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HOUSE BILL 689

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

INTRODUCED BY

JAMES G. TAYLOR

AN ACT

RELATING TO LOCAL GOVERNMENTS; REQUIRING THE CONSENT OF THE BOARD OF COUNTY COMMISSIONERS IN CASE OF ANNEXATION BY A MUNICIPALITY OF COUNTY TERRITORY IN A CLASS A COUNTY WITH A POPULATION OF TWO HUNDRED THOUSAND OR MORE PERSONS.

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

Section 1. Section 3-57-5 NMSA 1978 (being Laws 1967, Chapter 248, Section 5) is amended to read:

"3-57-5. ANNEXATION BY PETITION TO MUNICIPALITY.--

A. The governing body of a municipality located within a class A county with a population of two hundred thousand or more persons shall by ordinance express its consent to or rejection of the annexation of territory of the county by ordinance whenever a petition:

(1) seeks the annexation of county territory to

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1 [a] the municipality [~~in a Class A county~~];

2 (2) is signed by the owners of a majority of
3 the number of acres in [~~such~~] the county territory proposed to
4 be annexed;

5 (3) is signed by a majority of the owners of
6 land in [~~such~~] the county territory proposed to be annexed;

7 (4) is accompanied by a map [~~which shall show~~]
8 that shows the external boundary of the county territory
9 proposed to be annexed and the relationship of [~~the~~] that
10 territory [~~proposed to be annexed~~] to the existing boundary of
11 the municipality; [~~and~~]

12 (5) is presented to the governing body of
13 [~~such~~] the municipality; and

14 [~~the governing body shall by ordinance express~~
15 ~~its consent or rejection to the annexation of such territory~~]

16 (6) is presented to the board of county
17 commissioners of the county in which the municipality is located
18 and that board by resolution consents to the annexation.

19 B. The governing body of a municipality located
20 within a class A county with a population of less than two
21 hundred thousand persons shall by ordinance express its consent
22 to or rejection of the annexation of territory of the county
23 whenever a petition:

24 (1) seeks the annexation of county territory to
25 the municipality;

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1 (2) is signed by the owners of a majority of
2 the number of acres in the county territory proposed to be
3 annexed;

4 (3) is signed by a majority of the owners of
5 land in the county territory proposed to be annexed;

6 (4) is accompanied by a map that shows the
7 external boundary of the county territory proposed to be annexed
8 and the relationship of that territory to the existing boundary
9 of the municipality; and

10 (5) is presented to the governing body of the
11 municipality.

12 [~~B.~~] C. If the ordinance consents to the annexation
13 of the territory, a copy of the ordinance with a copy of the
14 plat of the territory [sø] annexed shall be filed in the office
15 of the county clerk.

16 [~~C.~~] D. Within thirty days after the filing of a
17 copy of the ordinance in the office of the county clerk, [~~any~~] a
18 person owning land within the territory annexed to the
19 municipality may appeal to the district court questioning the
20 validity of the annexation proceedings. If no appeal to the
21 district court is filed within thirty days after the filing of
22 the ordinance in the office of the county clerk or if the court
23 renders judgment in favor of the municipality, the annexation
24 [~~shall be deemed~~] is complete."

State of New Mexico
House of Representatives

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 4, 1997

Mr. Speaker:

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

HOUSE BILLS 689 AND 1017

**has had it under consideration and reports same with
recommendation that it DO NOT PASS, but that**

**HOUSE GOVERNMENT AND URBAN AFFAIRS COMMITTEE
SUBSTITUTE FOR HOUSE BILLS 689 AND 1017**

**DO PASS, and thence referred to the JUDICIARY
COMMITTEE.**

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**FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997**

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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: Hobbs

Absent: None

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1 HOUSE GOVERNMENT AND URBAN AFFAIRS COMMITTEE SUBSTITUTE FOR
2 HOUSE BILLS 689 & 1017
3 43RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1997
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9 AN ACT

10 RELATING TO LAND USE; PROVIDING FOR METHODS OF ANNEXATION,
11 ZONING, SUBDIVISION, PLANNING AND PLATTING IN EXTRATERRITORIAL
12 ZONES OF CERTAIN MUNICIPALITIES AND COUNTIES; CREATING AN
13 EXTRATERRITORIAL LAND USE COMMISSION AND AUTHORITY; PROVIDING
14 POWERS AND DUTIES; AMENDING AND ENACTING SECTIONS OF THE NMSA
15 1978.

