

HOUSE VOTERS AND ELECTIONS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 306

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

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.--~~[This act]~~ 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, .186560.3

underscored material = new  
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1 Chapter 99, Section 6) is amended to read:

2 "72-20-6. BOUNDARIES OF AUTHORITY.--~~[The boundaries of the~~  
3 ~~authority are as follows]~~

4 A. Except as provided in Subsections B and C of  
5 this section, the authority consists of all land within the  
6 following boundaries: a portion of southern Sandoval county  
7 bounded on the east by a line following the eastern boundary of  
8 range 5 east of the New Mexico principal meridian, on the south  
9 by the Pueblo of Sandia and the Cibola national forest, on the  
10 west by the Rio Grande and on the north by a line following the  
11 northern boundary of township 13 north of the New Mexico  
12 principal meridian. The boundary ~~[of the district]~~ is more  
13 particularly described as follows: beginning at the southeast  
14 corner of projected section 1, township 12 north, range 5 east  
15 of the New Mexico principal meridian, that point also being the  
16 southeast corner of herein described boundary; thence  
17 proceeding in a westerly direction along a line coincident with  
18 the northern boundary of the Cibola national forest and of the  
19 Pueblo of Sandia to a point along the west bank of the Rio  
20 Grande within projected section 1, township 12 north, range 3  
21 east of the New Mexico principal meridian; thence in a  
22 northeasterly direction along the west bank of the Rio Grande  
23 to a point in the northwest corner of section 1, township 13  
24 north, range 4 east of the New Mexico principal meridian;  
25 thence east along a line following the northern boundary of

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1 township 13 north of the New Mexico principal meridian for  
 2 approximately seven miles to a point in the northeast corner of  
 3 section 1, township 13 north, range 5 east of the New Mexico  
 4 principal meridian; thence in a southerly direction  
 5 approximately seven miles to the southeast corner of projected  
 6 section 1, township 12 north, range 5 east of the New Mexico  
 7 principal meridian, which point is the southeast corner and  
 8 point of beginning of the district.

9 B. All lands held in trust or ownership by the  
 10 federal government or an Indian pueblo located within the  
 11 boundaries identified in Subsection A of this section shall be  
 12 excluded from the authority [~~of the authority~~].

13 C. On the first day of the first month immediately  
 14 following the effective date of this 2011 act, all land within  
 15 Sandoval county precincts 5, 28, 55 and 56 and precinct 6 east  
 16 of interstate 25, as those precinct designations and boundaries  
 17 were revised and approved by the secretary of state as of  
 18 August 31, 2001 pursuant to the Precinct Boundary Adjustment  
 19 Act, shall be excluded from the authority."

20 **SECTION 3.** Section 72-20-8 NMSA 1978 (being Laws 2007,  
 21 Chapter 99, Section 8) is amended to read:

22 "72-20-8. BOARD OF DIRECTORS.--

23 A. The governing body of the authority is a board  
 24 of directors consisting of [~~five~~] three qualified electors of  
 25 the authority; provided that, after single-member districts are

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1 created pursuant to Subsection B of Section 72-20-10 NMSA 1978  
2 and after the expiration of the terms of any directors-at-large  
3 who are serving at the time that single-member districts are  
4 created:

5 (1) each director shall reside within and  
6 represent a specified district; and

7 (2) if a director no longer resides within the  
8 district that the director represents, the director's position  
9 shall be deemed vacant and a successor shall be appointed to  
10 serve the unexpired term pursuant to Section 72-20-12 NMSA  
11 1978.

12 B. All powers, rights, privileges and duties vested  
13 in or imposed upon the authority are exercised and performed by  
14 and through the board of directors; provided that the exercise  
15 of any executive, administrative and ministerial powers may be,  
16 by the board, delegated and redelegated to officers and  
17 employees of the authority or to any officer or employee  
18 contracted by agreement to manage and administer the operations  
19 of the authority. Except for the first directors appointed as  
20 provided for in Section [~~9 of the Eastern Sandoval County~~  
21 ~~Arroyo Flood Control Act~~] 72-20-9 NMSA 1978 or elected as  
22 provided in Section [~~10 of that act~~] 72-20-10 NMSA 1978 and  
23 except for any director chosen to fill an unexpired term, and  
24 except for the first directors serving after the authority is  
25 divided into single-member districts, the term of each director

1 commences on the first day of January next following a general  
 2 election in the state and runs for six years. Each director,  
 3 subject to such exceptions, shall serve a six-year term ending  
 4 on the first day of January next following a general election,  
 5 and each director shall serve until a successor has been duly  
 6 chosen and qualified."

