

SENATE RULES COMMITTEE SUBSTITUTE FOR  
SENATE BILL 454

**55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021**

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;  
AMENDING CERTAIN ELECTION PROVISIONS AND PROCEDURES.

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

SECTION 1. Section 73-1-13 NMSA 1978 (being Laws 1931,  
Chapter 97, Section 13) is amended to read:

"73-1-13. COMMISSIONERS--DIRECTORS' DISTRICTS--  
COMPENSATION--EMPLOYEES--EXPENSES.--

A. Within ten [~~10~~] days after entering the decree  
declaring the district organized, the court shall appoint three  
[~~3~~] owners of lands within the district, representative of  
all parts of the district, to determine and define the  
boundaries of [~~such~~] the district and to make up a list of the  
property to be embraced and included in the district. The  
persons so appointed [~~to be hereinafter~~] shall be referred to

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1 as the "commissioners". [~~Said~~]

2 B. The commissioners shall include all property in  
3 the district [~~which~~] that has within four years received some  
4 benefit, either directly or indirectly, from the artesian  
5 waters underlying the district or [~~which~~] that may be benefited  
6 in some degree by the improvements to be made by the district.  
7 Property benefited by the artesian waters and the improvements  
8 to be made by the district shall include property upon which  
9 waters from [~~such~~] the basin [~~or basins~~] is or may be used for  
10 irrigation, domestic, public or commercial purposes and shall  
11 include any such property, whether [~~the same be~~] it is owned by  
12 an individual, corporation, village, town, city or other  
13 municipality or public corporation.

14 C. The commissioners, in making up a description of  
15 the property and list of owners [~~thereof~~] to be embraced in or  
16 affected by the district, shall have access to the assessment  
17 or tax rolls of the county or counties [~~wherein~~] where the  
18 lands are situated and may hear and determine all protests  
19 concerning any particular tract or parcel of land to be  
20 included in the district, at such time, [~~and~~] in such manner  
21 and upon such notice as they may prescribe, subject to the  
22 right of appeal to the district court, which appeal shall be  
23 heard and determined by [~~said~~] the court at the time provided  
24 for the entering of the final decree respecting the boundaries  
25 of the district and property to be embraced [~~therein as herein~~]

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1 ~~provided and~~ in the district. After completing [~~such~~] the  
2 list and defining the boundaries of the district and the lands  
3 to be embraced [~~therein, said~~] in the district, the  
4 commissioners shall, with the approval of the court, divide  
5 [~~said~~] the district into five [~~(5)~~] sections or divisions,  
6 having due regard for the value and amount of acreage to be  
7 included in each, so that there will be an equitable  
8 relationship in value and acreage between the several sections  
9 or subdivisions of the district. [~~Said~~] The subdivisions shall  
10 be numbered one to five and shall be known as "directors'  
11 districts". [~~The commissioners shall draft an election code to~~  
12 ~~govern the method and prescribe the procedure for the election~~  
13 ~~of directors from each of the directors' districts. Said code~~  
14 ~~shall provide for the election of a director from each of said~~  
15 ~~districts by popular vote of the property owners in the same,~~  
16 ~~respectively, owning property affected by the district, and~~  
17 ~~whether residing therein, or not.]~~

18 D. Each director so elected, at the time of [~~his~~]  
19 election, [~~must~~] shall be a freeholder in the district from  
20 which [~~he~~] the director is elected. [~~After being approved by~~  
21 ~~the court, as hereinafter provided the said election code may~~  
22 ~~be changed only by unanimous consent of the directors elected~~  
23 ~~pursuant thereto. Said~~]

24 E. The list of property [~~and the election code~~] shall  
25 be approved by the court by entering a decree as [~~herein~~]

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1 provided, but ~~[said]~~ the list shall be subject to the  
2 correction of errors in description of the property affected at  
3 any time upon order of the court. ~~[A copy of the election~~  
4 ~~code, as approved, shall be filed in the original court~~  
5 ~~proceeding and the same ordered printed for use of those~~  
6 ~~desiring copies, the cost of which shall be taxed as costs in~~  
7 ~~the proceeding.]~~ The commissioners so appointed are ~~[hereby]~~  
8 vested with full power and authority to employ, with the  
9 approval of the court, legal counsel and clerical and  
10 stenographic help necessary for carrying out their duties ~~[as~~  
11 ~~herein prescribed]~~, the compensation of such employees to be  
12 fixed by the court. The commissioners shall ~~[each receive five~~  
13 ~~(\$5.00) dollars for each day's service in performing their~~  
14 ~~duties, but not to exceed one hundred and fifty (\$150.00)~~  
15 ~~dollars each]~~ be reimbursed for per diem and mileage pursuant  
16 to the Per Diem and Mileage Act. The expenses incurred by  
17 ~~[said]~~ the commissioners and the salaries of their employees  
18 and their compensation shall also be taxed as costs in the  
19 original proceeding ~~[and said]~~. The commissioners are ~~[hereby]~~  
20 authorized to borrow, with the approval of the court, an amount  
21 sufficient to pay all costs of the proceeding so taxed, at a  
22 rate of interest not to exceed eight ~~[(8%)]~~ percent, which  
23 ~~[said]~~ loan shall be a debt, charge and valid obligation of the  
24 district, to be paid out of the proceeds from the first tax  
25 levy ~~[hereinafter provided for]."~~

