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AN ACT

RELATING TO SPECIAL DISTRICTS; AMENDING THE EASTERN NEW MEXICO WATER UTILITY AUTHORITY ACT; REMOVING CURRY COUNTY, THE VILLAGE OF MELROSE AND THE VILLAGE OF GRADY FROM THE MEMBERSHIP OF THE EASTERN NEW MEXICO WATER UTILITY AUTHORITY.

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

SECTION 1. Section 73-27-4 NMSA 1978 (being Laws 2010, Chapter 39, Section 4) is amended to read:

"73-27-4. EASTERN NEW MEXICO WATER UTILITY AUTHORITY--
CREATED.--

A. The "eastern New Mexico water utility authority" is created coextensive with the boundaries of Curry and Roosevelt counties and the territory physically occupied by the water facilities of the authority to plan, design, develop, purchase, acquire, own, operate, establish, construct and maintain the eastern New Mexico rural water system pipelines and waterworks to supply water for domestic, commercial, non-irrigated agricultural and industrial purposes by any available means to persons within and without the boundaries of the authority.

B. The eastern New Mexico water utility authority is created for the benefit of the four members of the eastern New Mexico rural water authority, including the city of Clovis, the city of Portales, the city of Texico and the town

1 of Elida."

2 SECTION 2. Section 73-27-5 NMSA 1978 (being Laws 2010,
3 Chapter 39, Section 5) is amended to read:

4 "73-27-5. BOARD--APPOINTMENT--TERMS.--

5 A. The board shall consist of six members, each of
6 whom shall reside within the boundaries of the authority,
7 appointed as follows:

8 (1) three board members appointed by the
9 Clovis city commission for a term of two years; provided,
10 however, that two of the initial members shall be appointed
11 for a term of one year for the purpose of having a staggered
12 board;

13 (2) two board members appointed by the
14 Portales city council for a term of two years; provided,
15 however, that one of the initial members shall be appointed
16 for a term of one year for the purpose of having a staggered
17 board; and

18 (3) one board member appointed for a term of
19 one year on a rotating basis and in the following order by:

20 (a) the Texico city council; and

21 (b) the Elida town council.

22 B. A vacancy occurring by other than expiration of
23 a term shall be filled in the same manner as the original
24 appointment, but only for the unexpired term."

25 SECTION 3. Section 73-27-6 NMSA 1978 (being Laws 2010,

1 Chapter 39, Section 6) is amended to read:

2 "73-27-6. BOARD--POWERS--DUTIES.--

3 A. All powers, privileges and duties vested in or
4 imposed upon the authority shall be exercised and performed
5 by the board; provided that the board may delegate its powers
6 by resolution to an officer or agent of the board, with the
7 exception of the following powers:

8 (1) adoption of board rules, policies and
9 procedures;

10 (2) ratification of acquisition of property;

11 (3) initiation or continuation of legal
12 action, except that initiation and filing of liens for unpaid
13 rates and charges and suits for payment thereof and
14 discontinuance of service for failure to pay such rates and
15 charges may be delegated;

16 (4) establishment of fees, tolls, rates or
17 charges; and

18 (5) issuance of revenue bonds.

19 B. Meetings of the board shall be held at the call
20 of the chair or whenever three members shall so request in
21 writing. A majority of members then serving constitutes a
22 quorum for the transaction of any business. Except as
23 provided in Subsection C of this section, the affirmative
24 vote of at least a majority of a quorum present shall be
25 necessary for any action to be taken by the board. A vacancy

1 in the membership of the board shall not impair the right of
2 a quorum to exercise all rights and perform all duties of the
3 board.

4 C. The non-delegable powers and duties provided in
5 Subsection A of this section shall only be effective upon
6 resolution passed by a supermajority of four members of the
7 board.

8 D. The board shall promulgate and adhere to rules,
9 policies and procedures that govern its conduct.

10 E. A member of the board having a financial
11 interest or possible interest in the outcome of any policy,
12 decision or determination before the board shall be
13 disqualified from voting on the issue. A member's status as
14 a ratepayer or customer of the authority shall not be deemed
15 to constitute a financial interest or possible interest for
16 the purposes of this section.

17 F. Subject to Subsections B through D of this
18 section, the board may:

19 (1) adopt bylaws;

20 (2) fix the time and place of meetings and
21 the method of providing notice of the meetings in accordance
22 with the Open Meetings Act;

23 (3) promulgate orders, resolutions, policies
24 and rules necessary for the governance and management of the
25 affairs of the authority and the execution of the powers

1 vested in the authority;

2 (4) maintain offices at a place as the board
3 may designate;

4 (5) employ a director who may employ and
5 retain necessary staff;

6 (6) establish user classifications;

7 (7) fix and from time to time increase or
8 decrease water rates, fees or other charges for water
9 delivery or other related services or facilities operated or
10 made available by the authority, subject to the following
11 conditions:

12 (a) the rates, tolls or charges shall
13 be uniform for all municipalities that have the power to
14 appoint a member to the board;

15 (b) until paid, all rates, tolls or
16 charges constitute a perpetual lien on and against the
17 property served, and any such lien may be foreclosed in the
18 same manner as provided by the laws of New Mexico for the
19 foreclosure of real estate mortgages and shall not be subject
20 to any limitations period, statutory or otherwise;

21 (c) the board shall prescribe and
22 enforce rules by which properties shall be connected with and
23 disconnected from the facilities of the authority, including
24 payment plans to avoid discontinuing service to delinquent
25 accounts;

1 (d) after giving reasonable notice, the
2 board shall shut off or discontinue service for unauthorized
3 connections, illegal connections or connections for which
4 rates, tolls or other charges are delinquent in payment. The
5 board may file suit in a court of competent jurisdiction to
6 recover costs associated with an unauthorized, illegal or
7 delinquent connection, including the cost of water delivered,
8 charges for connection and disconnection, damages and
9 attorney fees; and

10 (e) the provisions of Subparagraphs (b)
11 and (c) of this paragraph are not applicable to
12 municipalities that have the power to appoint a member to the
13 board; and

14 (8) adopt an operating budget that supports
15 the full cost of operation, maintenance and replacement as
16 established by an asset management plan and a rate-setting
17 analysis. The operating budget shall be subject to the
18 approval of the department of finance and administration."

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