SENATE BILL 72

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

Gerald Ortiz y Pino

AN ACT

RELATING TO ELECTIONS; PROVIDING FOR VOTER REGISTRATION AT EARLY VOTING SITES FOR PRIMARY AND GENERAL ELECTIONS.

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:

"[<u>NEW MATERIAL</u>] EARLY VOTING--REGISTRATION PROCEDURES.--

A. If a qualified elector is not registered to vote or needs to update the qualified elector's existing certificate of registration and is at an early voting site for a primary or general election in the county in which the qualified elector resides, the qualified elector shall be allowed to complete a certificate of registration and cast a ballot from the precinct in which the qualified elector resides; provided that the qualified elector:

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(1) presents a physical form of identification as defined in Subsection A of Section 1-1-24 NMSA 1978 to the county clerk or the clerk's authorized representative;

(2) completes a certificate of registration form and the registration information is entered into the statewide electronic voter file; and

(3) subscribes an application to vote.

B. If the early voting site does not have real-time access to the statewide electronic voter file and the qualified elector fulfills the conditions specified in Paragraphs (1) through (3) of Subsection A of this section, the voter shall be issued a provisional ballot.

C. A voter shall not be allowed to change party affiliation when registering at an early voting site during a primary election.

D. For registration purposes, "early voting site" means an alternate voting site or the office of the county clerk during the time when in-person absentee voting is being conducted."

SECTION 2. Section 1-1-24 NMSA 1978 (being Laws 2005, Chapter 270, Section 6, as amended) is amended to read:

"1-1-24. REQUIRED VOTER IDENTIFICATION.--As used in the Election Code, "required voter identification" means any of the following forms of identification as chosen by the [voter] qualified elector:

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A.   a physical form of identification, which may be:

(1)   an original or copy of a current and valid government-issued photo identification with or without an address, which address is not required to match the [voter's certificate of] qualified elector's registration address; or

(2)   an original or copy of a current utility bill, bank statement, government check, paycheck, student identification card or other government document, including identification issued by an Indian nation, tribe or pueblo, that shows the name and address of the person, the address of which is not required to match the [voter's certificate of] qualified elector's registration address; or

B.   a verbal or written statement by the voter of the voter's name, registration address and year of birth; provided, however, that the statement of the voter's name need not contain the voter's middle initial or suffix."

SECTION 3.   Section 1-4-5.1 NMSA 1978 (being Laws 1993, Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7, as amended) is amended to read:

"1-4-5.1.   METHOD OF REGISTRATION--FORM.--

A.   A qualified elector may apply for registration:

(1)   by mail;

(2)   in the office of the secretary of state or county clerk; or

(3)   with a registration agent or officer.

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1   B. A person may request certificate of registration

2 forms from:

3   (1) the secretary of state or any county clerk

4 in person, by telephone or by mail for that person or for other

5 persons; or

6   (2) a county clerk or the clerk's authorized

7 representative at an early voting site.

8   C. Except as provided in Subsection D of this

9 section, a qualified elector who wishes to register to vote

10 shall fill out completely and sign the certificate of

11 registration. The qualified elector may seek the assistance of

12 any person in completing the certificate of registration.

13   D. A qualified elector who has filed for an order

14 of protection pursuant to the provisions of the Family Violence

15 Protection Act and who presents a copy of that order from a

16 state or tribal court to the registration officer shall not be

17 required to provide physical residence address information on

18 the certificate of registration.

19   E. Completed certificates of registration may be:

20   (1) mailed or presented in person by the

21 registrant or any other person to the secretary of state; [or]

22   (2) mailed or presented in person by the

23 registrant or any other person to the county clerk of the

24 county in which the registrant resides; or

25   (3) completed at an early voting site and

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1   presented to the county clerk or the clerk's authorized

2   representative at the early voting site in the county in which

3   the qualified elector resides.

4   F.   If the registrant wishes to vote in [the next]

5   an election, the completed and signed certificate of

6   registration shall be delivered or mailed and postmarked at

7   least twenty-eight days before the election or completed at an

8   early voting site and presented to the county clerk or the

9   clerk's authorized representative at an early voting site in

10 the county in which the qualified elector resides.

11   G.   Upon receipt of a certificate of registration,

12 the secretary of state shall send the certificate to the county

13 clerk in the county where the qualified elector resides.

14   H.   Only when the certificate of registration is

15 properly filled out, signed by the qualified elector and

16 accepted for filing by the county clerk as evidenced by the

17 county clerk's signature or stamp and the date of acceptance

18 thereon and when notice has been received by the registrant

19 shall it constitute an official public record of the

20 registration of the qualified elector.

