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HOUSE BILL 683

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Andy Nuñez

AN ACT

RELATING TO SPECIAL DISTRICTS; AMENDING PROVISIONS OF THE
WATERSHED DISTRICT ACT.

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

Section 1. Section 73-20-6 NMSA 1978 (being Laws 1957,
Chapter 210, Section 6, as amended) is amended to read:

"73-20-6. PETITIONS. -- When fifty or more landowners
within a proposed watershed district, or twenty percent of the
landowners within the proposed district, whichever is less,
desire to form a watershed district, they shall file a petition
with the board of supervisors. [~~Such~~] The petition shall
define the boundaries of the proposed district, the number of
acres of land involved, reasons for requesting creation of
[~~such~~] the district, the proposed name for [~~such~~] the watershed
district and other information pertinent to [~~such~~] the

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1 proposal. In the event of a challenge to the validity of
2 signatures on a petition, the burden of proof shall be on the
3 sponsors of the petition."

4 Section 2. Section 73-20-10 NMSA 1978 (being Laws 1957,
5 Chapter 210, Section 10) is amended to read:

6 "73-20-10. **BALLOTS.** --The question to be voted on shall be
7 submitted by ballots [~~upon which appear the following:~~

8 ~~"For creation of _____ Watershed District 9~~

9 ~~Against creation of _____ Watershed District 9".~~

10 ~~A square shall follow each proposition. The ballot shall also~~
11 ~~contain a direction to insert an "X" mark in the square~~
12 ~~following one or the other of the propositions, as the voter~~
13 ~~may favor or oppose creation of the district. The ballot shall~~
14 ~~set forth] that define the boundaries of the proposed district~~
15 ~~as determined by the board of supervisors. [~~Only owners of~~~~
16 ~~lands lying within the boundaries of the territory, as~~
17 ~~determined by the board, shall be eligible to vote in the~~
18 ~~referendum.]"~~

19 Section 3. Section 73-20-11 NMSA 1978 (being Laws 1957,
20 Chapter 210, Section 11, as amended) is amended to read:

21 "73-20-11. **VOTES--RESULTS.** --The votes shall be counted by
22 the election officers at the close of the polls and report of
23 the results along with the ballots delivered to the polling
24 superintendent, who shall certify the results to the board of
25 supervisors. If a majority of the votes cast favor creation of

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1 the district, the board of supervisors shall certify the
2 results to the county clerk in the county involved. Upon
3 proper recording of the action, the watershed district shall be
4 duly created. After recording, the certification shall be
5 filed with the [~~forestry division of the energy, minerals and~~
6 ~~natural resources department~~] New Mexico department of
7 agriculture. "

8 Section 4. Section 73-20-12 NMSA 1978 (being Laws 1957,
9 Chapter 210, Section 12, as amended) is amended to read:

10 "73-20-12. DIRECTORS--ELECTION.--

11 A. Within thirty days after a watershed district is
12 created, the board of supervisors of the soil and water
13 conservation district [~~or districts~~] involved shall cause an
14 election to be held for the election of a board of directors of
15 the watershed district. The board shall consist of five
16 members. The first board shall determine by lot from among its
17 membership two members to serve terms of two years, two members
18 to serve terms of three years and one member to serve a term of
19 four years. Thereafter, as these initial terms expire, their
20 replacements shall be elected for terms of four years.

21 Vacancies occurring before the expiration of a term shall be
22 filled by the remaining members of the board for the unexpired
23 term. Two or more vacancies occurring simultaneously shall be
24 filled by appointment by the board of supervisors. The board
25 of directors shall, under the supervision of the board of

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1 supervisors, be the governing body of the watershed district.

2 B. If the territory embraced within a watershed
3 district lies within more than one soil and water conservation
4 district, each additional soil and water conservation district
5 having a minority of the land involved in the watershed shall
6 be entitled to elect three additional directors. These
7 additional directors after their election shall determine by
8 lot one of their number to serve a term of two years, one a
9 term of three years and one a term of four years. Thereafter,
10 their successors shall be elected for terms of four years. The
11 representatives of each of these minority districts shall fill
12 vacancies in [~~its~~] the district's membership for the unexpired
13 term.

14 C. The board of directors shall annually elect from
15 its membership a chairman, secretary and treasurer. The
16 treasurer shall execute an official bond for the faithful
17 performance of the duties of his office to be approved by the
18 board of directors. [~~Such~~] The bond shall be executed with at
19 least three solvent personal sureties whose solvency [~~must~~]
20 shall exceed the amount of the bond, or by a surety company
21 authorized to do business in this state, and shall be in an
22 amount determined by the board of directors. If the treasurer
23 is required to execute a surety company bond, the premium of
24 the bond shall be paid by the board of directors.

25 D. The board of directors shall prepare and submit

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1 to the department of finance and administration such reports as
2 it may require from among those required to be submitted by
3 other political subdivisions.

