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AN ACT

RELATING TO SPECIAL DISTRICTS; REQUIRING NOTIFICATIONS FOR PUBLIC MEETINGS REQUIRED BY THE INFRASTRUCTURE DEVELOPMENT ZONE ACT BE SENT BY FIRST CLASS MAIL AND ALLOWING NOTIFICATIONS TO ALSO BE SENT BY ELECTRONIC MAIL.

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

**SECTION 1.** Section 5-17-1 NMSA 1978 (being Laws 2009, Chapter 136, Section 1) is amended to read:

"5-17-1. SHORT TITLE.-- Chapter 5, Article 17 NMSA 1978 may be cited as the "Infrastructure Development Zone Act"."

**SECTION 2.** Section 5-17-4 NMSA 1978 (being Laws 2009, Chapter 136, Section 4) is amended to read:

"5-17-4. PUBLIC HEARING REQUIRED.--

A. After receiving a petition and a service plan, the governing body shall set a date within ninety days for a public hearing on the petition and service plan of the proposed infrastructure development zone. The governing body, at the petitioners' expense, shall provide written notice of the date, time and location of the hearing to the petitioners, each resident or property owner of record within the boundaries of the proposed infrastructure development zone and the governing body of any existing county, municipality, school district or other political subdivision that has levied an ad valorem tax within the next preceding

1 tax year and that has boundaries within a radius of three  
2 miles of the proposed infrastructure development zone  
3 boundaries, which governmental units shall be interested  
4 parties for the purposes of Subsection C of this section.  
5 Notice shall also be given to any person who has requested  
6 that notice be given for any petition filed pursuant to the  
7 Infrastructure Development Zone Act. The governing body  
8 shall make publication of the date, time, location and  
9 purpose of the hearing, the first of which shall be at least  
10 twenty days prior to the hearing date. The notice shall also  
11 include:

12 (1) a general description of the land  
13 contained within the boundaries of the proposed  
14 infrastructure development zone;

15 (2) information outlining methods and  
16 procedures for excluding territory from the proposed  
17 infrastructure development zone; and

18 (3) places, including websites, where  
19 interested persons may obtain a copy of the petition and the  
20 service plan.

21 B. Not more than thirty days nor less than twenty  
22 days prior to the hearing held pursuant to this section, the  
23 petitioners for the organization of the proposed  
24 infrastructure development zone shall send notification by  
25 first class mail of the hearing to the property owners within

1 the proposed infrastructure development zone as listed on the  
2 records of the county clerk on the date requested unless the  
3 petitioners represent one hundred percent of the property  
4 owners. Notification of the hearing may also be sent by  
5 electronic mail to property owners that have an electronic  
6 mail address. The notification shall indicate that it is a  
7 notice of a hearing for the organization of an infrastructure  
8 development zone and shall indicate the date, time, location  
9 and purpose of the hearing, a general description of the type  
10 of services that are included in the service plan, the  
11 maximum mill levy, if any, or stating that there is no  
12 maximum that may be imposed by the proposed infrastructure  
13 development zone, and procedures for the filing of a request  
14 for exclusion pursuant to Section 5-17-6 NMSA 1978. The  
15 mailing of the notification by first class mail to all  
16 addresses within the proposed infrastructure development zone  
17 shall constitute a good-faith effort to comply with this  
18 subsection. Failure to notify all property owners by first  
19 class or electronic mail shall not provide grounds for a  
20 challenge to the hearing being held.

21 C. The hearing held by the governing body shall be  
22 open to the public, and a record of the proceedings shall be  
23 made at the expense of the petitioners. All interested  
24 parties shall be afforded an opportunity to be heard under  
25 such rules of procedure as may be established by the

1 governing body. Any testimony or evidence that in the  
2 discretion of the governing body is relevant to the  
3 organization of the proposed infrastructure development zone  
4 shall be considered."

