITY BE DIVIDED INTO THREE DISTRICTS AND THAT A SPECIAL ELECTION BE HELD IN WHICH THE QUALIFIED ELECTORS OF EACH DISTRICT MAY DECIDE TO EXCLUDE THEIR DISTRICT FROM THE AUTHORITY; DECLARING AN EMERGENCY.

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

**SECTION 1.** Section 72-20-1 NMSA 1978 (being Laws 2007, Chapter 99, Section 1) is amended to read:

"72-20-1. SHORT TITLE.--~~[This act]~~ Chapter 72, Article 20 NMSA 1978 may be cited as the "Eastern Sandoval County Arroyo Flood Control Act"."

**SECTION 2.** Section 72-20-6 NMSA 1978 (being Laws 2007, Chapter 99, Section 6) is amended to read:

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1           "72-20-6. BOUNDARIES OF AUTHORITY.--~~[The boundaries of the~~  
2 ~~authority are as follows]~~ Unless one or more districts are  
3 excluded from the authority as a result of an election held  
4 pursuant to Section 72-20-7.1 NMSA 1978, the authority consists  
5 of all land within the following boundaries: a portion of  
6 southern Sandoval county bounded on the east by a line  
7 following the eastern boundary of range 5 east of the New  
8 Mexico principal meridian, on the south by the Pueblo of Sandia  
9 and the Cibola national forest, on the west by the Rio Grande  
10 and on the north by a line following the northern boundary of  
11 township 13 north of the New Mexico principal meridian. The  
12 boundary of the district is more particularly described as  
13 follows: beginning at the southeast corner of projected  
14 section 1, township 12 north, range 5 east of the New Mexico  
15 principal meridian, that point also being the southeast corner  
16 of herein described boundary; thence proceeding in a westerly  
17 direction along a line coincident with the northern boundary of  
18 the Cibola national forest and of the Pueblo of Sandia to a  
19 point along the west bank of the Rio Grande within projected  
20 section 1, township 12 north, range 3 east of the New Mexico  
21 principal meridian; thence in a northeasterly direction along  
22 the west bank of the Rio Grande to a point in the northwest  
23 corner of section 1, township 13 north, range 4 east of the New  
24 Mexico principal meridian; thence east along a line following  
25 the northern boundary of township 13 north of the New Mexico

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1 principal meridian for approximately seven miles to a point in  
2 the northeast corner of section 1, township 13 north, range 5  
3 east of the New Mexico principal meridian; thence in a  
4 southerly direction approximately seven miles to the southeast  
5 corner of projected section 1, township 12 north, range 5 east  
6 of the New Mexico principal meridian, which point is the  
7 southeast corner and point of beginning of the district. All  
8 lands held in trust or ownership by the federal government or  
9 an Indian pueblo located within the boundaries identified in  
10 this section shall be excluded from the authority of the  
11 authority."

12 SECTION 3. A new section of the Eastern Sandoval County  
13 Arroyo Flood Control Act, Section 72-20-7.1 NMSA 1978, is  
14 enacted to read:

15 "72-20-7.1. [NEW MATERIAL] AUTHORITY TO BE DIVIDED INTO  
16 DISTRICTS--SPECIAL ELECTION REQUIRED.--

17 A. No later than August 1, 2011, the board shall  
18 divide the authority into three districts: one district shall  
19 encompass the census-designated place of Placitas, as  
20 designated by the United States census bureau pursuant to the  
21 2000 decennial census; one district shall encompass the census-  
22 designated place of Algodones, as designated by the United  
23 States census bureau pursuant to the 2000 decennial census; and  
24 one district shall encompass that portion of the town of  
25 Bernalillo that is included within the boundaries of the

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1 authority.

2 B. Pursuant to Sections 72-20-28 through 72-20-34  
3 NMSA 1978, the board shall call a special election to be held  
4 no later than September 30, 2011 in which the qualified  
5 electors in each of the districts shall have an opportunity to  
6 decide whether or not the land within their district shall be  
7 excluded from the authority. The ballot for the special  
8 election shall contain the following question:

9 "Shall the land within this district be excluded from the  
10 Eastern Sandoval County Arroyo Flood Control Authority?

11 Yes \_\_\_\_ No \_\_\_\_".

12 C. If the majority of qualified electors voting  
13 within a district answer "yes" to the ballot question, upon  
14 certification of the election results, the land within that  
15 district shall be excluded from the authority, subject to the  
16 provisions of Section 72-20-7.2 NMSA 1978; provided that if the  
17 majority of the qualified electors voting within each of the  
18 three districts answer "yes" to the ballot question, upon  
19 certification of the election results, the authority shall be  
20 dissolved pursuant to Section 72-20-7.3 NMSA 1978."