4 E. Each person desiring to be a director of a
5 watershed district shall file a nominating petition with the
6 board of supervisors, signed by ten or more landowners within
7 the watershed districts of the county involved, or, if less
8 than fifty landowners are involved, a majority of such
9 landowners. If the candidates nominated do not exceed the
10 positions available, they shall be declared elected. No person
11 shall be eligible to be a director of a watershed district who
12 is not a landowner in the district in which he seeks election. "

13 Section 5. Section 73-20-13 NMSA 1978 (being Laws 1957,
14 Chapter 210, Section 13, as amended) is amended to read:

15 "73-20-13. AUTHORITY.--Subject to the approval of the
16 board of supervisors, the board of directors of a watershed
17 district shall have power to:

18 A. levy an annual assessment on the real property
19 within the district, within the limitations provided in Section
20 73-20-17 NMSA 1978, for administration, construction, operation
21 and maintenance of works of improvement within and without the
22 district as are required by the district in the performance of
23 its functions;

24 B. acquire by purchase, gift, grant, bequest,
25 devise or through condemnation proceedings in the manner

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1 provided in the Eminent Domain Code property or rights of way
2 necessary for the exercise of any authorized function of the
3 district; provided that no property or water rights shall be
4 condemned for the purposes of recreation;

5 C. construct, improve, operate, contract for and
6 maintain such structures as may be necessary for the
7 performance of any function authorized by the Watershed
8 District Act;

9 D. borrow money necessary for the purpose of
10 acquiring rights of way and establishing, constructing,
11 reconstructing, repairing, enlarging and maintaining the
12 structures and improvements required by the district in the
13 performance of its functions and repay these loans with the
14 proceeds of the annual assessment provided for in Subsection A
15 of this section or by the issuance, negotiation and sale of its
16 bonds as provided in Section 73-20-14 NMSA 1978; and

17 E. receive and grant assistance and cooperate with
18 counties, municipalities and state and federal agencies in
19 carrying out the provisions of the Watershed District Act."

20 Section 6. Section 73-20-14 NMSA 1978 (being Laws 1957,
21 Chapter 210, Section 14, as amended) is amended to read:

22 "73-20-14. BONDS. --

23 A. Bonds authorized by Section [~~45-5-31 NMSA 1953~~]
24 73-20-13 NMSA 1978 shall not be issued until proposed by order
25 or resolution of the board of directors, specifying the purpose

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1 for which the funds are to be used, and the proposed
2 undertaking, the amount of bonds to be issued, the rate of
3 interest they are to bear and the amount of any necessary
4 assessment levy in excess of the maximum authorized in Section
5 [~~45-5-34 NMSA 1953~~] 73-20-17 NMSA 1978 to establish a sinking
6 fund for the liquidation of bonds as provided in Section
7 [~~45-5-34 NMSA 1953~~] 73-20-17 NMSA 1978. A copy of the order or
8 resolution shall be certified to the board of supervisors.

9 B. The board of supervisors shall conduct a hearing
10 on the proposal after notice given pursuant to Section [~~45-5-26~~
11 ~~NMSA 1953~~] 73-20-8 NMSA 1978. If it appears that the proposal
12 is within the scope and purpose of [~~this~~] the Watershed
13 District Act and meets all other requirements of the law, the
14 proposal shall be submitted to the landowners of the district
15 by referendum under supervision of the board of supervisors.

16 C. Provisions of Sections [~~45-5-26 through 45-5-29~~
17 ~~NMSA 1953~~] 73-20-8 through 73-20-11 NMSA 1978 as to notice,
18 qualifications of voters and manner of holding referendum
19 election in organizing a watershed district shall apply to the
20 referendum held under this section.

21 D. If two-thirds of the landowners voting favor the
22 proposal, [~~such~~] the bonds may be issued."

23 Section 7. Section 73-20-16 NMSA 1978 (being Laws 1957,
24 Chapter 210, Section 15) is amended to read:

25 "73-20-16. PER DIEM AND MILEAGE. -- Members of the board of

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1 directors shall receive no salaries, but [~~such~~] the members
2 [~~may receive per diem and mileage for meetings and travel in~~
3 ~~the performance of their duties as approved by the board of~~
4 ~~supervisors~~] shall be entitled to be reimbursed in accordance
5 with the provisions of the Per Diem and Mileage Act. "

6 Section 8. Section 73-20-17 NMSA 1978 (being Laws 1957,
7 Chapter 210, Section 16, as amended) is amended to read:

8 "73-20-17. BUDGETS--TAX LEVY--LIMITATION.--Within the
9 first quarter of each calendar year, the board of directors
10 shall prepare an itemized budget of the funds needed for
11 administration, construction, operation and maintenance of
12 works of improvement. After approval of the budget by the
13 board of supervisors, the board of directors shall, by order or
14 resolution, levy an assessment sufficient to meet the budget,
15 not to exceed five dollars (\$5.00), or any lower maximum amount
16 required by operation of the rate limitation provisions of
17 Section 7-37-7.1 NMSA 1978 upon the assessment authorized by
18 this section, on each one thousand dollars (\$1,000) of net
19 taxable value, as that term is defined in the Property Tax
20 Code, of all real property subject to taxation within the
21 district, except that the limit on assessments does not apply
22 to any levy necessary to provide a sinking fund for retirement
23 of bonds authorized by Section 73-20-13 NMSA 1978. A copy of
24 the budget and order or resolution shall be certified to the
25 county assessor of the county or counties involved and to the

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1 department of finance and administration by July 15 of each
2 year. "

3 Section 9. Section 73-20-18 NMSA 1978 (being Laws 1957,
4 Chapter 210, Section 17, as amended) is amended to read:

5 "73-20-18. ASSESSMENT LISTS. --

6 A. The board of directors shall prepare a list of
7 the landowners within the defined boundaries of the watershed
8 district in each county involved [~~and~~] showing the number of
9 acres subject to assessment and deliver it to the county
10 assessor of the county [~~or counties~~] involved. The assessor
11 shall indicate [~~such~~] the information on the tax rolls.

