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SENATE BILL 352

**44TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION,
2000**

INTRODUCED BY

Patrick H. Lyons

AN ACT

RELATING TO CONSTRUCTION INDUSTRIES; ABOLISHING THE
CONSTRUCTION INDUSTRIES COMMISSION AND THE CONSTRUCTION
INDUSTRIES DIVISION; PROVIDING THAT CONSTRUCTION, CONTRACTING
AND CONTRACTORS SHALL BE REGULATED BY LOCAL GOVERNMENTS;
MAKING AN APPROPRIATION.

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

Section 1. Section 3-18-1 NMSA 1978 (being Laws 1965,
Chapter 300, Section 14-17-1, as amended) is amended to read:

"3-18-1. GENERAL POWERS--BODY POLITIC AND CORPORATE
POWERS.--A municipality is a body politic and corporate under
the name and form of government selected by its qualified
electors. A municipality may:

- A. sue or be sued;
- B. enter into contracts or leases;
- C. acquire and hold property, both real and

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personal;

D. have a common seal [~~which~~] that may be altered at pleasure;

E. exercise such other privileges that are incident to corporations of like character or degree that are not inconsistent with the laws of New Mexico;

F. protect generally the property of its municipality and its inhabitants;

G. preserve peace and order within the municipality; [~~and~~]

H. establish rates for services provided by municipal utilities and revenue producing projects, including amounts [~~which~~] that the governing body determines to be reasonable and consistent with amounts received by private enterprise in the operation of similar facilities; and

I. regulate, pursuant to the Construction Industries Licensing Act, all aspects of construction, contracting and contractors, including examining and licensing of contractors, establishing codes and standards that govern contracting and construction and inspecting construction."

Section 2. A new Section 4-37-1.1 NMSA 1978 is enacted to read:

"4-37-1.1. [NEW MATERIAL] REGULATION OF CONSTRUCTION INDUSTRIES.--A county may enact ordinances that regulate, pursuant to the Construction Industries Licensing Act, all aspects of construction, contracting and contractors,

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1 including examining and licensing of contractors,
2 establishing codes and standards that govern contracting and
3 construction and inspecting construction."

4 Section 3. Section 9-16-4 NMSA 1978 (being Laws 1983,
5 Chapter 297, Section 20, as amended) is amended to read:

6 "9-16-4. DEPARTMENT ESTABLISHED.--There is created in
7 the executive branch the "regulation and licensing
8 department". The department shall not be a cabinet
9 department. The department shall consist of but not be
10 limited to [~~five~~] four divisions as follows:

- 11 A. the administrative services division;
- 12 [~~B. the construction industries division;~~
- 13 ~~C.]~~ B. the financial institutions division;
- 14 [~~D.]~~ C. the securities division; and
- 15 [~~E.]~~ D. the manufactured housing division."

16 Section 4. Section 9-16-8 NMSA 1978 (being Laws 1983,
17 Chapter 297, Section 24, as amended) is amended to read:

18 "9-16-8. BUREAUS--CHIEFS.--The superintendent shall
19 establish within each division such "bureaus" as he deems
20 necessary to carry out the provisions of the Regulation and
21 Licensing Department Act. He shall appoint a "chief" to be
22 the administrative head of any such bureau. The positions so
23 appointed may be exempted from the Personnel Act by action of
24 the superintendent [~~except for the construction industries~~
25 ~~division trade bureaus created pursuant to Section 60-13-31~~
~~NMSA 1978. The chiefs of those bureaus shall be covered~~
~~positions under the Personnel Act]."~~

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1 Section 5. Section 9-16-14 NMSA 1978 (being Laws 1987,
2 Chapter 298, Section 1, as amended) is amended to read:

3 "9-16-14. REGULATION AND LICENSING DEPARTMENT OPERATING
4 FUND.--

5 A. There is established in the state treasury the
6 "regulation and licensing department operating fund" to be
7 administered by the department.

