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SENATE BILL 1144

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

INTRODUCED BY

MANNY M ARAGON

AN ACT

RELATING TO LOCAL GOVERNMENTS; AMENDING THE NMSA 1978 TO REQUIRE
CONSENT OF THE BOARD OF COUNTY COMMISSIONERS OF A CLASS A COUNTY
TO AN ANNEXATION BY ANY MUNICIPALITY LOCATED IN THE COUNTY THAT
HAS A POPULATION OF TWO HUNDRED THOUSAND PERSONS OR MORE.

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--
INFRASTRUCTURE EXTENSION PLAN. --

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:

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1 (1) seeks the annexation of county territory to
2 [a] the municipality [~~in a Class A county~~];

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

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

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

13 (5) is presented to the governing body of
14 [~~such~~] the municipality [~~the governing body shall by ordinance~~
15 ~~express its consent or rejection to the annexation of such~~
16 ~~territory~~];

17 (6) is evaluated by the municipality for
18 infrastructure needs, and the municipality completes and
19 approves a written feasibility plan demonstrating the
20 municipality's willingness, plans and capability, both financial
21 and technical, to extend and install water and sewer facilities
22 into the territory for which annexation is petitioned, including
23 the intended completion date for such extensions; and

24 (7) is then presented to the board of county
25 commissioners of the county in which the municipality is located

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1 and that board by resolution consents to the annexation.

2 B. The governing body of a municipality located
3 within a class A county with a population of less than two
4 hundred thousand persons shall by ordinance express its consent
5 to or rejection of the annexation of territory of the county
6 whenever a petition:

7 (1) seeks the annexation of county territory to
8 the municipality;

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

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

14 (4) is accompanied by a map that shows the
15 external boundary of the county territory proposed to be annexed
16 and the relationship of that territory to the existing boundary
17 of the municipality; and

18 (5) is presented to the governing body of the
19 municipality.

20 [~~B.-~~] C. If the ordinance consents to the annexation
21 of the territory, a copy of the ordinance with a copy of the
22 plat of the territory [~~so~~] annexed shall be filed in the office
23 of the county clerk.

24 [~~C.-~~] D. Within thirty days after the filing of a
25 copy of the ordinance in the office of the county clerk, [~~any~~] a

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1 person owning land within the territory annexed to the
2 municipality may appeal to the district court questioning the
3 validity of the annexation proceedings. If no appeal to the
4 district court is filed within thirty days after the filing of
5 the ordinance in the office of the county clerk or if the court
6 renders judgment in favor of the municipality, the annexation
7 [~~shall be deemed~~] is complete."

Underscored material = new
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SENATE FLOOR SUBSTITUTE FOR
SENATE BILLS 1144 & 1148

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

AN ACT

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

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

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

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

A. A petition that seeks the annexation of territory
contiguous to a municipality having a population over two
hundred thousand persons located in a class A county shall be

1 presented to the city council and be:

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

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

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

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

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

24 E. When the nonconsenting property owners'
25 properties are entirely surrounded by consenting property

1 owners, the city council may approve the annexation without
 2 approval or disapproval of the extraterritorial land use authority.

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

11 G. A municipality having a population over two hundred
 12 thousand persons and located in a class A county shall not force a
 13 resident or business located in the unincorporated area of the
 14 county to agree to annexation as a condition of extending sewer and
 15 water service to that person or business, if that sewer or water
 16 service extension is paid for all or in part by federal, state or
 17 county money. The municipality may make agreement to annexation a
 18 condition of extending sewer and water service if the extension of
 19 the service is paid for entirely with municipal money. "

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

22 "3-19-5. PLANNING AND PLATTING JURISDICTION. --

23 A. Each municipality shall have planning and platting
 24 jurisdiction within its municipal boundary. The planning and
 25 platting jurisdiction of a municipality:

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

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

8 B. A municipality having a population over two hundred
9 thousand persons located in a class A county shall have planning
10 and platting jurisdiction within five miles of the boundary of the
11 municipality shared with the county and not within the boundary of
12 another municipality through the extraterritorial land use
13 commission that shall make recommendations to the extraterritorial
14 land use authority.

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

25 Section 3. Section 3-20-5 NMSA 1978 (being Laws 1965,

1 Chapter 300, Section 14-19-5, as amended) is amended to read:

2 "3-20-5. COUNTY AND MUNICIPAL JURISDICTION OVER
3 SUBDIVISION-- CONCURRENT JURISDICTION-- ACCEPTANCE OF UNAPPROVED
4 STREETS-- EXERCISE OF JURISDICTION. --

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

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

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

14 (3) the jurisdiction of a municipality having a
15 population of less than twenty-five thousand persons according to
16 the most recent census includes all territory within three miles of
17 the municipal boundary and not within the boundary of another
18 municipality; and

19 (4) a municipality having a population over two
20 hundred thousand persons according to the most recent census
21 located in a class A county shall share approval authority with the
22 county of subdivisions and platting of land within five miles of
23 the municipal boundary. Approval shall be through the actions of
24 the extraterritorial land use commission and extraterritorial land
25 use authority.

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1 B. Each municipality shall have jurisdiction over the
2 territory within its boundary.

3 ~~[B.]~~ C. If territory not lying within the boundary of a
4 municipality is within the platting jurisdiction of more than one
5 municipality, the platting jurisdiction of each municipality shall
6 terminate equidistant from the boundary of each municipality unless
7 one municipality has a population according to the most recent
8 census of less than two thousand five hundred persons and another
9 municipality has a population according to the most recent census
10 of more than two thousand five hundred persons. Then the platting
11 jurisdiction of the municipality having the greatest population
12 extends to such territory.

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

17 ~~[D.]~~ E. The governing body of a municipality or the
18 board of county commissioners may not locate, construct or accept
19 any street dedication until the street dedication is first
20 submitted to the planning authority for approval or disapproval.
21 If disapproved by the planning authority, the street dedication may
22 be approved by a two-thirds vote of all the members of the
23 governing body of the municipality having jurisdiction or of the
24 board of county commissioners having jurisdiction. A street
25 dedication accepted by the planning authority or by a two-thirds

1 vote of all the members of the governing body of the municipality
 2 having jurisdiction or of the board of county commissioners having
 3 jurisdiction shall have the same status as any other public
 4 street. "

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

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

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

22 B. The extraterritorial zoning commission in a class A
 23 county having a municipality with a population over two hundred
 24 thousand persons that is concerned with extraterritorial zoning
 25 between that municipality and the county shall be known as the

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1 "extraterritorial land use commission". The commission shall be
2 composed of five members of the county planning commission
3 appointed by the board of county commissioners and five members of
4 the environmental planning commission of the municipality appointed
5 by the city council.

6 C. The composition of the extraterritorial land use
7 commission shall not affect the composition of any other
8 extraterritorial zoning commission that may be established in that
9 county with any other municipality.

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

State of New Mexico House of Representatives

FORTY-THIRD LEGISLATURE
FIRST SESSION, 1997

March 10, 1997

Mr. Speaker:

Your ENERGY AND NATURAL RESOURCES COMMITTEE, to
whom has been referred

SENATE FLOOR SUBSTITUTE FOR SENATE BILLS 1144 AND
1148

has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to the
GOVERNMENT AND URBAN AFFAIRS COMMITTEE.

Respectfully submitted,

James Roger Madalena, Chairman

FORTY-THIRD LEGISLATURE

SFI/SB 1144 & 1148 FIRST SESSION, 1997

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Adopted _____ Not Adopted _____
(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 9 For 0 Against

Yes: 9

Excused: Getty, Knowles, Madalena

Absent: None

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