21   I.   The secretary of state shall prescribe the form

22 of the certificate of registration, which form shall be a

23 postpaid mail-in format and shall be printed in Spanish and

24 English. The certificate of registration form shall be clear

25 and understandable to the average person and shall include

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1   brief but sufficient instructions to enable the qualified

2   elector to complete the form without assistance. The form

3   shall also include:

4   (1)   the question "Are you a citizen of the

5   United States of America?" and boxes for the applicant to check

6   to indicate whether the applicant is or is not a citizen;

7   (2)   the question "Will you be at least

8   eighteen years of age on or before election day?" and boxes for

9   the applicant to check to indicate whether the applicant will

10   be eighteen years of age or older on election day;

11   (3)   the statement "If you checked 'no' in

12   response to either of these questions, do not complete this

13   form.";

14   (4)   a statement informing the applicant that:

15   (a)   if the form is submitted by mail by

16   the applicant and the applicant is registering for the first

17   time in New Mexico, the applicant must submit with the form a

18   copy of: 1) a current and valid government-issued photo

19   identification; or 2) a current utility bill, bank statement,

20   government check, paycheck, student identification card or

21   other government document, including identification issued by

22   an Indian nation, tribe or pueblo, that shows the name and

23   current address of the applicant; and

24   (b)   if the applicant does not submit the

25   required identification, the applicant will be required to do

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so when voting in person or absentee; and

(5) a statement requiring the applicant to swear or affirm that the information supplied by the applicant is true."

SECTION 4. Section 1-4-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 66, as amended) is amended to read:

"1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF REGISTRATION--CLOSE OF REGISTRATION--<u>EARLY VOTING SITE REGISTRATION</u>--FEDERAL QUALIFIED ELECTORS AND OVERSEAS VOTERS--LATE REGISTRATION.--

A. For qualified electors other than federal qualified electors or overseas voters, the following provisions shall apply:

(1) the county clerk shall receive certificates of registration at all times during normal working hours, except that the clerk shall close registration at 5:00 p.m. on the twenty-eighth day immediately preceding any election at which the registration books are to be furnished to the precinct board;

(2) <u>during the period when early voting sites are open, the county clerk shall accept for filing a certificate of registration from any qualified elector who registers to vote at an early voting site in the county in which the qualified elector resides;</u>

[(2)] <u>(3)</u> registration shall be reopened on

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the Monday following the election;

[(3)] (4) for purposes of a municipal or school election, the registration period for those precincts within the municipality or school district is closed at 5:00 p.m. on the twenty-eighth day immediately preceding the municipal or school election and is opened again on the Monday following the election;

[(4)] (5) during the period when registration is closed, the county clerk shall receive certificates of registration and other documents pertaining thereto but, except for certificates of registration received from an early voting site, shall not file [the] any certificate of registration in the registration book until the Monday following the election, at which time a voter information document shall be mailed to the registrant at the address shown on the certificate of registration;

[(5)] (6) when the twenty-eighth day prior to any election referred to in this section is a Saturday, Sunday or legal holiday, registration shall be closed at 5:00 p.m. of the next succeeding regular business day for the office of the county clerk; and

[(6)] (7) the county clerk shall accept for filing any certificate of registration that is subscribed and dated on or before the twenty-eighth day preceding the election and:

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(a) received by the county clerk before 5:00 p.m. on the Friday immediately following the close of registration;

(b) mailed and postmarked not less than twenty-eight days prior to any election referred to in this section; or

(c) accepted at a state agency designated pursuant to Section 1-4-5.2 NMSA 1978.

B. For federal qualified electors and overseas voters, the county clerk shall accept a certificate of registration by electronic transmission from a voter qualified to apply for and vote by absentee ballot in the county if the transmission is received before 5:00 p.m. on the Friday immediately preceding the election."

SECTION 5. Section 1-12-8 NMSA 1978 (being Laws 1969, Chapter 240, Section 247, as amended) is amended to read:

"1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

A. A person shall be permitted to vote on a provisional paper ballot even though the person's original certificate of registration cannot be found in the county register or even if the person's name does not appear on the signature roster, provided:

(1) the person's residence is within the boundaries of the county in which the person offers to vote;

(2) the person's name is not on the list of

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1 persons submitting absentee ballots; and

2 (3) the person executes a statement swearing

3 or affirming to the best of the person's knowledge that the

4 person is a qualified elector, is currently registered and

5 eligible to vote in that county and has not cast a ballot or

6 voted in that election.

7 B. A person shall vote on a provisional ballot if

8 the person:

9 (1) is not registered, or is not registered in

10 the correct precinct;

11 (2) attempts to register to vote at an early

12 voting site but the early voting site does not have real-time

13 access to the statewide electronic voter file; and

14 (3) would otherwise be eligible to vote at the

15 early voting site.

