



The Legislature  
of the  
State of New Mexico

53rd Legislature, 1st Session

LAWS 2017

CHAPTER \_\_\_\_\_

HOUSE BILL 137

**POCKET VETOED**

Introduced by

REPRESENTATIVE LINDA M. TRUJILLO

SENATOR DANIEL A. IVEY-SOTO



1 AN ACT

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

5  
6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

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

9 "47-6-10. COUNTY SUBDIVISION REGULATIONS--HEARINGS--  
10 APPEAL.--In promulgating subdivision regulations, the board  
11 of county commissioners shall adhere to the following  
12 procedures.

13 A. Prior to adopting, amending or repealing any  
14 regulation, the board of county commissioners shall consult  
15 with representatives of the office of the state engineer, the  
16 department of environment, the cultural affairs department,  
17 all soil and water conservation districts within the county,  
18 the department of transportation and the attorney general  
19 about the subjects within their respective expertise for  
20 which the board of county commissioners is considering  
21 promulgating a regulation. In the process of the  
22 consultation, the representatives of each of the state  
23 agencies shall give consideration to the conditions peculiar  
24 to the county and shall submit written guidelines to the  
25 board of county commissioners for its consideration in

1 formulating regulations. The guidelines:

2 (1) shall be given consideration by the  
3 board of county commissioners in the formulation of the  
4 county's subdivision regulations;

5 (2) shall become a part of the record of any  
6 hearing in which regulations are adopted, amended or  
7 repealed; and

8 (3) may be in such detail as the agency  
9 involved desires.

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11 repealed until after a public hearing held by the board of  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

15 (1) the subject of the regulation;  
16 (2) the time and place of the hearing;  
17 (3) the manner in which interested persons  
18 may present their views; and

19 (4) the place and manner in which interested  
20 persons may secure copies of any proposed regulation. The  
21 board of county commissioners may impose a reasonable charge  
22 for the costs of reproducing and mailing of the proposed  
23 regulations.

24 C. The notice shall be published in a newspaper of  
25 general circulation in the county.

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

4           E. The board of county commissioners shall give  
5 the state engineer, the department of environment, the  
6 cultural affairs department, the department of  
7 transportation, all soil and water conservation districts  
8 within the county and the attorney general thirty days'  
9 notice of its regulation hearings.

10          F. At the hearing, the board of county  
11 commissioners shall allow all interested persons reasonable  
12 opportunity to submit data, views or arguments, orally or in  
13 writing, and to examine witnesses testifying at the hearing.  
14 The board shall keep a complete record of the hearing  
15 proceedings.

16          G. Representatives from the office of the state  
17 engineer, the department of environment, the cultural affairs  
18 department, all soil and water conservation districts within  
19 the county, the department of transportation and the attorney  
20 general shall be given the opportunity to make an oral  
21 statement at the hearing and to enter into the record of the  
22 hearing a written statement setting forth any comments that  
23 they may have about the proposed regulation, whether  
24 favorable or unfavorable, when the proposed regulation  
25 relates to an issue that is within the agencies' respective

1 areas of expertise.

2 H. A regulation is not invalid because of the  
3 failure of a state agency to submit a guideline prior to the  
4 promulgation of the regulation or because the representative  
5 of a state agency did not appear at a public hearing on the  
6 regulation or did not make any comment for entry in the  
7 hearing record.

8 I. The board of county commissioners shall act on  
9 the proposed regulations at the regulation hearings or at a  
10 public meeting to be held within thirty days of the hearing  
11 on the proposed regulations. Upon adopting, amending or  
12 repealing the regulations, the board of county commissioners  
13 shall include in the record a short statement setting forth  
14 the board's reasoning and the basis of the board's decision,  
15 including the facts and circumstances considered and the  
16 weight given to those facts and circumstances.

17 J. Any person heard or represented at the hearing  
18 shall be given written notice of the board's decision,  
19 including the facts and circumstances considered, if the  
20 person makes a written request to the board for notice of its  
21 decision.

22 K. A regulation, amendment or repeal is not  
23 effective until thirty days after it is filed with the county  
24 clerk.

25 L. Any person who is or may be adversely affected

1 by a decision of the board of county commissioners to adopt,  
2 amend or repeal a regulation may appeal that decision to the  
3 district court. All appeals shall be upon the record made at  
4 the hearing and shall be filed in the district court within  
5 thirty days after the board of county commissioners votes to  
6 adopt, amend or repeal the regulation.

7 M. An appeal is perfected by filing a notice of  
8 appeal in the district court of the county that has adopted,  
9 amended or repealed the regulation. The appellant shall  
10 certify in the notice of appeal that arrangements have been  
11 made with the board of county commissioners for preparation  
12 of a sufficient number of transcripts of the record of the  
13 hearing to support the appeal, including one copy that the  
14 appellant shall furnish at the appellant's own expense to the  
15 board of county commissioners. A copy of the notice of  
16 appeal shall also be served upon the board of county  
17 commissioners.

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

20 (1) arbitrary, capricious or an abuse of  
21 discretion;

22 (2) not supported by substantial evidence;

23 or

24 (3) otherwise not in accordance with law.

25 O. Any party to the action in district court may

1 appeal to the court of appeals for further relief."

2 SECTION 2. EFFECTIVE DATE.--The effective date of the  
3 provisions of this act is July 1, 2017. \_\_\_\_\_

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s/Brian Egolf  
Brian Egolf, Speaker  
House of Representatives

s/Lisa M. Ortiz McCutcheon  
Lisa M. Ortiz McCutcheon, Chief Clerk  
House of Representatives

s/John A. Sanchez  
John A. Sanchez, President  
Senate

s/Lenore M. Naranjo  
Lenore M. Naranjo, Chief Clerk  
Senate

Approved by me this \_\_\_\_\_ day of \_\_\_\_\_, 2017

s/Susana Martinez  
Susana Martinez, Governor  
State of New Mexico