HOUSE BILL 851

43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997

INTRODUCED BY

BEN LUJAN

AN ACT

RELATING TO TRADITIONAL HISTORIC COMMUNITIES; AMENDING SECTIONS OF THE NMSA 1978; DECLARING AN EMERGENCY.

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

Section 1. Section 3-2-3 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-2-3, as amended) is amended to read:

"3-2-3. URBANIZED TERRITORY--INCORPORATION LIMITED WITHIN URBANIZED TERRITORY.--

A. Urbanized territory is that territory within the same county and within five miles of the boundary of any municipality having a population of five thousand or more persons and that territory within the same county and within three miles of a municipality having a population of less than five thousand persons, except that territory in a class B county with a population between ninety-five thousand and ninety-nine

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1   thousand five hundred, based on the 1990 federal decennial

2   census, declared by an ordinance of the board of county

3   commissioners to be a traditional historic community shall not

4   be considered urbanized territory and shall not be annexed by a

5   municipality unless it is considered for annexation pursuant to

6   a petition requesting annexation signed by a majority of the

7   registered qualified electors or real property owners within the

8   traditional historic community.

9   B.   No territory within an urbanized territory shall

10   be incorporated as a municipality unless the:

11   (1)   municipality or municipalities causing the

12   urbanized territory approve, by resolution, the incorporation of

13   the territory as a municipality;

14   (2)   residents of the territory proposed to be

15   incorporated have filed with the municipality a valid petition

16   to annex the territory proposed to be incorporated and the

17   municipality fails, within one hundred twenty days after the

18   filing of the annexation petition, to annex the territory

19   proposed to be incorporated; or

20   (3)   residents of the territory proposed to be

21   annexed conclusively prove that the municipality is unable to

22   provide municipal services within the territory proposed to be

23   incorporated within the same period of time that the proposed

24   municipality could provide municipal service.

25   C.   A traditional historic community may become

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1   incorporated even though it is located within what is defined as

2   urbanized territory pursuant to Subsection A of this section, by

3   following the procedures set forth in Sections 3-2-5 through

4   3-2-9 NMSA 1978.

5   D.   For purposes of this section, "real property

6   owner" means a person who holds legal title to or is acquiring

7   legal title to pursuant to a mortgage or real estate contract an

8   interest of greater than fifty-one percent in either land or

9   land and the improvements on the land."

10   Section 2.   Section 3-7-1 NMSA 1978 (being Laws 1965,

11   Chapter 300, Section 14-7-1, as amended by Laws 1995, Chapter

12   170, Section 2 and also by Laws 1995, Chapter 211, Section 1) is

13   amended to read:

14   "3-7-1.   METHODS OF ANNEXATION.--

15   A.   There shall be three methods of annexing

16   territory to a municipality:

17   (1)   the arbitration method as provided in

18   Sections 3-7-5 through 3-7-10 NMSA 1978;

19   (2)   the boundary commission method as provided

20   in Sections 3-7-11 through 3-7-16 NMSA 1978; and

21   (3)   the petition method as provided in Section

22   3-7-17 NMSA 1978.

23   B.   Territory may be annexed to a municipality by any

24   one of the three methods of annexation provided for in Sections

25   3-7-5 through 3-7-18 NMSA 1978 except where limitations of

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1 annexation are provided by law. The provisions of this section

2 apply to annexations of all municipalities except those that are

3 otherwise specifically provided by law. The arbitration method

4 of annexation may be used for municipal annexation of a

5 traditional historic community only upon petition of a majority

6 of the registered qualified electors of the territory within the

7 traditional historic community.

8   C. A person who holds legal title to or is acquiring

9 legal title to real property contiguous to the boundary of a

10 municipality may petition that municipality to annex that

11 person's real property even if the real property is located

12 within a traditional historic community."

