



The Impacts to APS/NM School Districts by the passage & signing into law of SB98 in March 2018

SB98 was passed by the NM Legislature & signed into law by the governor in March 2018. This law mandates that all future school elections be held in November on odd numbered years together with other non-partisan elections. Schools can opt to have 'Special Elections' for bonds/mill levies on other dates but these have to be by mail-in ballot only.

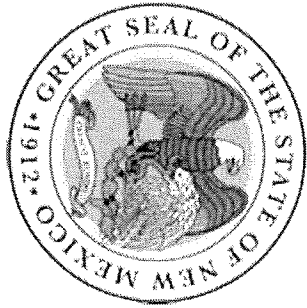
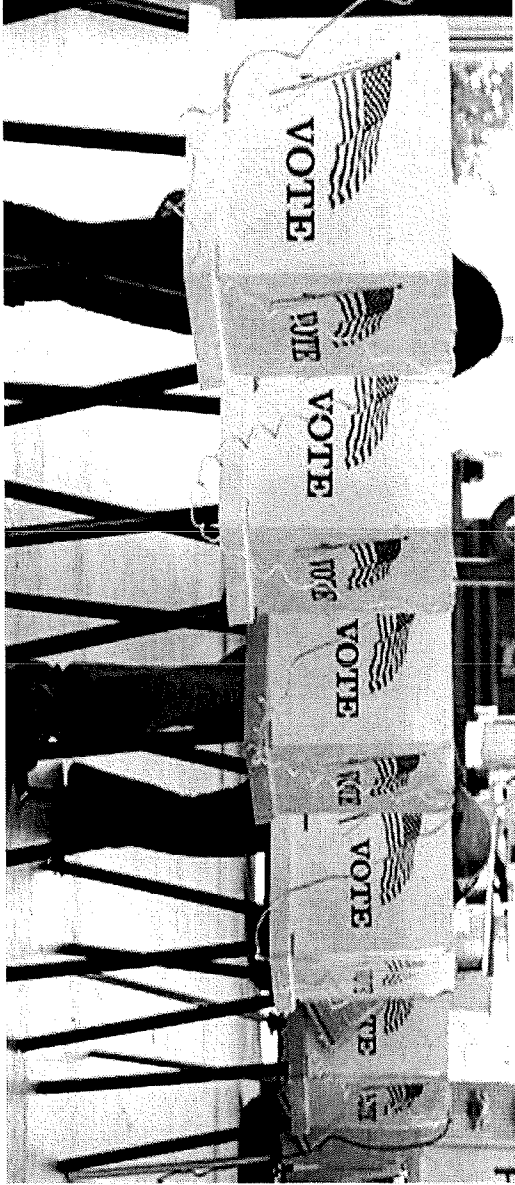
Impacts to APS, ALL Charter Schools within APS, and over 37 other School Districts Statewide

1. Adversely disrupt the currently established APS School Mill Levy revenue flow cycle
 - a. Currently, APS local mill levies are on 6-year cycles between voter approval. The current local SB-9 (\$169 Million) will be on its last year (July 18 – July 19) and was scheduled for re-approval by the voters in February 2019, giving the Bernalillo County assessor enough time to include new approval in the tax bills starting July 2019. The new law moves the election to November and **cannot** be incorporated into property tax bills until July 2020. **This means that APS and all Charter Schools in the APS District stand to forfeit/lose over \$30million in LOCAL SB-9 revenue.**
2. **APS as a result of the above would LOSE \$2,379,648 in FY2019 SB-9 STATE Matching funds** (based on \$6.52 minimum guarantee).
3. in order to realign the disrupted revenue flow cycles/ resultant revenue gaps as described above, **APS will HAVE TO call and carry out a special mail-in election at great cost to the local taxpayer in February 2019**
4. **Missing a year of collections would RESULT IN AN AUTOMATIC TAX INCREASE when you re-implement just to get back the same level of revenue that you had prior to the disruption.**
There are 37 other school districts in NM, which were previously scheduled to have their next SB9 election in February 2019.
5. This law will also make it impossible to implement a mill levy election in November and then levy the appropriate property taxes within the time designated by state statute. **This effectively makes it impossible to have school mill levy taxes in NM unless the school district does it by special mail-in-ballot election.**
 - a. **The large expenses for any special election will also have to be borne by the school district/taxpayer**
6. The length and complexity of a combined ballot with school tax issues probably at the bottom may have the impact of LESS voters actually weighing in on these questions at the bottom of the ballot even though they actually voted for candidates/issues in the first few pages at the top of the ballot
7. The City of Albuquerque (and other municipalities) has already opted out of the November combined ballot and will have their questions in march elections. This mean that the intention of combining ballots in order to garner higher voter turnout is already a moot point.