5 **SECTION 3.** Section 5-17-15 NMSA 1978 (being Laws 2009,  
6 Chapter 136, Section 15) is amended to read:

7 "5-17-15. INCLUSION OF TERRITORY--PROCEDURE.--

8 A. Additional territory may be added to an  
9 infrastructure development zone without an election pursuant  
10 to the following provisions:

11 (1) the boundaries of an infrastructure  
12 development zone may be altered by the inclusion of  
13 additional real property by the fee owners of one hundred  
14 percent of any real property capable of being served with  
15 facilities of the infrastructure development zone filing with  
16 the board a petition in writing requesting that the property  
17 be included in the infrastructure development zone. The  
18 petition shall include a legal description of the property,  
19 shall state that assent to the inclusion of the property in  
20 the infrastructure development zone is given by the fee  
21 owners thereof and shall be acknowledged by the fee owners in  
22 the same manner as required for conveyance of land;

23 (2) the board shall hear the petition at a  
24 public meeting after publication of notice of the filing of  
25 the petition, the place, time and date of the meeting, the

1 names and addresses of the petitioners and notice that all  
2 persons interested shall appear at the time and place and  
3 show cause in writing why the petition should not be granted.  
4 There shall be no withdrawal from a petition after  
5 publication of notice by the board without the consent of the  
6 board. The failure of any municipality or county that may be  
7 able to provide service to the real property described in the  
8 petition, or of any person in the existing infrastructure  
9 development zone to file a written objection, shall be taken  
10 as an assent to the inclusion of the area described in the  
11 notice;

12 (3) the board shall grant or deny the  
13 petition, in whole or in part, with or without conditions,  
14 and the action of the board shall be final and conclusive,  
15 except as provided in Paragraph (4) of this subsection. If a  
16 municipality or county has filed a written objection to the  
17 inclusion, the board shall not grant the petition as to any  
18 of the real property to which adequate service is, or will  
19 be, available from the municipality or county within a  
20 reasonable time and on a comparable basis. If a petition is  
21 granted as to all or any of the real property, the board  
22 shall make an order to that effect and file the order with  
23 the county clerk of each county in which any part of the  
24 infrastructure development zone is located, and the property  
25 shall thereafter be included in the infrastructure

1 development zone; and

2 (4) a municipality or county that has filed  
3 a written objection to the inclusion and that can provide  
4 adequate service to the real property described in the  
5 petition within a reasonable time and on a comparable basis  
6 may bring an action in the district court for the county in  
7 which the land proposed to be included is located, commenced  
8 within thirty days after entry of the order of the board, to  
9 determine whether the action of the board granting the  
10 inclusion was arbitrary, capricious or unreasonable.

11 B. In addition to the procedures specified in  
12 Subsection A of this section, additional territory may also  
13 be added to an infrastructure development zone pursuant to  
14 the following provisions:

15 (1) either:

16 (a) not less than twenty percent or two  
17 hundred, whichever number is smaller, of the taxpaying  
18 electors of an area that contains twenty-five thousand or  
19 more square feet of land may file a petition with the board  
20 in writing requesting that the area be included within the  
21 infrastructure development zone; except that no single tract  
22 of property constituting more than fifty percent of the total  
23 area to be included may be included in any infrastructure  
24 development zone without the consent of the owner thereof.

25 The petition shall set forth a legal and a general

1 description of the area to be included and shall be  
2 acknowledged in the same manner as required for conveyance of  
3 land; or

4 (b) the board may adopt a resolution  
5 proposing the inclusion of a specifically described area; but  
6 no single tract or parcel of property constituting more than  
7 fifty percent of the total area to be included may be  
8 included in an infrastructure development zone without the  
9 consent of the owner thereof;

10 (2) nothing in this subsection shall permit  
11 the inclusion in an infrastructure development zone of any  
12 property if a petition that objects to the inclusion and that  
13 is signed by the owners of taxable real and personal  
14 property, which property equals more than fifty percent of  
15 the total assessed value of all taxable real and personal  
16 property to be included, is filed with the board no later  
17 than ten days prior to the public meeting held under  
18 Paragraph (3) of this subsection;

19 (3) upon the filing of a petition or the  
20 adoption of a resolution pursuant to Paragraph (1) of this  
21 subsection, the board shall hear the petition or resolution  
22 at a public meeting after publication of notice of the filing  
23 of the petition or adoption of the resolution, the place,  
24 time and date of the meeting, the names and addresses of the  
25 petitioners, if applicable, the description of the area

1 proposed for inclusion and notice that all persons interested  
2 and any municipality or county that may be able to provide  
3 service to the real property therein described shall appear  
4 at the time and place stated and show cause in writing why  
5 the petition should not be granted or the resolution not  
6 finally adopted. There shall be no withdrawal from a  
7 petition after publication of notice by the board without the  
8 consent of the board. The failure of any person in the  
9 existing infrastructure development zone to file a written  
10 objection shall be taken as an assent on that person's part  
11 to the inclusion of the area described in the notice;

