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

AN ACT

RELATING TO FLOOD CONTROL DISTRICTS; AMENDING THE EASTERN SANDOVAL COUNTY ARROYO FLOOD CONTROL ACT TO EXCLUDE CERTAIN LAND FROM THE EASTERN SANDOVAL COUNTY ARROYO FLOOD CONTROL AUTHORITY; CONTINUING PROPERTY TAX LEVIES ON THE EXCLUDED LAND AS NECESSARY TO MEET EXISTING OBLIGATIONS; PROVIDING FOR THE ELECTION OF DIRECTORS FROM SINGLE-MEMBER DISTRICTS; 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, .186560.3
Chapter 99, Section 6) is amended to read:

"72-20-6. BOUNDARIES OF AUTHORITY.--[The boundaries of the authority are as follows]

A. Except as provided in Subsections B and C of this section, the authority consists of all land within the following boundaries: a portion of southern Sandoval county bounded on the east by a line following the eastern boundary of range 5 east of the New Mexico principal meridian, on the south by the Pueblo of Sandia and the Cibola national forest, on the west by the Rio Grande and on the north by a line following the northern boundary of township 13 north of the New Mexico principal meridian. The boundary [of the district] is more particularly described as follows: beginning at the southeast corner of projected section 1, township 12 north, range 5 east of the New Mexico principal meridian, that point also being the southeast corner of herein described boundary; thence proceeding in a westerly direction along a line coincident with the northern boundary of the Cibola national forest and of the Pueblo of Sandia to a point along the west bank of the Rio Grande within projected section 1, township 12 north, range 3 east of the New Mexico principal meridian; thence in a northeasterly direction along the west bank of the Rio Grande to a point in the northwest corner of section 1, township 13 north, range 4 east of the New Mexico principal meridian; thence east along a line following the northern boundary of

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towship 13 north of the New Mexico principal meridian for
approximately seven miles to a point in the northeast corner of
section 1, township 13 north, range 5 east of the New Mexico
principal meridian; thence in a southerly direction
approximately seven miles to the southeast corner of projected
section 1, township 12 north, range 5 east of the New Mexico
principal meridian, which point is the southeast corner and
point of beginning of the district.

B. All lands held in trust or ownership by the
federal government or an Indian pueblo located within the
boundaries identified in Subsection A of this section shall be
excluded from the authority [of the authority].

C. On the first day of the first month immediately
following the effective date of this 2011 act, all land within
Sandoval county precincts 5, 28, 55 and 56 and precinct 6 east
of interstate 25, as those precinct designations and boundaries
were revised and approved by the secretary of state as of
August 31, 2001 pursuant to the Precinct Boundary Adjustment
Act, shall be excluded from the authority."

SECTION 3. Section 72-20-8 NMSA 1978 (being Laws 2007,
Chapter 99, Section 8) is amended to read:

"72-20-8. BOARD OF DIRECTORS.--

A. The governing body of the authority is a board
of directors consisting of [five] three qualified electors of
the authority; provided that, after single-member districts are
created pursuant to Subsection B of Section 72-20-10 NMSA 1978
and after the expiration of the terms of any directors-at-large
who are serving at the time that single-member districts are
created:

(1) each director shall reside within and
represent a specified district; and

(2) if a director no longer resides within the
district that the director represents, the director's position
shall be deemed vacant and a successor shall be appointed to
serve the unexpired term pursuant to Section 72-20-12 NMSA
1978.