16 [B.] C. A voter shall vote on a provisional paper

17 ballot if the voter:

18 (1) has not previously voted in a general

19 election in New Mexico or has been purged from the voter list;

20 (2) registered to vote by mail;

21 (3) did not submit the physical form of the

22 required voter identification with the certificate of

23 registration form; and

24 (4) does not present to the election judge a

25 physical form of the required voter identification.

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1   [C.] D. A voter shall vote on a provisional paper

2 ballot in accordance with the provisions of Section 1-12-7.1

3 NMSA 1978 if the voter does not provide the required voter

4 identification to the election judge.

5   [D.] E. A judge or election clerk shall have the

6 voter sign the signature roster or application to vote and

7 issue the voter a provisional paper ballot, an outer envelope

8 and an official inner envelope. The voter shall vote on the

9 provisional paper ballot in secrecy and, when done, place the

10 ballot in the official inner envelope and place the official

11 inner envelope in the outer envelope and return it to the judge

12 or election clerk. The judge or election clerk shall ensure

13 that the required information is completed on the outer

14 envelope, have the voter sign it in the appropriate place and

15 place it in an envelope designated for provisional paper

16 ballots.

17   [E.] F. Knowingly executing a false statement

18 constitutes perjury as provided in the Criminal Code, and

19 voting on the basis of such falsely executed statement

20 constitutes fraudulent voting."

21   SECTION 6. Section 1-12-20 NMSA 1978 (being Laws 1969,

22 Chapter 240, Section 273, as amended) is amended to read:

23   "1-12-20. CONDUCT OF ELECTION--INTERPOSING CHALLENGES.--A

24 challenge may be interposed by a member of the precinct board

25 or by a party challenger for the following reasons:

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1   A.   the person offering to vote is not registered to

2 vote and is not a qualified elector;

3   B.   the person offering to vote is listed among

4 those persons to whom an absentee ballot was mailed;

5   C.   the person offering to vote has already cast a

6 ballot in that election;

7   D.   the person offering to vote is improperly

8 registered because the person is not a qualified elector; or

9   E.   in the case of a primary election, the person

10 desiring to vote is not affiliated with a political party

11 represented on the ballot."

12   **SECTION 7.** Section 1-12-25.4 NMSA 1978 (being Laws 2003,

13 Chapter 356, Section 7, as amended) is amended to read:

14   "1-12-25.4. PROVISIONAL PAPER BALLOTS--DISPOSITION.--

15   A.   Upon closing of the polls, provisional paper

16 ballots shall be delivered to the county clerk, who shall

17 determine if the ballots will be counted prior to certification

18 of the election.

19   B.   A provisional paper ballot shall not be counted

20 if the registered voter did not sign either the signature

21 roster or, in the case of a person who registered to vote at an

22 early voting site, the application to vote or the ballot's

23 envelope.

24   C.   If there is no record of the [voter] person ever

25 having been registered in the county, the [voter] person shall

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1   be offered the opportunity to register and the provisional

2   paper ballot shall not be counted; provided that this

3   subsection does not apply to a provisional ballot of a

4   qualified elector who registered to vote at an early voting

5   site.

6   D. If the voter was registered in the county, the

7   registration was later canceled and the county clerk determines

8   that the cancellation was in error, the voter's registration

9   shall be immediately restored and the provisional paper ballot

10   counted.

11   E. If the county clerk determines that the

12   cancellation was not in error, the voter shall be offered the

13   opportunity to register at the voter's correct address and the

14   provisional paper ballot shall not be counted.

15   F. If the voter is a registered voter in the

16   county, but has voted on a provisional paper ballot at a

17   polling place other than the voter's designated polling place,

18   the county canvassing board shall ensure that only those votes

19   for the positions or measures for which the voter was eligible

20   to vote are counted.

21   G. If the county clerk finds that the voter who

22   voted on a provisional paper ballot [at the polls] has also

23   voted [an absentee] another ballot in that election, the

24   provisional paper ballot shall not be counted.

25   H. The county canvassing board shall prepare a

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1   tally displaying the number of provisional paper ballots

2   received, the number found valid and counted, the number

3   rejected and not counted and the reason for not counting the

4   ballots as part of the canvassing process and forward it to the

5   secretary of state immediately upon certification of the

6   election.

7   I.   The secretary of state shall issue rules to

8   ensure securing the secrecy of the provisional paper ballots,

9   especially during canvassing, reviewing or recounting, and

10   protecting against fraud in the voting process."

11   **SECTION 8.**   EFFECTIVE DATE.--The effective date of the

12   provisions of this act is July 1, 2014.

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