**CHANGES TO SCHOOL ELECTION LAW
MADE BY HOUSE BILL 98**

ARTHUR D. MELENDRES

 **MODRALL SPELLING**



- Section 1-22-3 NMSA is repealed.
 - A new Section 1-22-3 is enacted in HB 98 which defines regular local election, special local elections, ballot questions, and qualifications of candidates:
 - A regular local election shall be held on the first Tuesday after the first Monday in November of each odd-numbered year.
 - A local election shall be held to elect qualified persons to membership on a local governing body.
 - In addition to candidates in the election, a regular local election ballot may contain ballot questions proposed by a local government. An election on a ballot question held at any time other than the date for a regular local election shall be a special local election.

- Section 1-22-4 NMSA is repealed.
 - A new Section 1-22-4 NMSA is enacted which specifies how a regular local election will be conducted:
 - The Secretary of State shall issue a public proclamation in English and Spanish calling a regular local election on 1st Tuesday after the first Monday in November of odd numbered years.
 - The proclamation shall be filed by the secretary of state in the office of the secretary ninety (90) days preceding the election.
 - Between one hundred twenty (120) and one hundred fifty (150) days before the local election the district shall notify the secretary of state of the candidate positions to be filled.

New Section 1-22-4 NMSA also provides:

- The proclamation shall spell out details for the local election including date and positions to be filled and any ballot questions to be placed on the ballot.
- After receipt of the proclamation from the secretary of state the county clerk shall post the proclamation on the county website not less than seventy-five (75) days before the election.

- Section 1-22-7 NMSA is repealed.
 - A new Section 1-22-7NMSA is enacted:
 - Provides details for candidate declaration of candidacy.
 - Declaration of candidacy is to be filed (between 9 am and 5 pm) on the seventh (70) day before the election.
- Section 1-22-10 NMSA is repealed.
 - A new Section 1-22-10 NMSA is enacted:
 - Prescribes the procedure for preparing the election ballot.
 - Provides the local election shall be a nonpartisan election.

Section 1-22-10.1 NMSA is a new section of the election act.

It provides the ballot order for the election:

- School district candidates and ballot questions will be listed on the ballot after municipal candidates and judicial officers.

OFFICIAL GENERAL ELECTION BALLOT - SALT LAKE COUNTY OF UTAH
November 3, 2015 - 8:00 AM - 8:00 PM

INSTRUCTIONS: To vote, please place an "X" in the appropriate box on the ballot. If you are voting by mail, you must sign and date the ballot and return it to the county clerk's office.