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

17 Section 1. A new Section 3-7-17.1 NMSA 1978 is enacted to
18 read:

19 "3-7-17.1. [NEW MATERIAL] ANNEXATION-- CERTAIN
20 MUNICIPALITY IN CLASS A COUNTY-- PROCEDURES-- LIMITATIONS. --

21 A. A petition that seeks the annexation of territory
22 contiguous to a municipality having a population over two
23 hundred thousand persons located in a class A county shall be
24 presented to the city council and be:

25 (1) signed by the owners of a majority of the
number of acres in the contiguous territory; and

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(2) accompanied by a map that shows the external boundary of the territory proposed to be annexed and the relationship of the territory proposed to be annexed to the existing boundary of the municipality.

B. The city council shall submit the petition to the board of county commissioners of the county in which the municipality is located for its review and comment. The comments shall be submitted to the city council within thirty days of receipt.

C. The city council shall by ordinance approve or disapprove the annexation of the territory unless the petition for annexation is not signed by a majority of the owners of land in the county territory proposed to be annexed.

D. If the petition for annexation is not signed by a majority of the owners of land proposed to be annexed, the question of the approval or disapproval of the annexation of the land shall be submitted to the extraterritorial land use authority for its approval or disapproval. If the extraterritorial land use authority approves the annexation, the city council may approve the annexation.

E. When the nonconsenting property owners' properties are entirely surrounded by consenting property owners, the city council may approve the annexation without approval or disapproval of the extraterritorial land use authority.

F. In considering an annexation pursuant to the petition method provided in this section, the city council shall consider the impact of the annexation on existing county contracts and provisions of services such as fire protection, solid waste collection or water and sewer service and may make agreements with the county to continue such services if it is in the interest of the county, the residents of the proposed

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1 annexed area or the municipality.

2 G. A municipality having a population over two hundred
3 thousand persons and located in a class A county shall not force a
4 resident or business located in the unincorporated area of the
5 county to agree to annexation as a condition of extending sewer and
6 water service to that person or business, if that sewer or water
7 service extension is paid for all or in part by federal, state or
8 county money. The municipality may make agreement to annexation a
9 condition of extending sewer and water service if the extension of
the service is paid for entirely with municipal money. "

10 Section 2. Section 3-19-5 NMSA 1978 (being Laws 1965,
11 Chapter 300, Section 14-18-5, as amended) is amended to read:

12 "3-19-5. PLANNING AND PLATTING JURISDICTION. --

13 A. Each municipality shall have planning and platting
14 jurisdiction within its municipal boundary. The planning and
15 platting jurisdiction of a municipality:

16 (1) having a population of twenty-five thousand
17 ~~[or more]~~ to two hundred thousand persons includes all territory
18 within five miles of its boundary and not within the boundary of
another municipality; or

19 (2) having a population of less than twenty-five
20 thousand persons includes all territory within three miles of its
21 boundary and not within the boundary of another municipality.

22 B. A municipality having a population over two hundred
23 thousand persons located in a class A county shall have planning
24 and platting jurisdiction within five miles of the boundary of the
25 municipality shared with the county and not within the boundary of
another municipality through the extraterritorial land use

commission that shall make recommendations to the extraterritorial land use authority.

[B-] C. If territory not lying within the boundary of a municipality is within the planning and platting jurisdiction of more than one municipality, the planning and platting jurisdiction of each municipality shall terminate equidistant from the boundary of each municipality unless one municipality has a population of less than two thousand five hundred persons and another municipality has a population of more than two thousand five hundred persons according to the most recent census. Then the planning and platting jurisdiction of the municipality having the greatest population extends to such territory."

Section 3. Section 3-20-5 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-19-5, as amended) is amended to read:

"3-20-5. COUNTY AND MUNICIPAL JURISDICTION OVER SUBDIVISION--CONCURRENT JURISDICTION--ACCEPTANCE OF UNAPPROVED STREETS--EXERCISE OF JURISDICTION.--

A. For the purpose of approving the subdivision and platting of land:

(1) the jurisdiction of a county includes all territory not within the boundary of a municipality;

(2) the jurisdiction of a municipality having a population of twenty-five thousand ~~[or more]~~ to two hundred thousand persons according to the most recent census includes all territory within five miles of the boundary of the municipality and not within the boundary of another municipality; ~~[and]~~

(3) the jurisdiction of a municipality having a population of less than twenty-five thousand persons according to

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1 the most recent census includes all territory within three miles of
2 the municipal boundary and not within the boundary of another
3 municipality; and

4 (4) a municipality having a population over two
5 hundred thousand persons according to the most recent census
6 located in a class A county shall share approval authority with the
7 county of subdivisions and platting of land within five miles of
8 the municipal boundary. Approval shall be through the actions of
9 the extraterritorial land use commission and extraterritorial land
10 use authority.

