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HOUSE BILL 5

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

INTRODUCED BY

Patricia A. Lundstrom and Harry Garcia

AN ACT

RELATING TO ELECTRIC GENERATING FACILITY ECONOMIC DISTRICTS;  
PROVIDING FOR THE APPOINTMENT OF ADDITIONAL AUTHORITY MEMBERS.

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

SECTION 1. Section 71-10-1 NMSA 1978 (being Laws 2020,  
Chapter 78, Section 1) is amended to read:

"71-10-1. SHORT TITLE.--~~[Sections 1 through 11 of this  
act]~~ Chapter 71, Article 10 NMSA 1978 may be cited as the  
"Electric Generating Facility Economic District Act"."

SECTION 2. Section 71-10-4 NMSA 1978 (being Laws 2020,  
Chapter 78, Section 4) is amended to read:

"71-10-4. CREATION OF AN AUTHORITY--MEMBERS--TERMS--  
QUALIFICATIONS.--

A. A county that forms a district shall create an  
authority to govern the district that consists of ~~[five]~~ eight

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1 members. The governing body of the county shall appoint five  
2 authority members.

3 B. The authority shall include three members  
4 appointed by the governor who shall serve at the pleasure of  
5 the governor for two-year terms.

6 [~~B-~~] C. The terms of the authority members other  
7 than those appointed by the governor and non-voting members  
8 shall be staggered. Of the members initially appointed  
9 pursuant to Subsection A of this section, that number of  
10 members closest to, but not more than, one-half of the  
11 membership shall serve for two years. The term of all other  
12 members shall be four years. If additional counties become  
13 part of the authority pursuant to Subsection [~~E~~] F of this  
14 section, the additional authority members shall be appointed in  
15 a similar manner so that they shall serve staggered four-year  
16 terms.

17 [~~G-~~] D. An authority member other than those  
18 appointed by the governor and non-voting members shall not  
19 serve more than two consecutive four-year terms on the  
20 authority. A member who has served two consecutive four-year  
21 terms on the authority shall not serve another term until after  
22 four years following the second term have elapsed.

23 [~~D-~~] E. The authority shall include [~~a~~] two non-  
24 voting [~~member~~] members appointed by the [~~governor~~] non-  
25 investor-owned electric utility or a coal-fueled electric

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1 generating facility that is owned by a non-investor-owned  
2 electric utility and has been or is in the process of being  
3 retired, who shall serve [~~at the pleasure of the governor~~] for  
4 [~~a~~] two-year [~~term~~] terms.

5 [~~E.~~] F. The authority shall, for the period ending  
6 [~~December 31, 2020~~] June 30, 2021, authorize a county that  
7 borders the county that created the district within twenty  
8 miles of a qualifying electric generating facility to become  
9 part of the authority. Any additional county that becomes part  
10 of the district shall appoint [~~four~~] five additional members to  
11 the authority.

12 [~~F.~~] G. An elected official shall not serve as an  
13 authority member nor influence or attempt to influence any  
14 action of an authority member. Authority members shall receive  
15 per diem and mileage as provided in the Per Diem and Mileage  
16 Act and shall receive no other compensation, perquisite or  
17 allowance. An authority member shall post a surety bond for  
18 the faithful performance of the member's duties pursuant to the  
19 Surety Bond Act.

20 [~~G.~~] H. Before appointing a person as an authority  
21 member, the governing body of a county shall first determine  
22 that the person has:

23 (1) experience in energy development business,  
24 economic development, finance, commercial real estate  
25 investment or accounting or possesses other qualifications that

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1 the governing body determines are necessary or appropriate for  
2 carrying out the duties of the authority but does not have at  
3 the time of appointment and will not have during service as an  
4 authority member employment or a contract with an energy  
5 development business; and

6 (2) no direct substantial conflict of interest  
7 in the business or operation of the authority.

8 [~~H.~~] I. An authority member shall resign from the  
9 authority if a matter to be voted on poses a conflict of  
10 interest for the member. Authority members and employees of  
11 the authority shall be governed by the provisions of the  
12 Governmental Conduct Act. An authority member or employee of  
13 the authority shall not:

14 (1) acquire a financial interest in a new or  
15 existing business venture or business property if the member or  
16 employee believes or has reason to believe that the financial  
17 interest will be directly affected by an official act conducted  
18 in that membership or employment capacity;

19 (2) use confidential information acquired by  
20 virtue of membership on or employment by the authority for the  
21 member's or employee's or another person's private gain; or

22 (3) as a person with a financial or other  
23 interest in a business that is party to a contract, enter into  
24 a contract with the authority without there being public notice  
25 of the contract, a competitive bidding process for entry into

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1 the contract and full disclosure of that financial or other  
2 interest.

3 ~~[F.]~~ J. The governing body that appoints an  
4 authority member may remove the member if the governing body  
5 determines that the member has:

6 (1) neglected or refused to perform an  
7 official duty;

8 (2) violated the policies or procedures  
9 adopted by the authority; or

10 (3) developed a direct, substantial conflict  
11 of interest in the business of the authority."