

## HM 102 POTENTIAL SOLUTIONS

The proposal for this memorial was to encourage a discussion about solutions to the composition of the authority's board of directors; recommendations to reform the appointment or election process for board members; and recommendations to strengthen the ability of the authority to meet the current and future water needs of the region. The following suggestions draw on the years of discussions regarding issues raised in front of the legislature. Please note, the changes are meant to spark discussion, not be considered to be carved in stone!

### 1. Increasing Board accountability

(Issues regarding representation, Board's composition, and Board attendance)

#### a. Change to a direct-elected Board

72-1-10. WATER UTILITY AUTHORITY--CREATED-- MEMBERSHIP--  
ADMINISTRATION OF UTILITY.--

New B. Following the general election of 2020, the board of directors shall consist of five directors elected from the same five districts from which the Bernalillo county board of county commissioners are elected. Each director shall physically reside within the district from which that director is elected. The elected board of directors shall serve staggered four-year terms that begin on January 1 of the year following the directors' election; provided that the members elected in 2020 shall, by lot, select three districts from which the directors shall serve for terms of four years and two districts from which the directors shall serve for terms of two years. Thereafter, all directors shall serve four-year terms. Directors are entitled to receive per diem and mileage in accordance with the provisions of the Per Diem and Mileage Act.

Taking advantage of the 2020 Census, which will redraw electoral boundaries, one more district set could be drawn -- creating 5 districts which more or less follow the County Commission districts. What with voting lists being electronic and voting now allowed outside of one's precinct, determining an eligible ABCWUA voter will not be a problem. It would likely be similar to the process to be used to determine an eligible MRGCD voter, etc. as various elections are being merged pursuant to HB 98.

OR

#### b. Broaden the Board's membership to include both elected and appointed members.

72-1-10. WATER UTILITY AUTHORITY--CREATED-- MEMBERSHIP--  
ADMINISTRATION OF UTILITY.--

New B. Beginning January 2020, the board of directors shall also consist of five appointed directors, each representing one of the 5 County districts. Each director shall physically reside within the district from which that director is appointed and shall be a customer of the ABCWUA. Each appointed board member will be sponsored by at least two elected Board members. The appointed board members shall serve staggered four-year terms that begin on January 1 of the year following the directors' appointment; provided that the members

appointed in 2020 shall, by lot, select three districts from which the directors shall serve for terms of four years and two districts from which the directors shall serve for terms of two years. Thereafter, all directors shall serve four-year terms. Directors are entitled to receive per diem and mileage in accordance with the provisions of the Per Diem and Mileage Act. Selection criteria for appointment should include knowledge and experience of the issues facing the ABCWUA.

To avoid the issue of board members whose livelihood is directly impacted by the Board's decisions serving, additional language could be inserted.

A big challenge will be to ensure that the board is both representative of its customers and appropriately skilled and experienced to govern the organization. It is important for boards to have documented a clear strategy and processes in place to elect and appoint suitable board members. That would be required in addition to the above legislative change.

OR

**c. Change the Board to be only appointed members.**

72-1-10. WATER UTILITY AUTHORITY--CREATED--MEMBERSHIP--ADMINISTRATION OF UTILITY.--

~~A. The Albuquerque-Bernalillo county water utility authority is created. The membership of the board of directors of the authority shall consist of seven members. The municipal members shall be the mayor and three city councilors appointed by the Albuquerque city council. The county members shall be three county commissioners appointed by the Bernalillo county board of county commissioners. A city councilor member shall designate another city councilor to serve in the member's absence. A county commissioner member shall designate another county commissioner to serve in the member's absence. The~~  
mayor shall sit as a member or designate the chief executive officer of the municipality to serve. Three public members shall be appointed by the County Commission and three public members shall be appointed by the City Council. Each appointed member shall serve 4 years, and may be reappointed for a second term. Any vacancies shall be filled using the same process.

Each appointee shall represent one of the 5 County districts. Each director shall physically reside within the district from which that director is appointed and shall be a customer of the ABCWUA.

