51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY

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AN ACT

RELATING TO MUNICIPALITIES; PROVIDING AVENUES TO DISINCORPORATION OTHER THAN BY PETITION; PROVIDING FOR AUTOMATIC DISINCORPORATION OF A MUNICIPALITY UNDER CERTAIN CIRCUMSTANCES; PROVIDING FOR ELECTIONS; REQUIRING FINDINGS OF THE STATE BOARD OF FINANCE.

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

SECTION 1. Section 3-4-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-4-1, as amended) is amended to read:

"3-4-1. DISINCORPORATION--PETITION--NOTICE OF ELECTION.--

A. The board of county commissioners of the county in which a municipality that may be subject to disincorporation is situated shall adopt an election resolution within fourteen days calling for a special election to be held within the municipality on the question of disincorporating the

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1 municipality if:

2   (1) it is certified as valid that one-fourth

3 of the registered voters of a municipality [petition] have

4 petitioned the board of county commissioners of the county

5 [wherein] in which the municipality is situated to

6 disincorporate the municipality [the board of county

7 commissioners shall, within fourteen days after the petition

8 has been certified as valid, adopt an election resolution

9 calling for a special election to be held within the

10 municipality on the question of disincorporating the

11 municipality] by special election;

12   (2) the governing body of the municipality

13 adopts a resolution calling for a special election on the

14 question of disincorporating the municipality; or

15   (3) the secretary of finance and

16 administration and the secretary of taxation and revenue

17 request in writing that the board of county commissioners adopt

18 a resolution calling for a special election on the question of

19 disincorporating the municipality.

20   B. At the top of each page of a disincorporation

21 petition, the following heading shall be printed in

22 substantially the following form:

23 "PETITION TO DISINCORPORATE THE MUNICIPALITY OF. . . . . .

24   We, the undersigned registered voters of the municipality

25 of . . . . . ., pursuant to Section 3-4-1 NMSA 1978, petition the

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board of county commissioners of ...... county to conduct a

special election on the question of disincorporating the

municipality of ......

Date   Name--Printed   Address   Usual

            As Registered   As Registered   Signature.".

C. The day for holding the election shall not be less

than fifty days [nor] or more than sixty days after the board

of county commissioners adopts the election resolution.

[B.] D. Notice of the election shall be published as

required for special elections as set forth in the Municipal

Election Code."

SECTION 2. Section 3-4-4 NMSA 1978 (being Laws 1965,

Chapter 300, Section 14-4-4) is amended to read:

"3-4-4. DISINCORPORATION--[VOTE REQUIRED] EFFECT ON DEBTS

AND CONTRACTS.--If a majority of the votes cast [are] is in

favor of disincorporation or if a municipality is subject to

automatic disincorporation, the municipality shall be

disincorporated after provision has been made for payment of

its current indebtedness, for contracts and obligations and for

levying the requisite tax to do so. The current indebtedness,

contracts and obligations do not include funded or bonded

indebtedness [nor] or any contract whose termination date is

more than one year beyond the date:

A. the election was held, if disincorporation is

pursuant to a special election; or

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1   B. of the state board of finance finding that the

2   municipality is automatically disincorporated."

3   **SECTION 3.** A new section of Chapter 3, Article 4 NMSA

4   1978 is enacted to read:

5   "[<u>NEW MATERIAL</u>] METHODS OF DISINCORPORATION.--There are

6   two methods of disincorporation of a municipality:

7   A. the special election method as provided in

8   Sections 3-4-1 through 3-4-3 NMSA 1978; and

9   B. the automatic method as provided in Section 4 of

10   this 2013 act."

11   **SECTION 4.** A new section of Chapter 3, Article 4 NMSA

12   1978 is enacted to read:

13   "[<u>NEW MATERIAL</u>] AUTOMATIC DISINCORPORATION--STATE BOARD OF

14   FINANCE FINDING.--The local government division of the

15   department of finance and administration shall report to the

16   state board of finance a listing of all municipalities that

17   fail to meet the criteria of this section no later than January

18   1 of each year. No earlier than thirty days after receiving

19   the report from the local government division, a municipality

20   shall be disincorporated upon a finding by the state board of

21   finance that the municipality has failed to:

22   A. meet the minimum standards for incorporation set

23   forth in Section 3-2-2 NMSA 1978;

24   B. have its annual audit completed within three years

25   of the due date pursuant to the Audit Act; or

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C. maintain an active status as demonstrated by:

(1) providing at least three of the following services, either directly or by contract:

(a) law enforcement;

(b) fire protection, which may be furnished by a volunteer fire force, and fire safety;

(c) road and street construction or maintenance;

(d) solid waste management;

(e) water supply or distribution or both;

(f) wastewater treatment;

(g) storm water collection and disposal;

(h) electric or gas utility services;

(i) enforcement of building, housing, plumbing, and electrical codes and other similar codes;

(j) planning and zoning; and

(k) recreational facilities;

(2) holding at least six regular meetings in accordance with the Open Meetings Act within the immediately preceding fiscal year;

(3) qualifying for and holding a regular municipal election as provided by law, other than a municipality that has a governing authority composed of commissioners or other members who are appointed by a judge of the district court; and

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1   (4) having each office enumerated pursuant to

2 Section 3-2-2 NMSA 1978 filled for at least three months during

3 the immediately preceding fiscal year."

4   **SECTION 5.** EFFECTIVE DATE.--The effective date of the

5 provisions of this act is July 1, 2013.

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