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HOUSE BILL 261

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

INTRODUCED BY

Willie D. Madrid

AN ACT

RELATING TO MUNICIPALITIES; PROVIDING THAT A PETITION FOR MUNICIPAL INCORPORATION SHALL USE POPULATION DATA PROVIDED BY THE UNIVERSITY OF NEW MEXICO BUREAU OF BUSINESS AND ECONOMIC RESEARCH.

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

SECTION 1. Section 3-2-1 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-2-1, as amended) is amended to read:

"3-2-1. PETITION TO INCORPORATE AREA AS A MUNICIPALITY--MAP AND MONEY FOR CENSUS.--

A. The residents of territory proposed to be incorporated as a municipality may petition the board of county commissioners of the county in which the greatest portion of the territory proposed to be incorporated lies to incorporate the territory as a municipality. The petition shall:

- 1 (1) be in writing;
- 2 (2) state the name of the proposed
- 3 municipality;
- 4 (3) describe the territory proposed to be
- 5 incorporated as a municipality; and
- 6 (4) be signed by either:
- 7 (a) not less than two hundred qualified
- 8 electors, each of whom shall, on the petition: 1) swear or
- 9 affirm that the qualified elector has resided within the
- 10 territory proposed to be incorporated for a period of six
- 11 months immediately prior to the signing of the petition; and 2)
- 12 list the street address of the qualified elector's residence;
- 13 or
- 14 (b) the owners of not less than sixty
- 15 percent of the real estate within the territory proposed to be
- 16 incorporated who are not delinquent in their payment of real
- 17 property taxes.
- 18 B. The petition shall be accompanied by:
- 19 (1) an accurate map or plat that shows the
- 20 boundary of the territory proposed to be incorporated;
- 21 (2) a municipal services and revenue plan that
- 22 describes the municipal services the proposed municipality will
- 23 provide and the details of how the municipality will generate
- 24 sufficient revenue to cover the costs of providing those
- 25 services; and

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1 [~~(3) money in an amount determined by the~~
2 ~~board of county commissioners to be sufficient to conduct a~~
3 ~~census in the territory proposed to be incorporated. The money~~
4 ~~shall be deposited with the county treasurer for payment of the~~
5 ~~census required in Section 3-2-5 NMSA 1978.]~~

6 (3) the current university of New Mexico
7 bureau of business and economic research data showing that the
8 territory proposed to be incorporated contains a population
9 density of not less than one person per acre.

10 C. The municipal services and revenue plan shall
11 demonstrate that the proposed municipality will provide at
12 least three of the following services and that it will have a
13 tax base sufficient to pay the costs of those services:

- 14 (1) law enforcement;
- 15 (2) fire protection and fire safety;
- 16 (3) road and street construction and
17 maintenance;
- 18 (4) solid waste management;
- 19 (5) water supply or distribution or both;
- 20 (6) wastewater treatment;
- 21 (7) storm water collection and disposal;
- 22 (8) electric or gas utility services;
- 23 (9) enforcement of building, housing, plumbing
24 and electrical codes and other similar codes;
- 25 (10) planning and zoning; and

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1 (11) recreational facilities.

2 D. The county shall forward the petition to the
3 local government division of the department of finance and
4 administration, which shall convene a municipal incorporation
5 review team consisting of:

6 (1) the director of the local government
7 division or the director's designee;

8 (2) the secretary of taxation and revenue or
9 the secretary's designee;

10 (3) one representative of the county in which
11 the proposed municipality would be located chosen by the board
12 of county commissioners; and

13 (4) a representative of the New Mexico
14 municipal league who shall be an advisory member of the review
15 team.

16 E. The review team shall consider the petition and
17 ~~[the required census results]~~ may request that the university
18 of New Mexico bureau of business and economic research confirm
19 that the data provided with the petition supports the finding
20 that the proposed boundaries contain a population of at least
21 one person per acre. The review team shall evaluate the
22 municipal services and revenue plan and determine whether the
23 proposed municipality meets the requirements of Chapter 3,
24 Article 2 NMSA 1978. If the review team finds that the
25 proposed municipality meets the requirements of that article,

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1 it shall report its findings and recommendations to the board
2 of county commissioners. If the review team finds that the
3 proposed municipality does not meet the requirements of that
4 article, the review team shall notify the board of county
5 commissioners and the petitioners of deficiencies in the
6 petition. The review team's notification of deficiencies in
7 the municipal services and revenue plan suspends the attempt to
8 incorporate. Petitioners have three months from the date of
9 notification of deficiencies to submit an amended plan to the
10 review team. If the amended plan is rejected by the review
11 team for deficiencies, petitioners may not submit another
12 petition to incorporate an area until at least one year after
13 the date of that rejection."

