

SENATE JUDICIARY COMMITTEE SUBSTITUTE FOR
SENATE BILL 435

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

AN ACT

RELATING TO MUNICIPALITIES; PROVIDING AVENUES TO
DISINCORPORATION OTHER THAN BY PETITION; PROVIDING FOR
ELECTIONS.

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

SECTION 1. Section 3-4-1 NMSA 1978 (being Laws 1965,
Chapter 300, Section 14-4-1, as amended) is amended to read:

"3-4-1. DISINCORPORATION--PETITION--NOTICE OF ELECTION.--

A. The board of county commissioners of the county
in which a municipality that may be subject to disincorporation
is situated shall adopt an election resolution within fourteen
days calling for a special election to be held within the
municipality on the question of disincorporating the
municipality if:

(1) it is certified as valid that one-fourth

1 of the registered voters of a municipality [~~petition~~] have
2 petitioned the board of county commissioners of the county
3 [~~wherein~~] in which the municipality is situated to
4 disincorporate the municipality [~~the board of county~~
5 ~~commissioners shall, within fourteen days after the petition~~
6 ~~has been certified as valid, adopt an election resolution~~
7 ~~calling for a special election to be held within the~~
8 ~~municipality on the question of disincorporating the~~
9 ~~municipality] by special election;~~

10 (2) the governing body of the municipality
11 adopts a resolution calling for a special election on the
12 question of disincorporating the municipality; or

13 (3) the secretary of finance and
14 administration and the state auditor request in writing that
15 the board of county commissioners adopt a resolution calling
16 for a special election on the question of disincorporating the
17 municipality.

18 B. At the top of each page of a disincorporation
19 petition, the following heading shall be printed in
20 substantially the following form:

21 "PETITION TO DISINCORPORATE THE MUNICIPALITY OF.

22 We, the undersigned registered voters of the municipality
23 of, pursuant to Section 3-4-1 NMSA 1978, petition the
24 board of county commissioners of county to conduct a
25 special election on the question of disincorporating the

underscored material = new
[bracketed material] = delete

1 municipality of

2 Date Name--Printed Address Usual
3 As Registered As Registered Signature.".

4 C. The day for holding the election shall not be less
5 than fifty days [~~not~~] or more than sixty days after the board
6 of county commissioners adopts the election resolution.

7 [~~B.~~] D. Notice of the election shall be published as
8 required for special elections as set forth in the Municipal
9 Election Code."

10 SECTION 2. Section 3-4-7 NMSA 1978 (being Laws 1965,
11 Chapter 300, Section 14-4-7) is amended to read:

12 "3-4-7. DISINCORPORATION--~~[CARE OF PROPERTY--MANAGER]~~
13 DISPOSITION OF PROPERTY AND FUNDS--If a municipality is
14 disincorporated, all assets of the disincorporated municipality
15 shall become the property of the board of county commissioners
16 ~~[shall assume control of all property belonging to the~~
17 ~~disincorporated municipality and shall employ a qualified~~
18 ~~person to manage and operate the property and to collect all~~
19 ~~charges due from the operation of such property. He shall~~
20 ~~execute a bond to the county in an amount determined by the~~
21 ~~board of county commissioners, conditioned that he will~~
22 ~~faithfully perform his duties and will promptly pay all money~~
23 ~~he receives to the county treasurer monthly on the first day of~~
24 ~~each month. The bond shall be executed by him and a surety~~
25 ~~company authorized to do business in the state. The premium on~~

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1 ~~the bond shall be paid by the board of county commissioners~~
2 ~~from municipal funds if any; if none, from county funds] of the~~
3 county in which the disincorporated municipality is located."

4 SECTION 3. Section 3-4-8 NMSA 1978 (being Laws 1965,
5 Chapter 300, Section 14-4-8) is amended to read:

6 "3-4-8. INCOME FROM [PROPERTY] ASSETS OF A
7 DISINCORPORATED MUNICIPALITY.--Money received from the
8 operation [~~of property~~] and management of a disincorporated
9 [~~municipality~~] municipality's assets shall be used by the board
10 of county commissioners in the following priority:

11 A. to pay [~~employees engaged in~~] for the operation,
12 maintenance, repair and protection of the [~~property~~] assets;

13 B. to pay the interest on the bonded indebtedness of
14 the municipality;

15 C. to purchase or redeem bonded indebtedness of the
16 municipality; and

17 D. after all bonded indebtedness has been paid [~~to~~
18 ~~support the public schools that existed within the boundary of~~
19 ~~the municipality at the time of its disincorporation]~~ for
20 governmental operations and services of the county, as
21 determined by the board of county commissioners."

22 SECTION 4. Section 3-4-9 NMSA 1978 (being Laws 1965,
23 Chapter 300, Section 14-4-9) is amended to read:

24 "3-4-9. DISINCORPORATION--INSUFFICIENT INCOME TO PAY
25 OBLIGATIONS--LEVY OF TAX--DUTY VESTED IN BOARD OF COUNTY

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1 COMMISSIONERS.--If insufficient money is received from the
 2 operation and management of the [~~property~~] assets of [~~the~~] a
 3 disincorporated municipality to pay the obligations in the
 4 order designated in Subsections A, B and C of Section [14-4-8
 5 ~~New Mexico Statutes Annotated, 1953 Compilation] 3-4-8 NMSA
 6 1978, the board of county commissioners shall levy a tax on all
 7 taxable property within the boundary of the municipality at the
 8 time of its disincorporation. This tax shall be sufficient to
 9 pay the obligations incurred in the operation, maintenance,
 10 repair and protection of the [~~property~~] assets of the
 11 disincorporated municipality and to comply with the terms and
 12 conditions of the evidences of the bonded indebtedness of the
 13 disincorporated municipality. The board of county
 14 commissioners shall, without charge, perform the duties of the
 15 governing body of the disincorporated municipality to satisfy
 16 the terms of the bonds, obligations or contracts of the
 17 disincorporated municipality."~~

18 SECTION 5. EFFECTIVE DATE.--The effective date of the
 19 provisions of this act is July 1, 2013.

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