

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

SENATE BILL 445

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Dede Feldman

AN ACT

RELATING TO ZONING ENFORCEMENT; PROVIDING FOR ZONING ENFORCEMENT IN METROPOLITAN COURT; ALLOWING METROPOLITAN JUDGES TO PROVIDE INJUNCTIVE RELIEF IN CERTAIN CASES; PROVIDING FOR AN ADDITIONAL METROPOLITAN JUDGE; INCREASING FINES; MAKING AN APPROPRIATION.

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

Section 1. Section 3-21-10 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-20-8) is amended to read:

"3-21-10. ZONING ENFORCEMENT. - -

A. Sections [~~14-20-1 through 14-20-12 New Mexico Statutes Annotated, 1953 Compilation~~] 3-21-1 through 3-21-14 NMSA 1978 and any ordinance adopted pursuant to these sections shall be enforced by the zoning authority having jurisdiction as other municipal and county ordinances are enforced.

underscored material = new  
[bracketed material] = delete

underscored material = new  
[bracketed material] = delete

1           B. In addition, if any building or structure is  
2 erected, constructed, reconstructed, altered, repaired,  
3 converted or maintained or any building, structure or land is  
4 used in violation of Sections [~~14-20-1 through 14-20-12 New~~  
5 ~~Mexico Statutes Annotated, 1953 Compilation~~] 3-21-1 through  
6 3-21-14 NMSA 1978 or any ordinance adopted pursuant to these  
7 sections, the zoning authority may institute any appropriate  
8 action or proceedings to:

- 9                   (1) prevent such unlawful erection,  
10 construction, reconstruction, alteration, repair, conversion,  
11 maintenance or use;  
12                   (2) restrain, correct or abate the violation;  
13                   (3) prevent the occupancy of such building,  
14 structure or land; or  
15                   (4) prevent any illegal act, conduct,  
16 business or use in or about such premises.

17           C. The ordinances, rules and regulations together  
18 with the officially adopted or district zoning map of the  
19 county or municipal zoning authority shall be filed in the  
20 respective offices of the county clerk or municipal clerk and  
21 shall be available for examination by any citizen. "

22           Section 2. Section 3-21-13 NMSA 1978 (being Laws 1965,  
23 Chapter 300, Section 14-20-11) is amended to read:

24           "3-21-13. ZONING ENFORCEMENT BY COUNTIES. --

25           A. Counties having authority to regulate building

underscored material = new  
[bracketed material] = delete

1 and zoning under Sections [~~14-20-1 through 14-20-12 New Mexico~~  
2 ~~Statutes Annotated, 1953 Compilation~~] 3-21-1 through 3-21-14  
3 NMSA 1978 may enact ordinances to carry out that authority the  
4 same as a municipality except where inconsistent with  
5 statutory or constitutional limitations placed on counties.  
6 The ordinances are effective only within the zoning  
7 jurisdiction of the county.

8 B. County ordinances enacted [~~under~~] pursuant to  
9 this section may be enforced by prosecution in the district  
10 court of the county.

11 C. Penalties for violations of these ordinances  
12 shall not exceed a fine of [~~three hundred dollars (\$300)~~] one  
13 thousand dollars (\$1,000) or imprisonment for ninety days or  
14 both.

15 [~~C.~~] D. The district attorney and sheriff shall  
16 enforce these ordinances. "

17 Section 3. Section 34-8A-3 NMSA 1978 (being Laws 1979,  
18 Chapter 346, Section 3, as amended) is amended to read:

19 "34-8A-3. METROPOLITAN COURT-- JURISDICTION. --

20 A. In addition to the jurisdiction provided by law  
21 for magistrate courts, a metropolitan court shall have  
22 jurisdiction within the county boundaries over all:

23 (1) offenses and complaints [~~under~~] pursuant  
24 to ordinances of the county and of [~~any~~] a municipality  
25 located within the county in which the court is located except

underscored material = new  
[bracketed material] = delete

1 municipalities with a population of more than two thousand  
2 five hundred but less than five thousand persons in the 1980  
3 federal decennial census; provided that the metropolitan court  
4 shall not have jurisdiction over uncontested municipal parking  
5 violations;

6 (2) civil actions in which the debt or sum  
7 claimed does not exceed seven thousand five hundred dollars  
8 (\$7,500), exclusive of interest and costs; [~~and~~]

9 (3) zoning offenses and complaints, and may  
10 enjoin to enforce zoning ordinances pursuant to Section  
11 3-21-10 NMSA 1978; and

12 [~~(3)~~] (4) contested violations of parking or  
13 operation of vehicle [~~regulations~~] rules promulgated by a  
14 board of regents of a state educational institution designated  
15 in Article 12, Section 11 of the constitution of New Mexico  
16 located within the county in which the court is located.

17 B. For the purposes of this section, "uncontested  
18 violation" is a violation for which a citation has been issued  
19 and the person has paid the citation by mail or in person to  
20 the appropriate issuing authority; and "contested violation"  
21 is a violation for which a citation has been issued and the  
22 person had indicated his intent to contest the citation or the  
23 person has not paid or answered the citation.

24 C. The issuing authority shall provide to the  
25 metropolitan court on a mutually agreed schedule the unpaid

underscored material = new  
[bracketed material] = delete

1 citations and a listing in a manner mutually agreed upon of  
2 unpaid citations.

3 D. The municipality shall retain as reimbursement  
4 for its expenses all revenues from uncontested municipal  
5 parking violations. "

6 Section 4. Section 34-8A-8 NMSA 1978 (being Laws 1979,  
7 Chapter 346, Section 8, as amended) is amended to read:

8 "34-8A-8. METROPOLITAN COURT--BERNALILLO DISTRICT.--

9 A. The name of the metropolitan court in the  
10 Bernalillo metropolitan district shall be the "Bernalillo  
11 county metropolitan court".

12 B. The metropolitan court is an agency of the  
13 judicial department of state government. Personnel of the  
14 metropolitan court are subject to all laws and [regulations]  
15 rules applicable to state officers and agencies and state  
16 officers and employees, except where otherwise specifically  
17 provided by law.

18 C. There shall be seventeen judges of the  
19 Bernalillo county metropolitan court. The chief judge shall  
20 assign one judge to hear municipal and county zoning offenses  
21 and complaints. "

22 Section 5. TEMPORARY PROVISION--ADDITIONAL METROPOLITAN  
23 JUDGE--APPOINTMENT.--The additional metropolitan judgeship  
24 provided for in this act shall be filled by appointment by the  
25 governor pursuant to Article 6 of the constitution of New

. 134083. 1

1 Mexico for a term beginning July 1, 2001.

2 Section 6. APPROPRIATION. -- Two hundred fifty-eight  
3 thousand two hundred dollars (\$258,200) is appropriated from  
4 the general fund to the Bernalillo county metropolitan court  
5 for expenditure in fiscal year 2002 to pay salaries and  
6 benefits and provide furniture, equipment and supplies for one  
7 additional judge and support staff. Any unexpended or  
8 unencumbered balance remaining at the end of fiscal year 2002  
9 shall revert to the general fund.

10 - 6 -

underscored material = new  
[bracketed material] = delete

11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25