13   Section 3. Section 3-7-1.1 NMSA 1978 (being Laws 1995,

14 Chapter 170, Section 5 and Laws 1995, Chapter 211, Section 4) is

15 amended to read:

16   "3-7-1.1. TRADITIONAL HISTORIC COMMUNITY--

17 QUALIFICATIONS--ANNEXATION RESTRICTIONS.--

18   A. To qualify as a traditional historic community,

19 an area shall:

20   (1) be an unincorporated area of a class B

21 county with a population between ninety-five thousand and

22 ninety-nine thousand five hundred, based on the 1990 federal

23 decennial census;

24   (2) be an identifiable village, community,

25 neighborhood or district that can be documented as having

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tag in margin: Underscored material = new [bracketed material] = delete

1 existed for more than one hundred years;

2   (3)   include specific or material structures or

3 landmarks that are associated with the identity of the specific

4 village, community, neighborhood or district seeking designation

5 as a traditional historic community;

6   (4)   have a distinctive character or traditional

7 quality that can be distinguished from surrounding areas or new

8 developments in the vicinity; and

9   (5)   be declared a traditional historic

10 community by an ordinance of the board of county commissioners

11 of the county in which the petitioning village, community,

12 neighborhood or district is located.

13   B.   A traditional historic community may be annexed

14 by a municipality only by petition of a majority of the

15 registered qualified electors or real property owners of the

16 territory within the traditional historic community proposed to

17 be annexed by the municipality or by the arbitration method of

18 annexation only upon petition of a majority of the registered

19 qualified electors or real property owners of the territory

20 within the traditional historic community.

21   C.   A person who holds legal title to or is acquiring

22 legal title to real property contiguous to the boundary of a

23 municipality may petition that municipality to annex that

24 person's real property even if the real property is located

25 within a traditional historic community.

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1   D.   For purposes of this section, "real property

2   owner" means a person who holds legal title to or is acquiring

3   legal title to pursuant to a mortgage or real estate contract an

4   interest of greater than fifty-one percent in either land or

5   land and the improvements on the land."

6   Section 4.   Section 3-7-11 NMSA 1978 (being Laws 1965,

7   Chapter 300, Section 14-7-11, as amended by Laws 1995, Chapter

8   170, Section 3 and also by Laws 1995, Chapter 211, Section 2) is

9   amended to read:

10   "3-7-11.   MUNICIPAL BOUNDARY COMMISSION--PURPOSE.--

11   A.   The purpose of Sections 3-7-11 through 3-7-16

12   NMSA 1978 is to establish an independent commission known as the

13   "municipal boundary commission" to determine the annexation of

14   territory to a municipality whenever:

15   (1)   the municipality petitions the municipal

16   boundary commission to annex territory to the municipality; or

17   (2)   a majority of the landowners of the

18   territory proposed to be annexed petition the municipal boundary

19   commission to annex the territory to the municipality.

20   B.   The municipal boundary commission shall hear a

21   request for municipal annexation of a traditional historic

22   community only upon petition of a majority of the qualified

23   electors or real property owners of the territory within the

24   traditional historic community.

25   C.   For purposes of this section, "real property

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1   owner" means a person who holds legal title to or is acquiring

2   legal title to pursuant to a mortgage or real estate contract an

3   interest of greater than fifty-one percent in either land or

4   land and the improvements on the land."

5   Section 5.   Section 3-21-1 NMSA 1978 (being Laws 1965,

6   Chapter 300, Section 14-20-1, as amended by Laws 1995, Chapter

7   170, Section 4 and also by Laws 1995, Chapter 211, Section 3) is

8   amended to read:

9   "3-21-1.   ZONING--AUTHORITY OF COUNTY OR MUNICIPALITY--

10   REFERENDUM.--

11   A.   For the purpose of promoting health, safety,

12   morals or the general welfare, a county or municipality is a

13   zoning authority and may regulate and restrict within its

14   jurisdiction the:

15   (1)   height, number of stories and size of

16   buildings and other structures;

17   (2)   percentage of a lot that may be occupied;

18   (3)   size of yards, courts and other open space;

19   (4)   density of population; and

20   (5)   location and use of buildings, structures

21   and land for trade, industry, residence or other purposes.