12 (4) after a hearing pursuant to Paragraph  
13 (3) of this subsection, the board shall grant or deny the  
14 petition or finally adopt the resolution, in whole or in  
15 part, with or without conditions, and, subject to an election  
16 conducted pursuant to Paragraph (6) of this subsection, the  
17 action of the board shall be final and conclusive, except as  
18 provided in Paragraph (5) of this subsection. If a  
19 municipality or county has filed a written objection to the  
20 inclusion, the board shall not grant the petition or finally  
21 adopt the resolution as to any of the real property to which  
22 adequate service is, or will be, available from the  
23 municipality or county within a reasonable time and on a  
24 comparable basis;

25 (5) a municipality or county that has filed



1 a written objection to the inclusion and that can provide  
2 adequate service to the real property described in the  
3 petition within a reasonable time and on a comparable basis  
4 may bring an action in the district court for the county in  
5 which the area proposed to be included is located, commenced  
6 within thirty days after entry of the order of the board, to  
7 determine whether the action of the board granting the  
8 inclusion was arbitrary, capricious or unreasonable;

9 (6) upon final action by a board pursuant to  
10 Paragraph (4) of this subsection or affirmation by a district  
11 court pursuant to Paragraph (5) of this subsection, an  
12 election shall be held within the area sought to be included.  
13 The secretary shall give published notice of the time and  
14 place of the election and of the question to be submitted,  
15 together with a summary of any conditions attached to the  
16 proposed inclusion. The ballot shall be prepared by the  
17 board and shall substantially contain the following words:

18 "Shall the following described area become a part of the  
19 ..... infrastructure development zone upon the  
20 following conditions, if any?

21 (Insert description of area)  
22 (Insert accurate summary of conditions)

23 For inclusion .....  
24 Against inclusion .....";

25 (7) if the majority of the votes cast at the

1 election are in favor of inclusion, the election official  
2 shall enter an order including any conditions so prescribed  
3 and making the area a part of the infrastructure development  
4 zone. The validity of the inclusion shall not be questioned  
5 directly or indirectly in any suit, action or proceeding; and

6 (8) nothing in this subsection shall permit  
7 the inclusion in an infrastructure development zone of any  
8 property that could not be included in the infrastructure  
9 development zone at the time of its organization without the  
10 written consent of the owners thereof, unless the owners of  
11 the property consent in writing to the inclusion of the  
12 property in the infrastructure development zone in a petition  
13 filed pursuant to this section or unless the property is no  
14 longer excludable pursuant to the provisions of Paragraph (4)  
15 of this subsection.

16 C. Nothing in this section shall be construed to  
17 permit the inclusion in an infrastructure development zone of  
18 any real property located in a municipality or a county  
19 outside a municipality unless the governing body of the  
20 municipality or county has adopted a resolution authorizing  
21 the inclusion or waives its right to require the resolution  
22 in its sole discretion. Any resolution of approval so  
23 adopted or waiver so given shall be appended to any petition  
24 filed pursuant to Paragraph (1) of Subsection A of this  
25 section or Subparagraph (a) of Paragraph (1) of Subsection B

1 of this section.

2 D. Not more than thirty days nor less than twenty  
3 days prior to a meeting of the board held pursuant to  
4 Paragraph (2) of Subsection A of this section or Paragraph (3)  
5 of Subsection B of this section, the secretary shall send  
6 notification by first class mail of the meeting to the  
7 property owners within the area proposed to be included within  
8 the infrastructure development zone as listed on the records  
9 of the county clerk on the date requested. Notification of  
10 the hearing may also be sent by electronic mail to property  
11 owners that have an electronic mail address. The notification  
12 shall indicate that it is a notice of a meeting for  
13 consideration of the inclusion of real property within an  
14 infrastructure development zone and shall indicate the date,  
15 time, location and purpose of the meeting, a reference to the  
16 services of the infrastructure development zone as described  
17 in the service plan, the maximum mill levy, if any, or stating  
18 that there is no maximum that may be imposed if the proposed  
19 area is included within the infrastructure development zone,  
20 and procedures for the filing of a petition for exclusion  
21 pursuant to Paragraph (4) of Subsection B of this section.

22 Except as provided in this subsection, the mailing of the  
23 notification by first class mail to all addresses within the  
24 area proposed to be included within the infrastructure  
25 development zone shall constitute a good-faith effort to

