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AN ACT

RELATING TO MUNICIPALITIES; PROVIDING ADDITIONAL REQUIREMENTS TO BE MET FOR THE INCORPORATION OF A MUNICIPALITY; REQUIRING THE LOCAL GOVERNMENT DIVISION OF THE DEPARTMENT OF FINANCE AND ADMINISTRATION TO CONVENE A REVIEW TEAM TO CONSIDER PETITIONS FOR MUNICIPAL INCORPORATION; REQUIRING PETITIONERS TO PRESENT A MUNICIPAL SERVICES AND REVENUE PLAN THAT DEMONSTRATES THE SERVICES TO BE PROVIDED TO RESIDENTS AND HOW THOSE SERVICES WILL BE PAID FOR; LIMITING ATTEMPTS TO INCORPORATE IF A REVIEW TEAM REJECTS THE MUNICIPAL PLAN.

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

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

"3-2-1. PETITION TO INCORPORATE AREA AS A MUNICIPALITY--MAP AND MONEY FOR CENSUS.--

A. The residents of territory proposed to be incorporated as a municipality may petition the board of county commissioners of the county in which the greatest portion of the territory proposed to be incorporated lies to incorporate the territory as a municipality. The petition shall:

- (1) be in writing;
- (2) state the name of the proposed municipality;

1 (3) describe the territory proposed to be  
2 incorporated as a municipality; and

3 (4) be signed by either:

4 (a) not less than two hundred qualified  
5 electors, each of whom shall, on the petition: 1) swear or  
6 affirm that the qualified elector has resided within the  
7 territory proposed to be incorporated for a period of six  
8 months immediately prior to the signing of the petition; and  
9 2) list the street address of the qualified elector's  
10 residence; or

11 (b) the owners of not less than sixty  
12 percent of the real estate within the territory proposed to  
13 be incorporated who are not delinquent in their payment of  
14 real property taxes.

15 B. The petition shall be accompanied by:

16 (1) an accurate map or plat that shows the  
17 boundary of the territory proposed to be incorporated;

18 (2) a municipal services and revenue plan  
19 that describes the municipal services the proposed  
20 municipality will provide and the details of how the  
21 municipality will generate sufficient revenue to cover the  
22 costs of providing those services; and

23 (3) money in an amount determined by the  
24 board of county commissioners to be sufficient to conduct a  
25 census in the territory proposed to be incorporated. The

1 money shall be deposited with the county treasurer for  
2 payment of the census required in Section 3-2-5 NMSA 1978.

3 C. The municipal services and revenue plan shall  
4 demonstrate that the proposed municipality will provide at  
5 least three of the following services and that it will have a  
6 tax base sufficient to pay the costs of those services:

- 7 (1) law enforcement;
- 8 (2) fire protection and fire safety;
- 9 (3) road and street construction and  
10 maintenance;
- 11 (4) solid waste management;
- 12 (5) water supply or distribution or both;
- 13 (6) wastewater treatment;
- 14 (7) storm water collection and disposal;
- 15 (8) electric or gas utility services;
- 16 (9) enforcement of building, housing,  
17 plumbing and electrical codes and other similar codes;
- 18 (10) planning and zoning; and
- 19 (11) recreational facilities.

20 D. The county shall forward the petition to the  
21 local government division of the department of finance and  
22 administration, which shall convene a municipal incorporation  
23 review team consisting of:

- 24 (1) the director of the local government  
25 division or the director's designee;

1                   (2) the secretary of taxation and revenue or  
2 the secretary's designee;

3                   (3) one representative of the county in  
4 which the proposed municipality would be located chosen by  
5 the board of county commissioners; and

6                   (4) a representative of the New Mexico  
7 municipal league who shall be an advisory member of the  
8 review team.