22   B.   The county or municipal zoning authority may:

23   (1)   divide the territory under its jurisdiction

24   into districts of such number, shape, area and form as is

25   necessary to carry out the purposes of Sections 3-21-1 through

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1   3-21-14 NMSA 1978; and

2   (2)   regulate or restrict the erection,

3   construction, reconstruction, alteration, repair or use of

4   buildings, structures or land in each district. All such

5   regulations shall be uniform for each class or kind of buildings

6   within each district, but regulation in one district may differ

7   from regulation in another district.

8   C.   All state-licensed or state-operated community

9   residences for the mentally ill or developmentally disabled

10 serving ten or fewer persons may be considered a residential use

11 of property for purposes of zoning and may be permitted use in

12 all districts in which residential uses are permitted generally,

13 including particularly residential zones for single-family

14 dwellings.

15   D.   A board of county commissioners of the county in

16 which the greatest portion of the territory of the petitioning

17 village, community, neighborhood or district lies may declare by

18 ordinance that a village, community, neighborhood or district is

19 a "traditional historic community" [upon] if a majority of the

20 registered qualified electors in a village, community,

21 neighborhood or district vote in favor of becoming a traditional

22 historic community in a referendum on the question of whether

23 the village, community, neighborhood or district should become

24 designated as a traditional historic community. The referendum

25 shall be called for in a petition signed by twenty-five percent

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1   or more of the registered qualified electors <u>or real property</u>

2   <u>owners</u> of the territory within the village, community,

3   neighborhood or district requesting the designation. <u>The</u>

4   <u>referendum shall be held within ninety days following the date</u>

5   <u>on which the board of county commissioners receives the petition</u>

6   <u>of verified signatures and according to the provisions governing</u>

7   <u>special elections.</u> The number of registered qualified electors

8   <u>and real property owners</u> shall be based on county records as of

9   the date of the last general election.

10   E.   Any village, community, neighborhood or district

11   that is declared a traditional historic village shall be

12   excluded from the extraterritorial zone and extraterritorial

13   zoning authority of any municipality whose extraterritorial

14   zoning authority extends to include all or a portion of the

15   traditional historic community and shall be subject to the

16   zoning jurisdiction of the county in which the greatest portion

17   of the traditional historic community lies.

18   <u>F.   For purposes of this section, "real property</u>

19   <u>owner" means a person who holds legal title to or is acquiring</u>

20   <u>legal title to pursuant to a mortgage or real estate contract an</u>

21   <u>interest of greater than fifty-one percent in either land or</u>

22   <u>land and the improvements on the land.</u>"

23   Section 6.   EMERGENCY.--It is necessary for the public

24   peace, health and safety that this act take effect immediately.

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State of New Mexico

House of Representatives

FORTY-THIRD LEGISLATURE

FIRST SESSION, 1997

February 27, 1997

Mr. Speaker:

   Your **GOVERNMENT AND URBAN AFFAIRS COMMITTEE,** to whom has been referred

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has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

   1.   On page 3, line 6, strike "to".

   2.   On page 3, line 7, strike the first occurrence of "to".

   3.   On page 3, line 7, after "contract" insert a period, strike the remainder of the line and all of lines 8 and 9.

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2   4.   On page 6, line 2, strike "to".

3

4   5.   On page 6, line 3, strike the first occurrence of "to".

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6   6.   On page 6, line 3, after "contract" insert a period,
strike the remainder of the line and all of lines 4 and 5.

7

8   7.   On page 7, line 1, strike "to".

9

10   8.   On page 7, line 2, strike the first occurrence of "to".

11

12   9.   On page 7, line 2, after "contract" insert a period,
strike the remainder of the line and all of lines 3 and 4.

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14   10.   On page 8, line 19, before the underscored "if" insert
15 "or change the boundaries of a traditional historic community".

16

17   11.   On page 9, line 19, strike "to".

18

19   12.   On page 9, line 20, strike the first occurrence of
20 "to".

21

22   13.   On page 9, line 20, after "contract" insert a period,
strike the remainder of the line and all of lines 21 and 22.

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Respectfully submitted,

_____

Lynda M Lovejoy, Chairwoman

Adopted _____   Not Adopted _____

(Chief Clerk)   (Chief Clerk)

Date _____

The roll call vote was _7_ For _0_ Against

Yes: 7

Excused: Wallace

Absent: None

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