B. All powers, rights, privileges and duties vested
in or imposed upon the authority are exercised and performed by
and through the board of directors; provided that the exercise
of any executive, administrative and ministerial powers may be,
by the board, delegated and redelegated to officers and
employees of the authority or to any officer or employee
contracted by agreement to manage and administer the operations
of the authority. Except for the first directors appointed as
provided for in Section [9 of the Eastern Sandoval County
Arroyo Flood Control Act] 72-20-9 NMSA 1978 or elected as
provided in Section [10 of that act] 72-20-10 NMSA 1978 and
except for any director chosen to fill an unexpired term, and
except for the first directors serving after the authority is
divided into single-member districts, the term of each director
commences on the first day of January next following a general
election in the state and runs for six years. Each director,
subject to such exceptions, shall serve a six-year term ending
on the first day of January next following a general election,
and each director shall serve until a successor has been duly
chosen and qualified."

SECTION 4. Section 72-20-10 NMSA 1978 (being Laws 2007,
Chapter 99, Section 10) is amended to read:

"72-20-10. ELECTION OF [OFFICERS] DIRECTORS--SINGLE-
MEMBER DISTRICTS.--

A. At the time that a proposal to incur debt is
first submitted to the qualified electors or at the first
general election [next] following [the effective date of the
Eastern Sandoval County Arroyo Flood Control Act] March 30,
2007, whichever occurs first, the qualified electors of the
authority shall elect five qualified directors, two to serve a
term ending January 1, 2011, two to serve a term ending January
1, 2013 and one to serve a term ending January 1, 2015. At the
first election, the five candidates receiving the highest
number of votes shall be elected as directors. The terms of
the directors shall be determined by lot at their
organizational meeting. [At each general election thereafter,
the qualified electors of the authority shall elect similarly
one or two qualified electors as directors to serve six-year
terms as directors and as successors to the directors whose

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terms end on the first day of January next following each such
election. Nothing in the Eastern Sandoval County Arroyo Flood
Control Act shall be construed as preventing a qualified
elector of the authority from being elected or reelected as a
director to succeed himself. If there is only one vacancy on
the board, the candidate receiving the highest number of votes
shall be elected as director. If there are two vacancies on
the board, the candidate receiving the highest number of votes
and the candidate receiving the next highest number of votes
shall be elected as directors.]

B. Upon the exclusion of land pursuant to
Subsection C of Section 72-20-6 NMSA 1978, the two directors
elected in the 2010 general election shall be deemed to have
resigned, and, notwithstanding the provisions of Section
72-20-12 NMSA 1978, their positions shall not be filled.
Thereafter, the board shall consist of three directors. The
board shall divide the authority into three single-member
districts. The following provisions shall govern the procedure
for converting to single-member districts:

(1) the districts shall be as contiguous,
compact and as equal in population as is practicable;

(2) remaining terms for the three incumbent
directors shall be chosen by lot so that one term expires on
January 1, 2013, one term expires on January 1, 2015 and one
term expires on January 1, 2017;
(3) if, as a result of the division of the authority into districts, two or more incumbent directors reside within the same district, the board shall determine, by lot, one of the directors to represent the district, and the other directors residing within that district shall represent the authority at large until their terms expire;

(4) if, as a result of the exclusion of land pursuant to Subsection C of Section 72-20-6 NMSA 1978, one or more incumbent directors reside outside of any district, the directors shall represent the authority at large until their terms expire; and

(5) if more than one director represents the authority at large pursuant to Paragraph (3) or (4) of this subsection, the board shall determine by lot the district that will elect a resident to succeed a director-at-large as the term of each director-at-large expires.

C. At the 2012 and each subsequent general election, for the single-member district in which the term of the incumbent director or the term of a director-at-large assigned by lot pursuant to Paragraph (2) of Subsection B of this section will expire on the first day of the January immediately following the election, a director who is a qualified elector and a resident of the district shall be elected by the qualified electors who are residents of that district to serve a six-year term.
D. Nothing in this section shall be construed as preventing qualified electors of the authority from being elected or reelected as directors to succeed themselves; provided that they reside in the district from which they are elected.