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1           SECTION 2. Section 73-1-16 NMSA 1978 (being Laws 1931,  
2 Chapter 97, Section 14) is amended to read:

3           "73-1-16. ELECTIONS--DIRECTORS--TERMS--VACANCIES.--[The  
4 ~~directors elected pursuant to such election code~~]

5           A. All elections shall be conducted pursuant to the  
6 provisions of the Local Election Act.

7           B. Directors shall be elected for a term of six years  
8 each. Each director shall hold office for the term for which  
9 [he] the director was elected and until [his] a successor is  
10 duly appointed or elected and has qualified, except as  
11 hereinafter provided, being removable [~~therefrom~~] only for  
12 cause after a hearing upon a motion filed by any interested  
13 person in the original proceeding in which the district was  
14 organized. [~~Unless otherwise provided by the Election Code~~]  
15 Vacancies shall be filled by appointment of the district court  
16 having jurisdiction. Upon the election of the first board of  
17 directors, the directors shall draw numbers by lot: numbers  
18 one [~~(1)~~] and two [~~(2)~~] shall serve two [~~(2)~~] years; numbers  
19 three [~~(3)~~] and four [~~(4)~~] shall serve four [~~(4)~~] years; and  
20 number five [~~(5)~~] shall serve six [~~(6)~~] years."

21           SECTION 3. Section 73-1-17 NMSA 1978 (being Laws 1931,  
22 Chapter 97, Section 15) is amended to read:

23           "73-1-17. DIRECTORS--OATH--OFFICERS--SEAL--RECORDS--  
24 BYLAWS.--[~~As soon as practical after the~~]

25           A. At the first meeting following an election, the

1 directors shall meet for the purpose of organizing the board of  
2 directors. Each director, before entering upon ~~[his]~~ official  
3 duties, shall take and subscribe to an oath before an officer  
4 authorized to administer oaths that ~~[he]~~ the director will  
5 honestly, faithfully and impartially perform the duties of  
6 ~~[his]~~ office and that ~~[he]~~ the director will not be interested,  
7 directly or indirectly, in any contract let by ~~[said]~~ the  
8 district, which ~~[said]~~ oath shall be filed in the original  
9 court proceeding for the formation of the district.

10 B. Upon taking the oath, the board shall choose one  
11 of their members ~~[chairman]~~ as chair of the board and president  
12 of the district and shall elect some suitable person secretary  
13 and treasurer of the board, who may or may not be a member of  
14 the board, and shall require of the ~~[said]~~ secretary and  
15 treasurer a bond conditioned for the faithful performance of  
16 ~~[his]~~ the secretary's and treasurer's duties, in such amount as  
17 ~~[to]~~ the directors may ~~[be deemed]~~ deem to be adequate for the  
18 protection of the district. ~~[Such]~~

19 C. The board shall adopt a seal and shall keep, in a  
20 well-bound book, a record of all its proceedings, minutes of  
21 all meetings, certificates, contracts, bonds given by employees  
22 and all corporate acts ~~[which shall be open to the inspection~~  
23 ~~of all owners of property in the district as well as to all~~  
24 ~~other interested parties]~~. It shall adopt a set of bylaws not  
25 inconsistent with the provisions of ~~[this Act]~~ Chapter 73,

1 Article 1 NMSA 1978 for the conduct of the business and affairs  
2 of the district [~~and, when adopted, the same shall not be~~  
3 ~~altered, amended or repealed except upon three (3) days' notice~~  
4 ~~to each member of the board, service to be had by personal~~  
5 ~~delivery or by mailing a copy of such notice in a sealed~~  
6 ~~envelope, postage fully prepaid, to the address of the director~~  
7 ~~to be served or at a regular or called meeting at which all~~  
8 ~~directors are present]."~~

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