

HOUSE BILL 137

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

Linda M. Trujillo and Daniel A. Ivey-Soto

AN ACT

RELATING TO COUNTY GOVERNANCE; REMOVING THE REQUIREMENT THAT COUNTY SUBDIVISION ORDINANCES BE FILED WITH THE STATE RECORDS ADMINISTRATOR.

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

SECTION 1. Section 47-6-10 NMSA 1978 (being Laws 1973, Chapter 348, Section 10, as amended) is amended to read:

"47-6-10. COUNTY SUBDIVISION REGULATIONS--HEARINGS-- APPEAL.--In promulgating subdivision regulations, the board of county commissioners shall adhere to the following procedures.

A. Prior to adopting, amending or repealing any regulation, the board of county commissioners shall consult with representatives of the office of the state ~~[engineer's office]~~ engineer, the department of environment, the ~~[office of]~~ cultural affairs department, all soil and water

.205504.1

underscored material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 conservation districts within the county, the [~~state highway~~
2 ~~and~~] department of transportation [~~department~~] and the attorney
3 general about the subjects within their respective expertise
4 for which the board of county commissioners is considering
5 promulgating a regulation. In the process of the consultation,
6 the representatives of each of the state agencies shall give
7 consideration to the conditions peculiar to the county and
8 shall submit written guidelines to the board of county
9 commissioners for its consideration in formulating regulations.

10 The guidelines:

11 (1) shall be given consideration by the board
12 of county commissioners in the formulation of the county's
13 subdivision regulations;

14 (2) shall become a part of the record of any
15 hearing in which regulations are adopted, amended or repealed;
16 and

17 (3) may be in such detail as the agency
18 involved desires.

19 B. A regulation may not be adopted, amended or
20 repealed until after a public hearing held by the board of
21 county commissioners. Notice of the hearing shall be given at
22 least thirty days prior to the hearing date and shall state:

23 (1) the subject of the regulation;

24 (2) the time and place of the hearing;

25 (3) the manner in which interested persons may

.205504.1

underscored material = new
[bracketed material] = delete

1 present their views; and

2 (4) the place and manner in which interested
3 persons may secure copies of any proposed regulation. The
4 board of county commissioners may impose a reasonable charge
5 for the costs of reproducing and mailing of the proposed
6 regulations.

7 C. The notice shall be published in a newspaper of
8 general circulation in the county.

9 D. Reasonable effort shall be made to give notice
10 to all persons who have made a written request to the board of
11 county commissioners for advance notice of its hearings.

12 E. The board of county commissioners shall give the
13 state engineer, the department of environment, the ~~[office of]~~
14 cultural affairs department, the ~~[state highway and]~~ department
15 of transportation ~~[department]~~, all soil and water conservation
16 districts within the county and the attorney general thirty
17 days' notice of its regulation hearings.

18 F. At the hearing, the board of county
19 commissioners shall allow all interested persons reasonable
20 opportunity to submit data, views or arguments, orally or in
21 writing, and to examine witnesses testifying at the hearing.
22 The board shall keep a complete record of the hearing
23 proceedings.

24 G. Representatives from the office of the state
25 ~~[engineer's office]~~ engineer, the department of environment,

.205504.1

underscored material = new
[bracketed material] = delete

1 the [~~office of~~] cultural affairs department, all soil and water
2 conservation districts within the county, the [~~state highway~~
3 ~~and~~] department of transportation [~~department~~] and the attorney
4 general shall be given the opportunity to make an oral
5 statement at the hearing and to enter into the record of the
6 hearing a written statement setting forth any comments that
7 they may have about the proposed regulation, whether favorable
8 or unfavorable, when the proposed regulation relates to an
9 issue that is within the agencies' respective areas of
10 expertise.

11 H. A regulation is not invalid because of the
12 failure of a state agency to submit a guideline prior to the
13 promulgation of the regulation or because the representative of
14 a state agency did not appear at a public hearing on the
15 regulation or did not make any comment for entry in the hearing
16 record.

17 I. The board of county commissioners shall act on
18 the proposed regulations at the regulation hearings or at a
19 public meeting to be held within thirty days of the hearing on
20 the proposed regulations. Upon adopting, amending or repealing
21 the regulations, the board of county commissioners shall
22 include in the record a short statement setting forth the
23 board's reasoning and the basis of the board's decision,
24 including the facts and circumstances considered and the weight
25 given to those facts and circumstances.

.205504.1

underscored material = new
[bracketed material] = delete

1 J. Any person heard or represented at the hearing
2 shall be given written notice of the board's decision,
3 including the facts and circumstances considered, if the person
4 makes a written request to the board for notice of its
5 decision.

6 K. A regulation, amendment or repeal is not
7 effective until thirty days after it is filed with the county
8 clerk [~~and the state records administrator~~].

9 L. Any person who is or may be adversely affected
10 by a decision of the board of county commissioners to adopt,
11 amend or repeal a regulation may appeal that decision to the
12 district court. All appeals shall be upon the record made at
13 the hearing and shall be filed in the district court within
14 thirty days after the board of county commissioners votes to
15 adopt, amend or repeal the regulation.

16 M. An appeal is perfected by filing a notice of
17 appeal in the district court of the county that has adopted,
18 amended or repealed the regulation. The appellant shall
19 certify in [~~his~~] the notice of appeal that arrangements have
20 been made with the board of county commissioners for
21 preparation of a sufficient number of transcripts of the record
22 of the hearing to support [~~his~~] the appeal, including one copy
23 that [~~he~~] the appellant shall furnish at [~~his~~] the appellant's
24 own expense to the board of county commissioners. A copy of
25 the notice of appeal shall also be served upon the board of

.205504.1

underscoring material = new
~~[bracketed material] = delete~~

1 county commissioners.

2 N. Upon appeal, the district court shall set aside
3 the regulation only if it is found to be:

4 (1) arbitrary, capricious or an abuse of
5 discretion;

6 (2) not supported by substantial evidence; or

7 (3) otherwise not in accordance with law.

8 O. Any party to the action in district court may
9 appeal to the court of appeals for further relief."

10 SECTION 2. EFFECTIVE DATE.--The effective date of the
11 provisions of this act is July 1, 2017.