E. As soon as feasible after each federal decennial census, the board shall assess the existing districts to determine if the districts remain as equal in population as is practicable and, if necessary, shall redistrict the authority into districts that remain contiguous, compact and as equal in population as is practicable; provided that:

(1) a redistricting shall be effective at the next following general election; and

(2) an incumbent director whose residence is redistricted out of the district represented by the director shall serve until the next general election, at which a qualified elector who resides within the district shall be elected to fill the unexpired term."

SECTION 5. Section 72-20-11 NMSA 1978 (being Laws 2007, Chapter 99, Section 11) is amended to read:

"72-20-11. NOMINATION OF DIRECTORS.--Not later than forty-five days before a proposal to incur debt is first submitted to the qualified electors or at the first general election [next] following [the effective date of the Eastern Sandoval County Arroyo Flood Control Act] March 30, 2007, .186560.3
whichever occurs first, written nominations of any candidate as
director may be filed with the secretary of the board. Each
nomination of any candidate shall be signed by not less than
fifty qualified electors, regardless of whether or not
nominated therein, shall designate therein the name of the
candidates thereby nominated and shall recite that the
subscribers thereto are qualified electors and that the
candidate or candidates designated therein are qualified
electors of the authority. No written nomination may designate
more qualified electors as candidates than there are vacancies.
No qualified elector may nominate more than one candidate for
any vacancy. If a candidate does not withdraw the candidate's
name before the first publication of the notice of election,
the candidate's name shall be placed on the ballot. For any
election held after November [2008] 2010, nominations shall be
made by qualified electors in accordance with the procedures
and limitations of this section, except that:

A. such nominations shall be filed with the
secretary of the board not later than the fourth Tuesday in
June preceding the general election;

B. each nomination shall designate only one
candidate;

C. all of the qualified electors signing each
nomination and the person nominated shall reside within the
district for which the candidate has been nominated; and

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D. each nomination shall recite that the
subscribers thereto are qualified electors who reside in the
district for which the candidate is nominated and that the
person nominated is a qualified elector who resides in the
district for which the person is nominated."

SECTION 6. Section 72-20-12 NMSA 1978 (being Laws 2007,
Chapter 99, Section 12) is amended to read:
"72-20-12. FILLING VACANCIES ON THE BOARD.--Upon a
vacancy occurring in the board by reason of death, change of
residence or resignation or for any other reason, the governor
shall appoint a qualified elector of the authority as successor
to serve the unexpired term; provided that if the vacancy
occurs after the single-member districts are created pursuant
to Subsection B of Section 72-20-10 NMSA 1978, the qualified
elector appointed shall reside within the district in which the
vacancy exists."

SECTION 7. TEMPORARY PROVISION--LIMITATION ON PROPERTY
TAXES ON EXCLUDED LAND--EXCEPTIONS FOR CERTAIN AUTHORIZED DEBT
OBLIGATIONS--APPROVAL OF DEPARTMENT OF FINANCE AND
ADMINISTRATION.--

A. On or after the effective date of this act, no
property taxes shall be levied by the eastern Sandoval county
arroyo flood control authority on land excluded from the
authority pursuant to Subsection C of Section 72-20-6 NMSA
1978; provided that:
of this section, the authority may levy taxes on the excluded 
land that are necessary to make debt service and other 
payments, including any amounts needed for required reserves, 
on bonds of the authority:

(a) authorized in the 2008 general 
election, including bonds authorized but not yet issued; or 
(b) issued for the purpose of refunding 
the bonds specified in Subparagraph (a) of this paragraph;

(2) nothing in this act affects property taxes 
levied by the authority on the excluded land for the 2010 tax 
year; and

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

B. For the 2011 and subsequent tax years, the 
authority shall not certify a property tax on land excluded 
pursuant to Subsection C of Section 72-20-6 NMSA 1978 unless 
the local government division of the department of finance and 
administration determines that the proposed tax is in 
compliance with the provisions of Subsection A of this section.

SECTION 8. EMERGENCY.--It is necessary for the public
peace, health and safety that this act take effect immediately.

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