7 SECTION 4. Section 72-20-10 NMSA 1978 (being Laws 2007,  
 8 Chapter 99, Section 10) is amended to read:

9 "72-20-10. ELECTION OF ~~[OFFICERS]~~ DIRECTORS--SINGLE-  
 10 MEMBER DISTRICTS.--

11 A. At the time that a proposal to incur debt is  
 12 first submitted to the qualified electors or at the first  
 13 general election ~~[next]~~ following ~~[the effective date of the~~  
 14 ~~Eastern Sandoval County Arroyo Flood Control Act]~~ March 30,  
 15 2007, whichever occurs first, the qualified electors of the  
 16 authority shall elect five qualified directors, two to serve a  
 17 term ending January 1, 2011, two to serve a term ending January  
 18 1, 2013 and one to serve a term ending January 1, 2015. At the  
 19 first election, the five candidates receiving the highest  
 20 number of votes shall be elected as directors. The terms of  
 21 the directors shall be determined by lot at their  
 22 organizational meeting. ~~[At each general election thereafter,~~  
 23 ~~the qualified electors of the authority shall elect similarly~~  
 24 ~~one or two qualified electors as directors to serve six-year~~  
 25 ~~terms as directors and as successors to the directors whose~~

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~~terms end on the first day of January next following each such election. Nothing in the Eastern Sandoval County Arroyo Flood Control Act shall be construed as preventing a qualified elector of the authority from being elected or reelected as a director to succeed himself. If there is only one vacancy on the board, the candidate receiving the highest number of votes shall be elected as director. If there are two vacancies on the board, the candidate receiving the highest number of votes and the candidate receiving the next highest number of votes shall be elected as directors.]~~

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;

1                   (3) if, as a result of the division of the  
2 authority into districts, two or more incumbent directors  
3 reside within the same district, the board shall determine, by  
4 lot, one of the directors to represent the district, and the  
5 other directors residing within that district shall represent  
6 the authority at large until their terms expire;

7                   (4) if, as a result of the exclusion of land  
8 pursuant to Subsection C of Section 72-20-6 NMSA 1978, one or  
9 more incumbent directors reside outside of any district, the  
10 directors shall represent the authority at large until their  
11 terms expire; and

12                   (5) if more than one director represents the  
13 authority at large pursuant to Paragraph (3) or (4) of this  
14 subsection, the board shall determine by lot the district that  
15 will elect a resident to succeed a director-at-large as the  
16 term of each director-at-large expires.

17                   C. At the 2012 and each subsequent general  
18 election, for the single-member district in which the term of  
19 the incumbent director or the term of a director-at-large  
20 assigned by lot pursuant to Paragraph (2) of Subsection B of  
21 this section will expire on the first day of the January  
22 immediately following the election, a director who is a  
23 qualified elector and a resident of the district shall be  
24 elected by the qualified electors who are residents of that  
25 district to serve a six-year term.

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1           D. Nothing in this section shall be construed as  
2 preventing qualified electors of the authority from being  
3 elected or reelected as directors to succeed themselves;  
4 provided that they reside in the district from which they are  
5 elected.

6           E. As soon as feasible after each federal decennial  
7 census, the board shall assess the existing districts to  
8 determine if the districts remain as equal in population as is  
9 practicable and, if necessary, shall redistrict the authority  
10 into districts that remain contiguous, compact and as equal in  
11 population as is practicable; provided that:

12                   (1) a redistricting shall be effective at the  
13 next following general election; and

14                   (2) an incumbent director whose residence is  
15 redistricted out of the district represented by the director  
16 shall serve until the next general election, at which a  
17 qualified elector who resides within the district shall be  
18 elected to fill the unexpired term."