When making appointments to the Board, considerations shall include the following categories: historically underrepresented groups, expertise, and potential conflicts. In making appointments to the Board, consideration should be given to geographic distribution.

**AND**

**2. Increase water expertise on Board**

There could be a minimum set of qualifications appointed members, if one of those changes mentioned above were selected.

**a. Create a semi-independent advisory board**

A change to the legislation could be:

72-1-10. WATER UTILITY AUTHORITY--CREATED--MEMBERSHIP--ADMINISTRATION OF UTILITY.--

(x) The board of directors shall create a Citizens Advisory Committee with a substantial degree of independence to represent public interests.

A accompanying legislative communiqué to the ABCWUA could transmit a request that the advisory board assume such activities as the Denver CAC has been assigned, and be diverse in its make-up, etc.

**b. Enhance participation**

A legislative communiqué might recommend:

- \* improve communication - such as adding ways for the public to submit comments, which currently exist in both Albuquerque and Bernalillo County.
- \* increase transparency - the ABCWUA is probably the only large public agency which does not have a sunshine portal.
- \* post water resource information, such as water consumption, in a timely and meaningful way, such as is done already by Santa Fe.
- \* hold workshops about the objectives, budgets, rates and other major policy decisions, inviting view points from a variety of interests.
- \* review, and revise if necessary, the population growth figures to be consistent with other governmental agencies. (According to the ABCWUA, it serves a few hundred fewer people than live in the entire County. ABCWUA saw growth which was not experienced elsewhere. Since the number of customers impacts a wide variety of issues --from service needs to gpcd-- such a discrepancy should be explained.)
- \* post reports on the progress toward achieving objectives and approved spending on specific CIP projects.

**3. Setting of Rates**

While the PRC's review is limited to investor-owned water utilities, that limitation could be removed.

72-1-10. WATER UTILITY AUTHORITY--CREATED--MEMBERSHIP--ADMINISTRATION OF UTILITY.--

(I) The authority is ~~not~~ subject to the jurisdiction of or approval

from the public regulation commission. The authority is ~~not~~ subject to the provisions of the Public Utility Act. The authority is granted a water use planning period not to exceed forty years as set forth in Section 72-1-9 NMSA 1978.

#### 4. Borrowing authority

72-1-10. WATER UTILITY AUTHORITY--CREATED--MEMBERSHIP--ADMINISTRATION OF UTILITY.--

(M) The members of the board of directors of the authority may adopt a resolution declaring the necessity for the issuance of utility system revenue bonds or other obligations and may authorize the issuance of utility system revenue bonds or other obligations by an affirmative vote of a majority of all members of the board of directors of the authority. Utility system revenue bonds and the resolution authorizing their issuance shall ~~not be subject to the approval of the public regulation commission pursuant to Section 3-23-3 NMSA 1978 or subject to voter approval pursuant to Section 3-23-2 NMSA 1978,~~ which process would be substantially similar to Section 3-30-6 et seq. and Section 4-49-5 et seq. NMSA 1978.

For additional oversight, the approval of the PRC could be retained as well.

A legislative communiqué could transmit concern as to the amount of debt, and might consider a limit, perhaps tying it to revenue.

#### 5. Additional Oversight - Create an Office of the Inspector General

The City of Albuquerque has an Office of the Inspector General, which, according to §2-17-4 of the City's Ordinances, was "created as an independent office of city government. The Office is not part of the city's executive branch or the City Council. The Inspector General shall report to the Accountability in Government Oversight Committee."

72-1-10. WATER UTILITY AUTHORITY--CREATED--MEMBERSHIP--ADMINISTRATION OF UTILITY.--

(x) The board of directors shall establish an Office of the Inspector General.

In a communiqué, the Legislature could recommend that the OIG include water review to the job description and include appropriate personnel.

#### 6. Additional Recommendations

In addition to making changes to the ABCWUA enabling legislation, there are other matters which the legislature should deal with, such as:

\* Require that no member of the Interstate Stream Commission, or other bodies which provide substantial oversight, not be from the ABCWUA staff or Board.

\* If the OSE / ISC do not assume control, the PRC could be given control over water rights!