

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR ABSENTEE VOTING IN LIEU OF ESTABLISHING A POLLING PLACE IN SMALL, ISOLATED PRECINCTS.

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

Section 1. A new section of the Election Code is enacted to read:

"MAIL BALLOT ELECTION PRECINCT--ABSENTEE VOTING IN LIEU OF POLLING PLACE.--

A. Notwithstanding the provisions of Section 1-1-11 NMSA 1978, a board of county commissioners may designate a precinct as a mail ballot election precinct if, upon a written request of the county clerk, it finds that the precinct has fewer than fifty voters and the nearest polling place for an adjoining precinct is more than thirty miles driving distance from the polling place designated for the precinct in question.

B. If a precinct is designated a mail ballot election precinct, in addition to the notice required pursuant to Section 1-3-8 NMSA 1978, the county clerk shall notify by registered mail all voters in that precinct at least forty days before an election that each voter will be sent an absentee ballot twenty-eight days before the election and that there will be no polling place for the precinct on election day. The county clerk shall include in the notice a card

informing the voter that if the voter does not want to receive an absentee ballot, the voter should return the card before the date the county clerk is scheduled to mail out absentee ballots. The card shall also inform the voter that a voting system equipped for persons with disabilities will be available at all early voting sites before election day and in the office of the county clerk on election day in case the voter prefers to vote in person and not by mail.

C. The county clerk shall mail each voter in the mail ballot election precinct an absentee ballot on the twenty-eighth day before an election, unless the voter has requested otherwise, along with a notice that there will be no polling place in that precinct on election day.

D. The county clerk shall keep a sufficient number of ballots from a mail ballot election precinct such that if a voter from that precinct does not receive an absentee ballot before election day, the voter may vote on an absentee ballot in the office of the county clerk on election day in lieu of voting on the missing ballot."

Section 2. Section 1-3-2 NMSA 1978 (being Laws 1969, Chapter 240, Section 51, as amended) is amended to read:

"1-3-2. PRECINCTS--DUTIES OF COUNTY COMMISSIONERS.--

A. Not later than the first Monday in November of each odd-numbered year, the board of county commissioners shall by resolution:

(1) designate the polling place of each precinct that shall provide individuals with physical mobility limitations an unobstructed access to at least one voting machine;

(2) create additional precincts to meet the requirements of Section 1-3-1 NMSA 1978 or upon petition pursuant to Section 4-38-21 NMSA 1978;

(3) create additional polling places in existing precincts as necessary pursuant to Section 1-3-7.1 NMSA 1978;

(4) divide any precincts as necessary to meet legal and constitutional requirements for redistricting; and

(5) designate any mail ballot election precincts.

B. The county clerk shall notify the secretary of state in writing of any proposed changes in precincts or the designation of polling places made by the board of county commissioners and shall furnish a copy of the map showing the current geographical boundaries, designation and word description of each new polling place and each new or changed precinct.

C. The secretary of state shall review all new or changed precinct maps submitted pursuant to this section for compliance under the Precinct Boundary Adjustment Act. Any

necessary precinct boundary adjustments shall be made and submitted to the secretary of state no later than the first Monday in December of each odd-numbered year. Upon approval of the new or changed precincts by the secretary of state, the precincts and polling places as changed by the resolution of the boards of county commissioners and approved by the secretary of state shall be the official precincts and polling places for the next succeeding primary and general elections."

Section 3. Section 1-3-7 NMSA 1978 (being Laws 1969, Chapter 240, Section 57, as amended) is amended to read:

"1-3-7. POLLING PLACES.--

A. No less than one polling place shall be provided for each precinct that is not a mail ballot election precinct.

B. The board of county commissioners shall designate as the polling place or places, as the case may be, in each precinct, other than a mail ballot election precinct, the most convenient and suitable public building or public school building in the precinct that can be obtained.

C. If no public building or public school building is available, the board of county commissioners shall provide some other suitable place, which shall be the most convenient and appropriate place obtainable in the precinct, considering the purpose for which it is to be used pursuant to the Election Code.

D. If, in a precinct that is not a mail ballot election precinct, there is no public building or public school building available in the precinct, and there is no other suitable place obtainable in the precinct, the board of county commissioners may designate as a polling place for the precinct the most convenient and suitable building or public school building nearest to that precinct that can be obtained. No polling place shall be designated outside the boundary of the precinct as provided in this subsection until such designated polling place is approved by written order of the district court of the county in which the precinct is located.

E. Upon application of the board of county commissioners, the governing board of any school district shall permit the use of any school building or a part thereof for registration purposes and the conduct of any election, provided that the building or the part used for the election complies with the standards set out in the federal Voting Accessibility for the Elderly and Handicapped Act.

F. Public schools may be closed for elections at the discretion of local school boards."

Section 4. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2009. \_\_\_\_\_