MUNICIPAL OFFICERS

SCHOOL DISTRICT CANDIDATES

JUDICIAL OFFICERS

GENERAL ELECTION BOARD

COMMISSIONERS

CLERKS

MEMBERS OF THE BOARD OF EDUCATION

MEMBERS OF THE BOARD OF HEALTH

MEMBERS OF THE BOARD OF SOCIAL SERVICES

MEMBERS OF THE BOARD OF UTILITIES

MEMBERS OF THE BOARD OF WATER RESOURCES

MEMBERS OF THE BOARD OF ZONING

MEMBERS OF THE BOARD OF AIR QUALITY

MEMBERS OF THE BOARD OF LAND USE

MEMBERS OF THE BOARD OF ECONOMIC DEVELOPMENT

MEMBERS OF THE BOARD OF COMMUNITY DEVELOPMENT

MEMBERS OF THE BOARD OF HOUSING

MEMBERS OF THE BOARD OF TRANSPORTATION

MEMBERS OF THE BOARD OF PUBLIC SAFETY

MEMBERS OF THE BOARD OF CULTURAL AFFAIRS

MEMBERS OF THE BOARD OF ARTS AND RECREATION

MEMBERS OF THE BOARD OF SENIOR SERVICES

MEMBERS OF THE BOARD OF YOUTH SERVICES

MEMBERS OF THE BOARD OF COMMUNITY SERVICES

MEMBERS OF THE BOARD OF ENVIRONMENTAL SERVICES

MEMBERS OF THE BOARD OF HISTORIC PRESERVATION

MEMBERS OF THE BOARD OF ARCHITECTURAL SERVICES

MEMBERS OF THE BOARD OF PLANNING AND ZONING

MEMBERS OF THE BOARD OF LAND USE AND DEVELOPMENT

MEMBERS OF THE BOARD OF ECONOMIC DEVELOPMENT AND COMMUNITY SERVICES

MEMBERS OF THE BOARD OF HOUSING AND COMMUNITY DEVELOPMENT

MEMBERS OF THE BOARD OF TRANSPORTATION AND PUBLIC SAFETY

MEMBERS OF THE BOARD OF CULTURAL AFFAIRS AND RECREATION

MEMBERS OF THE BOARD OF SENIOR SERVICES AND YOUTH SERVICES

MEMBERS OF THE BOARD OF COMMUNITY SERVICES AND ENVIRONMENTAL SERVICES

MEMBERS OF THE BOARD OF HISTORIC PRESERVATION AND ARCHITECTURAL SERVICES

MEMBERS OF THE BOARD OF PLANNING AND ZONING AND LAND USE AND DEVELOPMENT

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- Section 1-22-19 NMSA is repealed and a new Section 1-22-19 NMSA is enacted providing for absentee voting and early voting.
- A new section of the Local Election Act is enacted.
 - Provides for paying the costs of the election with a local assessment.
 - Creation of a local election fund for reimbursing the counties for the costs of conducting regular local elections.
 - The annual assessment shall be equal to two hundred fifty dollars (\$250) per one million dollars (\$1,000,000) or minor fraction thereof of the local government's general fund expenditures.

- Section 1-12-1 NMSA was amended:
 - No local election shall be held within seventy (70) days prior to or following any state wide election (previously it was 56 days).
 - This amended section does not prohibit a local government ballot question from appearing on the regular local election ballot (November of odd numbered years).

- Section 1-16-8 NMSA was amended to provide that a ballot question must be submitted by county clerk to the secretary of state not less than seventy (70) days prior to the election.
- Section 1-24-1 NMSA was amended to create the Special Election Act which governs the conduct of all special elections for school districts.

- Section 1-24-2 NMSA is amended to specify the procedures for adopting a Resolution to issue a Proclamation calling the special election.
- The procedures require that the Proclamation specify:
 - The date of the special election
 - The purpose for the special election
 - The text of any ballot questions to be voted on
 - The date and time of closing the registration books by the county clerk
 - The proclamation must be published beginning not less than sixty-three days before the date of the election once each week for two consecutive weeks.

- Section 1-24-3 NMSA is amended to provide for special election procedures:
 - Require the county clerk to conduct any special election, including voting on a ballot question by mailed ballot.
 - Mailing each voter an absentee ballot.
 - Mailing the ballot to each voter twenty-eight days before the election.
 - Having a return envelope which is postage-paid.
- The costs of conducting a special election shall be paid for by the local government calling for the election.

- Section 22-5-8 NMSA is amended to provide for 4 year terms beginning at a regular local election beginning November 2019.
 - ✓ School board members whose terms expire in February of 2019 will continue to serve until December 2019.
 - ✓ Similarly, school board member terms ending in February of 2021 are extended to December 2021.
 - ✓ The term of office for the school board members elected in November of 2019 begins January 1, 2020.
 - ✓ The term of office for school board members elected in November 2021 begins January 1, 2022.

- Section 10-3-1 NMSA is amended to specify the conditions which cause a vacancy in office:
 - death,
 - removal from office,
 - failure to qualify,
 - expiration of the term of office when no successor has been chosen,
 - when the officer moves from the area from which the officer was elected,
 - absence from the political subdivision for six consecutive months,
 - resignation, or
 - accepting and undertaking to discharge the duties of another incompatible office.

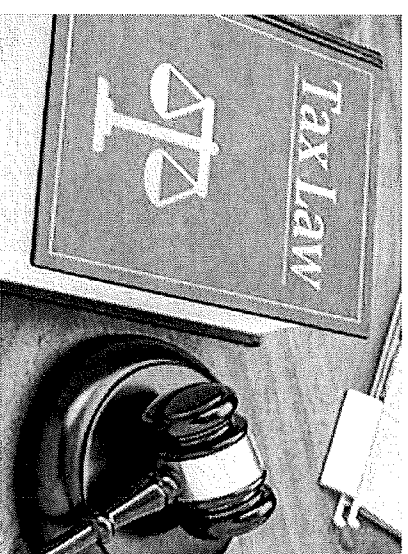
- Section 1-22A-2 NMSA is amended to require campaign reporting of all contributions or expenditures of \$500 or more to the Secretary of State.
- Section 22-18-2 NMSA is amended to provide Bond Election Procedures which include that the election will be held in accordance with the Local Election Act being November of odd numbered years unless a special election is held.