11 B. Each municipality shall have jurisdiction over the
12 territory within its boundary.

13 ~~[B.]~~ C. If territory not lying within the boundary of a
14 municipality is within the platting jurisdiction of more than one
15 municipality, the platting jurisdiction of each municipality shall
16 terminate equidistant from the boundary of each municipality unless
17 one municipality has a population according to the most recent
18 census of less than two thousand five hundred persons and another
19 municipality has a population according to the most recent census
20 of more than two thousand five hundred persons. Then the platting
21 jurisdiction of the municipality having the greatest population
22 extends to such territory.

23 ~~[C.]~~ D. The county and a municipality shall exercise
24 concurrent jurisdiction over territory within the platting
25 jurisdiction of both the county and the municipality except as
provided in Paragraph (4) of Subsection A of this section.

~~[D.]~~ E. The governing body of a municipality or the
board of county commissioners may not locate, construct or accept

1 any street dedication until the street dedication is first
 2 submitted to the planning authority for approval or disapproval.
 3 If disapproved by the planning authority, the street dedication may
 4 be approved by a two-thirds vote of all the members of the
 5 governing body of the municipality having jurisdiction or of the
 6 board of county commissioners having jurisdiction. A street
 7 dedication accepted by the planning authority or by a two-thirds
 8 vote of all the members of the governing body of the municipality
 9 having jurisdiction or of the board of county commissioners having
 10 jurisdiction shall have the same status as any other public
 street. "

11 Section 4. A new section of Chapter 3, Article 21 NMSA 1978
 12 is enacted to read:

13 "[NEW MATERIAL] EXTRATERRITORIAL ZONING IN CLASS A COUNTY
 14 WITH MUNICIPALITY OVER TWO HUNDRED THOUSAND--PROCEDURES. --

15 A. In a class A county that has a municipality with a
 16 population over two hundred thousand persons, extraterritorial
 17 zoning between that municipality and the county shall be determined
 18 by an "extraterritorial land use authority". The extraterritorial
 19 land use authority shall have the jurisdiction and powers of an
 20 extraterritorial zoning authority and shall carry out the duties
 21 related to planning and platting jurisdiction, extraterritorial
 22 zoning, subdivision approval, and annexation approval or
 23 disapproval as provided in Section 3-7-17.1 NMSA 1978. The
 24 extraterritorial land use authority shall consist of four county
 25 commissioners appointed by the board of county commissioners and
 three city councilors or two city councilors and the mayor
 appointed by the municipality.

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1 B. The extraterritorial zoning commission in a class A
2 county having a municipality with a population over two hundred
3 thousand persons that is concerned with extraterritorial zoning
4 between that municipality and the county shall be known as the
5 "extraterritorial land use commission". The commission shall be
6 composed of five members of the county planning commission
7 appointed by the board of county commissioners and five members of
8 the environmental planning commission of the municipality appointed
9 by the city council.

10 C. The composition of the extraterritorial land use
11 commission shall not affect the composition of any other
12 extraterritorial zoning commission that may be established in that
13 county with any other municipality.

14 D. The extraterritorial land use commission shall have
15 the authority to carry out duties related to planning and platting
16 jurisdiction, subdivision and extraterritorial zoning. "

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FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 20, 1997

Mr. President:

Your CONSERVATION COMMITTEE, to whom has been referred
HOUSE GOVERNMENT AND URBAN AFFAIRS COMMITTEE
SUBSTITUTE FOR HOUSE BILLS 689 AND 1017

has had it under consideration and reports same with recommendation
that it DO PASS.

Respectfully submitted,

Michael S. Sanchez, Chairman

Adopted _____ Not Adopted _____

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HGUAC/HB 689 & 1017

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(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 7 For 0 Against

Yes: 7

No: None

Excused: Davis, Macias, Payne

Absent: None

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