

HOUSE BILL 76

54TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2020

INTRODUCED BY

Randal S. Crowder

AN ACT

RELATING TO SPECIAL DISTRICTS; AMENDING THE EASTERN NEW MEXICO WATER UTILITY AUTHORITY ACT; REMOVING CURRY COUNTY, THE VILLAGE OF MELROSE AND THE VILLAGE OF GRADY FROM THE MEMBERSHIP OF THE EASTERN NEW MEXICO WATER UTILITY AUTHORITY.

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

SECTION 1. Section 73-27-4 NMSA 1978 (being Laws 2010, Chapter 39, Section 4) is amended to read:

"73-27-4. EASTERN NEW MEXICO WATER UTILITY AUTHORITY--
CREATED.--

A. The "eastern New Mexico water utility authority" is created coextensive with the boundaries of Curry and Roosevelt counties and the territory physically occupied by the water facilities of the authority to plan, design, develop, purchase, acquire, own, operate, establish, construct and

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1 maintain the eastern New Mexico rural water system pipelines
2 and waterworks to supply water for domestic, commercial, non-
3 irrigated agricultural and industrial purposes by any available
4 means to persons within and without the boundaries of the
5 authority.

6 B. The eastern New Mexico water utility authority
7 is created for the benefit of the [~~seven~~] four members of the
8 eastern New Mexico rural water authority, including [~~Curry~~
9 ~~county~~] the city of Clovis, the city of Portales, the city of
10 Texico [~~the town of Melrose~~] and the town of Elida [~~and the~~
11 ~~village of Grady~~]."

12 SECTION 2. Section 73-27-5 NMSA 1978 (being Laws 2010,
13 Chapter 39, Section 5) is amended to read:

14 "73-27-5. BOARD--APPOINTMENT--TERMS.--

15 A. The board shall consist of [~~seven~~] six members,
16 each of whom shall reside within the boundaries of the
17 authority, appointed as follows:

18 (1) three board members appointed by the
19 Clovis city commission for a term of two years; provided,
20 however, that two of the initial members shall be appointed for
21 a term of one year for the purpose of having a staggered board;

22 (2) two board members appointed by the
23 Portales city council for a term of two years; provided,
24 however, that one of the initial members shall be appointed for
25 a term of one year for the purpose of having a staggered board;

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1 and

2 [~~(3) one board member appointed for a term of~~
3 ~~two years by the Curry county commission; and~~

4 ~~(4)] (3) one board member appointed for a term~~

5 of one year on a rotating basis and in the following order by:

6 (a) the Texico city council; and

7 [~~(b) the Melrose village council;~~

8 ~~(c)] (b) the Elida [~~village~~] town~~

9 council [~~and~~

10 ~~(d) the Grady village council].~~

11 B. A vacancy occurring by other than expiration of

12 a term shall be filled in the same manner as the original

13 appointment, but only for the unexpired term."

14 SECTION 3. Section 73-27-6 NMSA 1978 (being Laws 2010,

15 Chapter 39, Section 6) is amended to read:

16 "73-27-6. BOARD--POWERS--DUTIES.--

17 A. All powers, privileges and duties vested in or

18 imposed upon the authority shall be exercised and performed by

19 the board; provided that the board may delegate its powers by

20 resolution to an officer or agent of the board, with the

21 exception of the following powers:

- 22 (1) adoption of board rules, policies and
- 23 procedures;
- 24 (2) ratification of acquisition of property;
- 25 (3) initiation or continuation of legal

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1 action, except that initiation and filing of liens for unpaid
2 rates and charges and suits for payment thereof and
3 discontinuance of service for failure to pay such rates and
4 charges may be delegated;

5 (4) establishment of fees, tolls, rates or
6 charges; and

7 (5) issuance of revenue bonds.

8 B. Meetings of the board shall be held at the call
9 of the chair or whenever three members shall so request in
10 writing. A majority of members then serving constitutes a
11 quorum for the transaction of any business. Except as provided
12 in Subsection C of this section, the affirmative vote of at
13 least a majority of a quorum present shall be necessary for any
14 action to be taken by the board. A vacancy in the membership
15 of the board shall not impair the right of a quorum to exercise
16 all rights and perform all duties of the board.

17 C. The non-delegable powers and duties provided in
18 Subsection A of this section shall only be effective upon
19 resolution passed by a supermajority of [~~five~~] four members of
20 the board.

21 D. The board shall promulgate and adhere to rules,
22 policies and procedures that govern its conduct.

23 E. A member of the board having a financial
24 interest or possible interest in the outcome of any policy,
25 decision or determination before the board shall be

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1 disqualified from voting on the issue. A member's status as a
2 ratepayer or customer of the authority shall not be deemed to
3 constitute a financial interest or possible interest for the
4 purposes of this section.

5 F. Subject to Subsections B through D of this
6 section, the board may:

- 7 (1) adopt bylaws;
- 8 (2) fix the time and place of meetings and the
9 method of providing notice of the meetings in accordance with
10 the Open Meetings Act;
- 11 (3) promulgate orders, resolutions, policies
12 and rules necessary for the governance and management of the
13 affairs of the authority and the execution of the powers vested
14 in the authority;
- 15 (4) maintain offices at a place as the board
16 may designate;
- 17 (5) employ a director who may employ and
18 retain necessary staff;
- 19 (6) establish user classifications;
- 20 (7) fix and from time to time increase or
21 decrease water rates, fees or other charges for water delivery
22 or other related services or facilities operated or made
23 available by the authority, subject to the following
24 conditions:

- 25 (a) the rates, tolls or charges shall be

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1 uniform for all [~~counties and~~] municipalities that have the
2 power to appoint a member to the board;

3 (b) until paid, all rates, tolls or
4 charges constitute a perpetual lien on and against the property
5 served, and any such lien may be foreclosed in the same manner
6 as provided by the laws of New Mexico for the foreclosure of
7 real estate mortgages and shall not be subject to any
8 limitations period, statutory or otherwise;

9 (c) the board shall prescribe and
10 enforce rules by which properties shall be connected with and
11 disconnected from the facilities of the authority, including
12 payment plans to avoid discontinuing service to delinquent
13 accounts;

14 (d) after giving reasonable notice, the
15 board shall shut off or discontinue service for unauthorized
16 connections, illegal connections or connections for which
17 rates, tolls or other charges are delinquent in payment. The
18 board may file suit in a court of competent jurisdiction to
19 recover costs associated with an unauthorized, illegal or
20 delinquent connection, including the cost of water delivered,
21 charges for connection and disconnection, damages and attorney
22 fees; and

23 (e) the provisions of Subparagraphs (b)
24 and (c) of this paragraph are not applicable to [~~counties and~~]
25 municipalities that have the power to appoint a member to the

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board; and

(8) adopt an operating budget that supports the full cost of operation, maintenance and replacement as established by an asset management plan and a rate-setting analysis. The operating budget shall be subject to the approval of the department of finance and administration."