14 SECTION 2. Section 3-2-5 NMSA 1978 (being Laws 1965,
15 Chapter 300, Section 14-2-4, as amended) is amended to read:

16 "3-2-5. INCORPORATION--DUTIES OF COUNTY COMMISSIONERS
17 AFTER FILING OF PETITION TO ACT--[GENSUS] POPULATION DATA
18 REQUIRED--ELECTION--RIGHT OF APPEAL TO DISTRICT COURT.--

19 A. After the petition for incorporation, together
20 with the accompanying map or plat and the municipal services
21 and revenue plan [~~and the amount of money sufficient to pay the~~
22 ~~cost of a census~~] have been filed with the board of county
23 commissioners, the board of county commissioners, in lieu of
24 complying with the requirements of Section 3-1-5 NMSA 1978,
25 shall determine within thirty days after the filing of the

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1 petition:

2 (1) from the voter registration list in the
3 office of the county clerk if the signers of the petition are
4 qualified electors residing in the territory proposed to be
5 incorporated; or

6 (2) from the tax schedules of the county if
7 any of the owners of the real estate who signed the petition
8 are delinquent in the payment of property taxes; and

9 (3) if the territory proposed to be
10 incorporated is within an existing municipality or within the
11 urbanized area of a municipality.

12 B. If the board of county commissioners determines
13 that the territory proposed to be incorporated is:

14 (1) not within the boundary of an existing
15 municipality and not within the urbanized area of a
16 municipality; or

17 (2) within the urbanized area of another
18 municipality and in compliance with Section 3-2-3 NMSA 1978,
19 the board of county commissioners shall ~~[cause a census to be~~
20 ~~taken of the persons residing within the territory proposed to~~
21 ~~be incorporated.~~

22 ~~G. The census shall be completed and filed with the~~
23 ~~board of county commissioners within thirty days after the~~
24 ~~board of county commissioners authorizes the taking of the~~
25 ~~census] accept the data provided by the university of New~~

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1 Mexico bureau of business and economic research regarding
2 whether or not the territory proposed to be incorporated
3 contains a population density of not less than one person per
4 acre.

5 ~~[D.]~~ C. Within fifteen days after the date the
6 ~~[results of the census]~~ university of New Mexico bureau of
7 business and economic research data and the municipal
8 incorporation review team's report have been filed with the
9 board of county commissioners, the board of county
10 commissioners shall determine if the conditions for
11 incorporation of the territory as a municipality have been met
12 as required in Sections 3-2-1 through 3-2-3 NMSA 1978 and shall
13 have its determination recorded in the minutes of its meeting.

14 ~~[E.]~~ D. Based on the ~~[census results]~~ university of
15 New Mexico bureau of business and economic research data and
16 the municipal incorporation review team's report, if the board
17 of county commissioners determines that the conditions for
18 incorporation have not been met, the board of county
19 commissioners shall notify the petitioners of its determination
20 by publishing in a newspaper of general circulation in the
21 territory proposed to be incorporated, once, not more than ten
22 days after its determination, a notice of its determination
23 that the conditions for incorporation have not been met. If
24 there is no newspaper of general circulation in the territory
25 proposed to be incorporated, notice of the determination shall

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1 be posted in eight public places within the territory proposed
2 to be incorporated.

3 ~~[F-]~~ E. After the board of county commissioners has
4 determined that all of the conditions for incorporation of the
5 territory as a municipality have been met, the board of county
6 commissioners shall hold an election on the question of
7 incorporating the territory as a municipality. Special
8 elections for the incorporation of municipalities shall only be
9 held in June or July in odd-numbered years or July or August in
10 even-numbered years and shall be held pursuant to the
11 provisions of the Local Election Act. The county clerk shall
12 notify the secretary of finance and administration and the
13 secretary of taxation and revenue of the date of the
14 incorporation election within ten days after the adoption of
15 the resolution calling the election.

16 ~~[G-]~~ F. The signers of the petition or a
17 municipality within whose urbanized area the territory proposed
18 to be incorporated is located may appeal any determination of
19 the board of county commissioners to the district court
20 pursuant to the provisions of Section 39-3-1.1 NMSA 1978."