19           SECTION 5. Section 72-20-11 NMSA 1978 (being Laws 2007,  
20 Chapter 99, Section 11) is amended to read:

21           "72-20-11. NOMINATION OF DIRECTORS.--Not later than  
22 forty-five days before a proposal to incur debt is first  
23 submitted to the qualified electors or at the first general  
24 election [~~next~~] following [~~the effective date of the Eastern~~  
25 ~~Sandoval County Arroyo Flood Control Act~~] March 30, 2007,

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1 whichever occurs first, written nominations of any candidate as  
2 director may be filed with the secretary of the board. Each  
3 nomination of any candidate shall be signed by not less than  
4 fifty qualified electors, regardless of whether or not  
5 nominated therein, shall designate therein the name of the  
6 candidates thereby nominated and shall recite that the  
7 subscribers thereto are qualified electors and that the  
8 candidate or candidates designated therein are qualified  
9 electors of the authority. No written nomination may designate  
10 more qualified electors as candidates than there are vacancies.  
11 No qualified elector may nominate more than one candidate for  
12 any vacancy. If a candidate does not withdraw the candidate's  
13 name before the first publication of the notice of election,  
14 the candidate's name shall be placed on the ballot. For any  
15 election held after November ~~[2008]~~ 2010, nominations shall be  
16 made by qualified electors in accordance with the procedures  
17 and limitations of this section, except that:

18 A. such nominations shall be filed with the  
19 secretary of the board not later than the fourth Tuesday in  
20 June preceding the general election;

21 B. each nomination shall designate only one  
22 candidate;

23 C. all of the qualified electors signing each  
24 nomination and the person nominated shall reside within the  
25 district for which the candidate has been nominated; and

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1           D. each nomination shall recite that the  
2           subscribers thereto are qualified electors who reside in the  
3           district for which the candidate is nominated and that the  
4           person nominated is a qualified elector who resides in the  
5           district for which the person is nominated."

6           SECTION 6. Section 72-20-12 NMSA 1978 (being Laws 2007,  
7 Chapter 99, Section 12) is amended to read:

8           "72-20-12. FILLING VACANCIES ON THE BOARD.--Upon a  
9 vacancy occurring in the board by reason of death, change of  
10 residence or resignation or for any other reason, the governor  
11 shall appoint a qualified elector of the authority as successor  
12 to serve the unexpired term; provided that if the vacancy  
13 occurs after the single-member districts are created pursuant  
14 to Subsection B of Section 72-20-10 NMSA 1978, the qualified  
15 elector appointed shall reside within the district in which the  
16 vacancy exists."

17           SECTION 7. TEMPORARY PROVISION--LIMITATION ON PROPERTY  
18 TAXES ON EXCLUDED LAND--EXCEPTIONS FOR CERTAIN AUTHORIZED DEBT  
19 OBLIGATIONS--APPROVAL OF DEPARTMENT OF FINANCE AND  
20 ADMINISTRATION.--

21           A. On or after the effective date of this act, no  
22 property taxes shall be levied by the eastern Sandoval county  
23 arroyo flood control authority on land excluded from the  
24 authority pursuant to Subsection C of Section 72-20-6 NMSA  
25 1978; provided that:

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1 (1) subject to the provisions of Subsection B  
 2 of this section, the authority may levy taxes on the excluded  
 3 land that are necessary to make debt service and other  
 4 payments, including any amounts needed for required reserves,  
 5 on bonds of the authority:

6 (a) authorized in the 2008 general  
 7 election, including bonds authorized but not yet issued; or

8 (b) issued for the purpose of refunding  
 9 the bonds specified in Subparagraph (a) of this paragraph;

10 (2) nothing in this act affects property taxes  
 11 levied by the authority on the excluded land for the 2010 tax  
 12 year; and

13 (3) the provisions of the Eastern Sandoval  
 14 County Arroyo Flood Control Act and other state statutes  
 15 relating to the levying, collection and enforcement of property  
 16 taxes shall continue to apply to the excluded land to the  
 17 extent necessary to ensure payment of the property taxes  
 18 authorized in this subsection.

19 B. For the 2011 and subsequent tax years, the  
 20 authority shall not certify a property tax on land excluded  
 21 pursuant to Subsection C of Section 72-20-6 NMSA 1978 unless  
 22 the local government division of the department of finance and  
 23 administration determines that the proposed tax is in  
 24 compliance with the provisions of Subsection A of this section.

25 SECTION 8. EMERGENCY.--It is necessary for the public

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

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