- Section 22-25-5 NMSA is amended to require that the question of imposing a tax under the Public School Capital Improvements Act (SB 9) be held in accordance with the Local Election Act.
- ✓ Means that election will be held in November of odd numbered years, unless held at a special election.

- Section 22-26-5 NMSA is amended to require that the question of imposing a tax under the Public School Buildings Act (HB 33) be held in accordance with the Local Election Act.

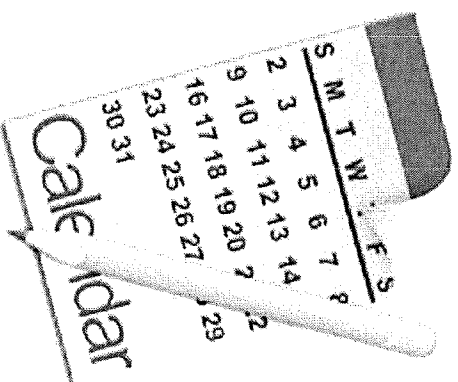
✓ Means the election will be held in November of odd numbered years, unless held at a special election.

**THE NEW ELECTION LAW, THE TAX
CODE, AND THE SCHOOL DISTRICT
MILL LEVY DATES DO NOT ALIGN**



- The newly passed HB 98 Election Law requirements do not align with the Tax Code and School District mill levy dates for imposing and collecting taxes.
- To receive mill levy money in January of 2020 a special election in 2019 will have to be held.
- ✓ Implication: Holding the mill levy election in November, as required by the new election law, rather than February, creates problems for receiving tax money.

BACKGROUND DATES FOR SETTING TAX RATES



- PED must certify the tax rates for school districts to DFA by August 15. (7-37-8)
- DFA includes the school mill levy with other mill levies and ad valorem taxes of other governmental entities and must have a rate setting order to county commissions by September 1 (7-38-33)

- The County Commission then has five days to “issue its written order imposing the tax at the rates set on the net taxable value of property allocated to the appropriate governmental units. (The tax is “imposed” by that order.)
- A copy of this order is then delivered to the county assessor so that the tax can be imposed on the property to be taxed. (7-38-34)

- By October 1 the county assessor prepares a tax schedule showing the amount that will be owed by all taxable property in the County (7-38-35).
- Prior to November 1, the County Treasurer takes the schedule and prepares the individual tax bills. Individual tax bills must be mailed no later than November 1 (7-38-36).

- Taxes are due November 10, with a grace period built in until December 10 (7-38-38), with the time to file for a refund expiring on January 9 (60 days from November 10.)
- Distribution to the governmental entities by the treasurer occurs in January and February.
- For the tax to be collected in November/December and distributed in January or February, the mill levy election has to be held in sufficient time to allow the results to be provided to PED prior to the August 15 deadline, so that it can be included as part of the September County Commission order imposing the tax.

A NOVEMBER MILL LEVY ELECTION CONFLICTS WITH THE PROPERTY TAX CALENDAR

November

October 2015
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29	30					

- Sections 22-25-8 (SB 9) and 22-26-8 (HB 33) were not amended and these sections require that the mill levy “shall be imposed for a specified number of property tax years not exceeding six years commencing with the property tax year in which the election was held.”
- The tax is “imposed” in September, so a November election is too late for that property tax year.
- Sections 22-25-4 (SB9) and 22-26-4 (HB33) were not amended, and require that the resolution calling for a mill levy election shall be adopted no later than May 15 in the year in which the tax is proposed to be imposed.” The proclamation would need to be 6 months prior to a November election.

- A February 2019 election would have to be a special election with the mail in ballot requirement. July 1, 2019 appears to be the *de facto* final date for a mill election.
- A November election will not permit receipt of taxes the following January, unlike the situation when the mill levy election occurs in February. An election in February 2019 (if the voters approve) will result in property tax revenue coming to the schools in January or February of 2020. An election in November 2019 will result in the school district not receiving that mill levy revenue until January 2021 leaving a one year gap in revenue for the school district.
- The Election Code should be amended in January 2019 to correct these date problems.

CONCLUSION