9                   E. The review team shall consider the petition and  
10 the required census results, evaluate the municipal services  
11 and revenue plan and determine whether the proposed  
12 municipality meets the requirements of Chapter 3, Article 2  
13 NMSA 1978. If the review team finds that the proposed  
14 municipality meets the requirements of that article, it shall  
15 report its findings and recommendations to the board of  
16 county commissioners. If the review team finds that the  
17 proposed municipality does not meet the requirements of that  
18 article, the review team shall notify the board of county  
19 commissioners and the petitioners of deficiencies in the  
20 petition. The review team's notification of deficiencies in  
21 the municipal services and revenue plan suspends the attempt  
22 to incorporate. Petitioners have three months from the date  
23 of notification of deficiencies to submit an amended plan to  
24 the review team. If the amended plan is rejected by the  
25 review team for deficiencies, petitioners may not submit

1 another petition to incorporate an area until at least one  
2 year after the date of that rejection."

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

5 "3-2-2. CHARACTERISTICS OF TERRITORY PROPOSED TO BE  
6 INCORPORATED AS A MUNICIPALITY.--

7 A. A territory proposed to be incorporated as a  
8 municipality shall:

9 (1) not be within the boundary of another  
10 municipality;

11 (2) have a population density of not less  
12 than one person per acre, except for a class B county with a  
13 net taxable value of property for property tax purposes in  
14 1990 of over ninety-five million dollars (\$95,000,000) and a  
15 population of less than ten thousand according to the 1990  
16 federal decennial census and where the population density of  
17 the territory proposed to be incorporated is not less than  
18 one person per four acres;

19 (3) contain not less than one hundred fifty  
20 persons; and

21 (4) contain a sufficient assessed value of  
22 real property and a sufficient number of businesses so that  
23 the proposed municipality will contain a sufficient tax base  
24 to enable it to provide a clerk-treasurer, a police officer  
25 and office space for the municipal government within one year

1 of incorporation.

2 B. In the alternative to the requirements of  
3 Paragraph (2) of Subsection A of this section, a territory  
4 proposed to be incorporated as a municipality shall:

5 (1) contain within its boundaries a resort  
6 area having more than fifty thousand visitors a year; and

7 (2) have more than one hundred fifty  
8 single-family residences, as shown by the property tax  
9 rolls."

10 SECTION 3. Section 3-2-5 NMSA 1978 (being Laws 1965,  
11 Chapter 300, Section 14-2-4, as amended) is amended to read:

12 "3-2-5. INCORPORATION--DUTIES OF COUNTY COMMISSIONERS  
13 AFTER FILING OF PETITION TO ACT--CENSUS REQUIRED--ELECTION--  
14 RIGHT OF APPEAL TO DISTRICT COURT.--

15 A. After the petition for incorporation, together  
16 with the accompanying map or plat, the municipal services and  
17 revenue plan and the amount of money sufficient to pay the  
18 cost of a census have been filed with the board of county  
19 commissioners, the board of county commissioners, in lieu of  
20 complying with the requirements of Section 3-1-5 NMSA 1978,  
21 shall determine within thirty days after the filing of the  
22 petition:

23 (1) from the voter registration list in the  
24 office of the county clerk if the signers of the petition are  
25 qualified electors residing in the territory proposed to be

1 incorporated; or

2 (2) from the tax schedules of the county if  
3 any of the owners of the real estate who signed the petition  
4 are delinquent in the payment of property taxes; and

5 (3) if the territory proposed to be  
6 incorporated is within an existing municipality or within the  
7 urbanized area of a municipality.

8 B. If the board of county commissioners determines  
9 that the territory proposed to be incorporated is:

10 (1) not within the boundary of an existing  
11 municipality and not within the urbanized area of a  
12 municipality; or

13 (2) within the urbanized area of another  
14 municipality and in compliance with Section 3-2-3 NMSA 1978,  
15 the board of county commissioners shall cause a census to be  
16 taken of the persons residing within the territory proposed  
17 to be incorporated.

18 C. The census shall be completed and filed with  
19 the board of county commissioners within thirty days after  
20 the board of county commissioners authorizes the taking of  
21 the census.

22 D. Within fifteen days after the date the results  
23 of the census and the municipal incorporation review team's  
24 report have been filed with the board of county  
25 commissioners, the board of county commissioners shall

1 determine if the conditions for incorporation of the  
2 territory as a municipality have been met as required in  
3 Sections 3-2-1 through 3-2-3 NMSA 1978 and shall have its  
4 determination recorded in the minutes of its meeting.

