

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.--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:

"72-20-6. BOUNDARIES OF AUTHORITY.--

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 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 township 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.

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 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 72-20-9 NMSA 1978 or elected as provided in Section 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 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 following 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.

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 following March 30, 2007, 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 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

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:

(1) subject to the provisions of Subsection

B 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 2011 tax year; provided that the property tax levy for operational purposes on the excluded land for that tax year shall not exceed fifty cents (\$.50) for each one thousand dollars (\$1,000) of net taxable value; 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 2012 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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