8 B. All money received by the administrative
9 services division, ~~[the construction industries division]~~ the
10 financial institutions division, the securities division and
11 the manufactured housing division, other than money earmarked
12 for revolving funds, shall be deposited with the state
13 treasurer and held in a separate suspense account for each
14 division. ~~[In the seventy-sixth fiscal year, all money~~
15 ~~deposited in the suspense accounts shall be transferred~~
16 ~~monthly to the general fund until the sum of all money~~
17 ~~transferred to the general fund equals the total amount~~
18 ~~deposited and transferred to the general fund from those~~
19 ~~divisions in the seventy-fourth fiscal year. All additional~~
20 ~~money deposited in the divisions' suspense accounts during~~
21 ~~the seventy-sixth fiscal year shall be transferred to the~~
22 ~~regulation and licensing department operating fund on June~~
23 ~~30, 1988.]~~

24 C. ~~[In the seventy-seventh fiscal year and each~~
25 ~~fiscal year thereafter]~~ On the last day of each month, the
department shall transfer all money received during the month
from the divisions' suspense accounts to the general fund."

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1 Section 6. [NEW MATERIAL] STATUTORY REFERENCES.-

2 A. Unless the context requires otherwise, all
3 references in the NMSA 1978 to the construction industries
4 commission, the construction industries division of the
5 regulation and licensing department, the director of the
6 construction industries division or any trade bureau within
7 the construction industries division mean the municipal or
8 county agency authorized by the governing body to regulate
9 construction and contractors within that county or
10 municipality.

11 B. If the context requires, references in the NMSA
12 1978 to the construction industries division of the
13 regulation and licensing department or the director of the
14 construction industries division may mean the superintendent
15 of regulation and licensing.

16 Section 7. TEMPORARY PROVISION--CONTINUATION OF
17 LICENSES AND CONSTRUCTION CODES.--

18 A. Any person who, on the effective date of this
19 act, is engaged in any occupation, trade or activity
20 regulated by the Construction Industries Licensing Act,
21 pursuant to a valid license authorizing the occupation, trade
22 or activity, may continue the occupation, trade or activity,
23 and the license shall continue in effect until the expiration
24 date thereof, subject in all cases to suspension or
25 revocation as provided by the Construction Industries
Licensing Act.

 B. Any code and minimum standard related to the

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1 construction, alteration, installation or repair of a private
2 or public building, or installation on public or private
3 premises, in effect on the effective date of this act shall
4 continue in effect until a municipal or county agency with
5 such authority amends or revises those codes and minimum
6 standards pursuant to provisions of the Construction
7 Industries Licensing Act.

8 Section 8. TEMPORARY PROVISION--TRANSFER--
9 DISTRIBUTION.--On the effective date of this act:

10 A. all appropriations, money, records, property,
11 equipment and supplies of the construction industries
12 commission and the construction industries division of the
13 regulation and licensing department are transferred to the
14 local government division of the department of finance and
15 administration;

16 B. all contracts, grants and agreements of the
17 regulation and licensing department relating to the
18 construction industries division are transferred to the local
19 government division of the department of finance and
20 administration; and

21 C. the local government division of the department
22 of finance and administration shall allocate all property
23 transferred pursuant to Subsections A and B of this section
24 to municipalities and counties for the purpose of regulating
25 construction activities and contractors pursuant to the
Construction Industries Licensing Act.

Section 9. REPEAL.--Sections 9-16-12, 60-13-6 through

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1 60-13-11, 60-13-15, 60-13-31 and 60-13-58 NMSA 1978 (being
2 Laws 1983, Chapter 297, Section 28, Laws 1977, Chapter 245,
3 Sections 168 and 169, Laws 1967, Chapter 199, Section 12,
4 Laws 1997, Chapter 181, Section 9, Laws 1978, Chapter 73,
5 Section 1, Laws 1975, Chapter 14, Section 3, Laws 1981,
6 Chapter 245, Section 1, Laws 1967, Chapter 199, Section 14,
7 Laws 1977, Chapter 245, Section 177, Laws 1967, Chapter 199,
8 Section 34 and Laws 1978, Chapter 194, Section 1, as amended)
9 are repealed.

10 Section 10. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2001.