5 E. Based on the census results and the municipal  
6 incorporation review team's report, if the board of county  
7 commissioners determines that the conditions for  
8 incorporation have not been met, the board of county  
9 commissioners shall notify the petitioners of its  
10 determination by publishing in a newspaper of general  
11 circulation in the territory proposed to be incorporated,  
12 once, not more than ten days after its determination, a  
13 notice of its determination that the conditions for  
14 incorporation have not been met. If there is no newspaper of  
15 general circulation in the territory proposed to be  
16 incorporated, notice of the determination shall be posted in  
17 eight public places within the territory proposed to be  
18 incorporated.

19 F. After the board of county commissioners has  
20 determined that all of the conditions for incorporation of  
21 the territory as a municipality have been met, the board of  
22 county commissioners shall hold an election on the question  
23 of incorporating the territory as a municipality. Elections  
24 for the incorporation of municipalities shall only be held in  
25 odd-numbered years on the first Tuesday in July or in any

1 year on the first Tuesday in January, unless that Tuesday is  
2 a holiday, in which case the election shall be held on the  
3 second Tuesday in July or the second Tuesday in January. The  
4 county clerk shall notify the secretary of finance and  
5 administration and the secretary of taxation and revenue of  
6 the date of the incorporation election within ten days after  
7 the adoption of the resolution calling the election.

8 G. The signers of the petition or a municipality  
9 within whose urbanized area the territory proposed to be  
10 incorporated is located may appeal any determination of the  
11 board of county commissioners to the district court pursuant  
12 to the provisions of Section 39-3-1.1 NMSA 1978."

13 SECTION 4. Section 3-2-6 NMSA 1978 (being Laws 1965,  
14 Chapter 300, Section 14-2-5) is amended to read:

15 "3-2-6. INCORPORATION--NOTICE OF THE ELECTION--  
16 REGISTERED VOTERS TO VOTE--APPOINTMENT OF ELECTION  
17 OFFICIALS--CONDUCT OF ELECTION--QUESTION TO BE SUBMITTED--  
18 LOCATION OF VOTING PLACES.--

19 A. The notice of election shall contain:

20 (1) a description of the territory proposed  
21 to be incorporated as a municipality;

22 (2) a statement that a plat or map of the  
23 territory, the municipal services and revenue plan and the  
24 findings of the municipal incorporation review team are on  
25 file in the office of the county clerk;

1                   (3) the date and time the election will be  
2 held on incorporation; and

3                   (4) a list of the polling places within the  
4 territory proposed to be incorporated wherein registered  
5 voters may vote.

6                   B. The notice of election shall be published in a  
7 newspaper of general circulation within the territory  
8 proposed to be incorporated once each week for three  
9 successive weeks. The last publication shall not be more  
10 than fourteen nor less than seven days before the day of the  
11 election. If there is no newspaper of general circulation  
12 within the territory proposed to be incorporated, notice of  
13 the election shall be posted in eight public places within  
14 the territory proposed to be incorporated. The posting shall  
15 be made at least three weeks before the day of the election.

16                  C. The board of county commissioners shall appoint  
17 the judges and clerks of the election in the manner judges  
18 and clerks of election are appointed for general elections.  
19 The election shall be conducted in the manner provided for  
20 the conduct of general elections.

21                  D. The question on the ballot shall read  
22 substantially as follows:

23                         "Shall the territory described as (herein insert a  
24 description of the territory proposed to be incorporated) and  
25 to be known as (herein insert the name of the proposed

1 municipality) become an incorporated municipality?

2 For incorporation -----[ ]

3 Against incorporation -----[ ]".

4 E. Any registered voter who is a resident of the  
5 territory proposed to be incorporated may vote on the  
6 question of incorporating the territory as a municipality.

7 F. The board of county commissioners shall canvass  
8 the votes and declare the results of the election in the  
9 manner provided for the canvassing and declaring of votes in a  
10 general election."

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