12 B. The county assessor shall compute the assessment
13 due the district from each landowner in accordance with the
14 rate fixed by the board of directors and the value of the real
15 property indicated on the tax roll. The computation shall be
16 made on the regular tax bills in [~~such~~] the manner as may be
17 directed by regulation of the property tax division of the
18 taxation and revenue department. "

19 Section 10. Section 73-20-21 NMSA 1978 (being Laws 1957,
20 Chapter 210, Section 20, as amended) is amended to read:

21 "73-20-21. ADDITION OF LAND. --

22 A. Any one or more owners of land may petition the
23 board of supervisors to have their lands added to a watershed
24 district. The petition shall define the boundaries of the land
25 desired to be annexed, the number of acres of land involved and

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1 other information pertinent to the proposal. When the boundary
2 described embraces lands of others than the petitioners, the
3 petition shall so state and shall be signed by twenty-five or
4 more of the landowners in the territory described, if fifty or
5 more such owners are involved, or by a majority if less than
6 fifty landowners are involved.

7 B. Within thirty days after the petition is filed,
8 the board shall cause due notice to be given as provided in
9 Section 73-20-8 NMSA 1978 of a hearing on the petition. All
10 interested parties shall have a right to attend the hearing and
11 be heard. The board shall determine whether the lands
12 described in the petition or any portion of them shall be
13 included in the district. If all the landowners in the
14 territory involved are not petitioners, a referendum shall be
15 held within the territory as provided in Sections 73-20-8
16 through 73-20-11 NMSA 1978 before making a final determination.
17 If it is determined that the land should be added, this fact
18 shall be certified by the board of supervisors to the county
19 clerk in the county involved. After recording, the
20 certification shall be filed with the [~~forestry division of the~~
21 ~~energy, minerals and natural resources department~~] New Mexico
22 department of agriculture."

23 Section 11. Section 73-20-22 NMSA 1978 (being Laws 1957,
24 Chapter 210, Section 21, as amended) is amended to read:

25 "73-20-22. DETACHING LAND. --The owner or owners of land

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1 [which] who have not been, are not and cannot be benefited by
2 their inclusion in the watershed district ~~may~~ petition the
3 board of supervisors to have the lands withdrawn. The
4 petitions shall be filed with the board of supervisors and the
5 board of directors and shall describe the lands and state the
6 reasons why they should be withdrawn. A hearing shall be held
7 within thirty days after the petition is received. Due notice
8 of the hearing as provided in Section 73-20-8 NMSA 1978 shall
9 be given at least ten days before the hearing. If it is
10 determined by the board of supervisors that the lands shall be
11 withdrawn, the determination shall be certified to the county
12 clerk of each county in which any portion of the lands lie.
13 After recording, the certification shall be filed with the
14 [~~forestry division of the energy, minerals and natural~~
15 ~~resources department~~] New Mexico department of agriculture."

16 Section 12. Section 73-20-23 NMSA 1978 (being Laws 1957,
17 Chapter 210, Section 22, as amended) is amended to read:

18 "73-20-23. DISCONTINUANCE OF DISTRICTS. --

19 A. At any time after five years from the
20 organization of a watershed district, twenty-five or more
21 landowners within a district or, if less than fifty landowners
22 are involved, a majority of the landowners in the district may
23 file a petition with the board of supervisors and the board of
24 directors requesting that the existence of the district be
25 discontinued. The petition shall state the reasons for

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1 discontinuance and that all obligations of the district have
2 been met.

3 B. After giving notice as defined in Section
4 73-20-8 NMSA 1978, the board of supervisors may conduct
5 hearings on the petition as may be necessary to assist it in
6 making a determination.

7 C. Within sixty days after petition is filed, a
8 referendum shall be held under the supervision of the board of
9 supervisors as provided in Section 73-20-14 NMSA 1978. No
10 informalities in the conduct of the referendum or in any
11 matters relating to the referendum shall invalidate it or its
12 result if notice of the referendum has been given substantially
13 as provided in Subsection B of this section.

14 D. If a majority of the votes cast in the
15 referendum favor the discontinuance of the district and it is
16 found that all obligations have been met, the board of
17 supervisors shall make a determination that the watershed
18 district shall be discontinued. A copy of the determination
19 shall be certified by the clerk of the county involved for
20 recording. After recording, the certification shall be filed
21 with the [~~forestry division of the energy, minerals and natural~~
22 ~~resources department~~] New Mexico department of agriculture."