

HOUSE BILL 5

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

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This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO ELECTRIC GENERATING FACILITY ECONOMIC DISTRICTS;  
PROVIDING FOR THE APPOINTMENT OF ADDITIONAL AUTHORITY MEMBERS  
HCEDC →; **DECLARING AN EMERGENCY** ← HCEDC .

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

SECTION 1. Section 71-10-1 NMSA 1978 (being Laws 2020, Chapter 78, Section 1) is amended to read:

"71-10-1. SHORT TITLE.--~~[Sections 1 through 11 of this act]~~ Chapter 71, Article 10 NMSA 1978 may be cited as the

.218688.4AIC March 15, 2021 (10:21am)

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"Electric Generating Facility Economic District Act".

SECTION 2. Section 71-10-4 NMSA 1978 (being Laws 2020, Chapter 78, Section 4) is amended to read:

"71-10-4. CREATION OF AN AUTHORITY--MEMBERS--TERMS--QUALIFICATIONS.--

A. A county that forms a district shall create an authority to govern the district HCEDC→~~that consists of [five]~~  
~~eight members~~←HCEDC . The governing body of the county shall appoint five authority HCEDC→~~voting~~←HCEDC members.

B. The authority shall include three  
SJC→~~HCEDC~~→~~voting~~←~~HCEDC~~←SJC members appointed by the governor  
who shall serve at the pleasure of the governor for two-year  
terms. SJC→~~One of the members appointed by the governor shall~~  
~~be a resident of a county that is a part of the authority who~~  
~~shall be a voting member and who shall serve with the advice~~  
~~and consent of the senate. The other two members appointed by~~  
~~the governor shall be non-voting members of the authority.~~←SJC

[B.] C. The terms of the authority members other  
than those appointed by the governor and non-voting members  
shall be staggered. Of the members initially appointed  
pursuant to Subsection A of this section, that number of  
members closest to, but not more than, one-half of the  
membership shall serve for two years. The term of all other  
members shall be four years. If additional counties become  
part of the authority pursuant to Subsection [E] F of this

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section, the additional authority members shall be appointed in a similar manner so that they shall serve staggered four-year terms.

[G.] D. An authority member other than those appointed by the governor and non-voting members shall not serve more than two consecutive four-year terms on the authority. A member who has served two consecutive four-year terms on the authority shall not serve another term until after four years following the second term have elapsed.

[D.] E. The authority shall include [a] two non-voting [member] members appointed by the [governor] non-investor-owned electric utility HCEDC → or a coal-fueled electric generating facility that is owned by a non-investor-owned electric utility and has been or is in the process of being ← HCEDC HCEDC → retired ← HCEDC HCEDC → that qualifies pursuant to the provisions of Subsection B of Section 71-10-3 NMSA 1978 ← HCEDC , who shall serve [at the pleasure of the governor] for [a] two-year [term] terms.

[E.] F. The authority shall, for the period ending [December 31, 2020] June 30, 2021, authorize a county that borders the county that created the district within twenty miles of a qualifying electric generating facility to become part of the authority. Any additional county that becomes part of the district shall appoint [four] five additional HCEDC → voting ← HCEDC members to the authority.

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[F-] G. An elected official shall not serve as an authority member nor influence or attempt to influence any action of an authority member. Authority members shall receive per diem and mileage as provided in the Per Diem and Mileage Act and shall receive no other compensation, perquisite or allowance. An authority member shall post a surety bond for the faithful performance of the member's duties pursuant to the Surety Bond Act.

[G-] H. Before appointing a person as an authority member, the governing body of a county shall first determine that the person has:

(1) experience in energy development business, economic development, finance, commercial real estate investment or accounting or possesses other qualifications that the governing body determines are necessary or appropriate for carrying out the duties of the authority but does not have at the time of appointment and will not have during service as an authority member employment or a contract with an energy development business; and

(2) no direct substantial conflict of interest in the business or operation of the authority.

[H-] I. An authority member shall resign from the authority if a matter to be voted on poses a conflict of interest for the member. Authority members and employees of the authority shall be governed by the provisions of the

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Governmental Conduct Act. An authority member or employee of the authority shall not:

(1) acquire a financial interest in a new or existing business venture or business property if the member or employee believes or has reason to believe that the financial interest will be directly affected by an official act conducted in that membership or employment capacity;

(2) use confidential information acquired by virtue of membership on or employment by the authority for the member's or employee's or another person's private gain; or

(3) as a person with a financial or other interest in a business that is party to a contract, enter into a contract with the authority without there being public notice of the contract, a competitive bidding process for entry into the contract and full disclosure of that financial or other interest.

[F.] J. The governing body that appoints an authority member may remove the member if the governing body determines that the member has:

(1) neglected or refused to perform an official duty;

(2) violated the policies or procedures adopted by the authority; or

(3) developed a direct, substantial conflict of interest in the business of the authority."

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HCEDC→SECTION 3. EMERGENCY.--It is necessary for the  
public peace, health and safety that this act take effect  
immediately.←HCEDC

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