21 SECTION 4. A new section of the Eastern Sandoval County  
22 Arroyo Flood Control Act, Section 72-20-7.2 NMSA 1978, is  
23 enacted to read:

24 "72-20-7.2. [NEW MATERIAL] EFFECTS OF EXCLUSION FROM THE  
25 AUTHORITY--LIMITATION ON PROPERTY TAXES ON EXCLUDED LAND--

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1 DIRECTORS' POSITIONS VACANT.--

2 A. Upon the exclusion of land within a district  
3 from the authority pursuant to an election held under Section  
4 72-20-7.1 NMSA 1978, no property taxes shall be levied by the  
5 authority on the excluded land; provided that:

6 (1) subject to the provisions of Subsection B  
7 of this section, the authority may levy taxes on the excluded  
8 land that are necessary to make debt service and other  
9 payments, including any amounts needed for required reserves,  
10 on bonds of the authority:

11 (a) authorized in the 2008 general  
12 election and outstanding on the date that the land is excluded;  
13 or

14 (b) issued for the purpose of refunding  
15 the bonds specified in Subparagraph (a) of this paragraph;

16 (2) the exclusion shall not affect property  
17 taxes levied by the authority on the excluded land for the 2011  
18 tax year; and

19 (3) the provisions of the Eastern Sandoval  
20 County Arroyo Flood Control Act and other state statutes  
21 relating to the levying, collection and enforcement of property  
22 taxes shall continue to apply to the excluded land only to the  
23 extent necessary to ensure payment of the property taxes  
24 authorized in this subsection.

25 B. For the 2012 and subsequent tax years, the

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1 authority shall not certify a property tax on land excluded  
2 pursuant to an election held under Section 72-20-7.1 NMSA 1978  
3 unless the local government division of the department of  
4 finance and administration determines that the proposed tax is  
5 in compliance with the provisions of Subsection A of this  
6 section.

7 C. If, by reason of the exclusion of land pursuant  
8 to an election held under Section 72-20-7.1 NMSA 1978, a  
9 director ceases to be a qualified elector, the director's  
10 position on the board shall be deemed vacant and a successor  
11 shall be appointed to serve the unexpired term pursuant to  
12 Section 72-20-12 NMSA 1978."

13 SECTION 5. A new section of the Eastern Sandoval County  
14 Arroyo Flood Control Act, Section 72-20-7.3 NMSA 1978, is  
15 enacted to read:

16 "72-20-7.3. [NEW MATERIAL] DISSOLUTION OF AUTHORITY.--  
17 Upon certification that, in an election held pursuant to  
18 Section 72-20-7.1 NMSA 1978, the majority of the qualified  
19 electors in each of the three districts have voted to exclude  
20 the district from the authority, the board shall resolve to  
21 dissolve the authority and:

22 A. the secretary shall file a copy of the  
23 resolution with the county clerk and the secretary of state;

24 B. all property and funds of the authority shall be  
25 transferred to Sandoval county pursuant to Section 72-20-37

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1 NMSA 1978;

2 C. all uncompleted projects and outstanding  
3 contracts shall be transferred to the county and:

4 (1) the county shall take steps to cancel the  
5 projects or contracts; or

6 (2) if a project or contract can be continued  
7 with funds of the authority transferred to the county, the  
8 county may continue the project or contract only if the board  
9 of county commissioners determines that:

10 (a) the completion of the project or  
11 contract would be highly beneficial; or

12 (b) the cancellation of the project or  
13 contract would be harmful or wasteful;

14 D. all funds of the authority not used to continue  
15 projects or contracts pursuant to Subsection C of this section,  
16 including receipts from property taxes levied for the 2011 tax  
17 year, shall be used to pay down the debt service on outstanding  
18 bonds of the authority;

19 E. the county shall continue to levy taxes on the  
20 land that was within the authority to the extent that the taxes  
21 are necessary to make debt service and other payments,  
22 including any amounts needed for required reserves, on  
23 outstanding bonds of the authority; and

24 F. the provisions of the Eastern Sandoval County  
25 Arroyo Flood Control Act and other state statutes relating to

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1 the levying, collection and enforcement of property taxes shall  
2 continue to apply to land that was within the authority to the  
3 extent necessary to ensure payment of the property taxes  
4 authorized in Subsection E of this section."

5 SECTION 6. TEMPORARY PROVISION--TEMPORARY RESTRICTION ON  
6 THE ISSUANCE OF BONDS.--Other than for the purpose of refunding  
7 outstanding bonds, no bonds shall be issued by the board of  
8 directors of the eastern Sandoval county arroyo flood control  
9 authority until certification of the results of the special  
10 election conducted pursuant to Section 72-20-7.1 NMSA 1978.

11 SECTION 7. EMERGENCY.--It is necessary for the public  
12 peace, health and safety that this act take effect immediately.