

FIFTY-SECOND LEGISLATURE  
FIRST SESSION, 2015

SB 364/a

March 2, 2015

Mr. President:

Your **RULES COMMITTEE**, to whom has been referred

**SENATE BILL 364**

has had it under consideration and reports same with recommendation that it **DO PASS**, amended as follows:

1. On page 1, line 12, before the period, insert "; MAKING CORRESPONDING CHANGES IN THE MUNICIPAL ELECTION CODE".

2. On page 2, line 21, before the period, insert "; provided that, if there is a conflict between the provisions governing the general election and those governing the municipal election, the provisions of the general election shall be used".

3. On page 3, between lines 15 and 16, insert the following new sections:

"SECTION 3. Section 3-8-27 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-8-8, as amended) is amended to read:

"3-8-27. REGULAR MUNICIPAL ELECTION--DECLARATION OF CANDIDACY--WITHDRAWING NAME FROM BALLOT--PENALTY FOR FALSE STATEMENT.--

A. Candidate filing day shall be between the hours of 8:00 a.m. and 5:00 p.m. on the [~~fifty-sixth~~] sixty-third day preceding the day of election. On candidate filing day, a candidate for municipal office shall personally appear at the office of the municipal clerk to file all documents required by law in order to cause a person to be certified as a candidate. Alternatively, on candidate filing day, a person acting solely on the candidate's behalf, by virtue of a written affidavit of authorization signed by the candidate, notarized and presented to the municipal clerk by

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such person, shall file in the office of the municipal clerk all documents required by law in order to cause a person to be certified as a candidate.

B. On candidate filing day, each candidate shall cause to be filed in the office of the municipal clerk a declaration of candidacy; a certified copy of the candidate's current affidavit of voter registration that is on file with the county clerk and that has been certified by the office of the county clerk on a date not earlier than the adoption of the election resolution; and, in a home rule or charter municipality that requires a nominating petition to be submitted by a candidate for municipal office, a nominating petition that has the required number of signatures.

C. All candidates shall cause their affidavits of voter registration to show their address as a street address or rural route number and not as a post office box.

D. The municipal clerk shall provide a form for the declaration of candidacy and shall accept only those declarations of candidacy that contain:

(1) the identical name and the identical resident street address as shown on the affidavit of registration of the candidate submitted with the declaration of candidacy;

(2) the office and term to which the candidate seeks election and district designation, if appropriate;

(3) a statement that the candidate is eligible and legally qualified to hold the office for which the candidate is filing;

(4) a statement that the candidate has not been convicted of a felony or, if the candidate has been convicted of a felony, a statement that the candidate's elective franchise has been restored and that the candidate has been granted a pardon or a

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certificate by the governor restoring the candidate's full rights of citizenship;

(5) a statement that the candidate or the candidate's authorized representative shall contact the office of the municipal clerk during normal business hours on the fifty-fourth day before the election to ascertain whether the municipal clerk has certified the declaration of candidacy as valid;

(6) the contact information for how the candidate or the candidate's authorized representative can be reached for purposes of giving notice;

(7) a statement to the effect that the declaration of candidacy is an affidavit under oath and that any false statement knowingly made in the declaration of candidacy constitutes a fourth degree felony under the laws of New Mexico; and

(8) the notarized signature of the candidate on the declaration of candidacy.

E. The municipal clerk shall not accept a declaration of candidacy for more than one municipal elected office per candidate, so that each candidate declares for only one municipal elected office.

F. Once filed, the declaration of candidacy is a public record.

G. Not later than the [~~fifty-fifth~~] sixty-second day preceding the day of the election, the municipal clerk shall determine whether the declaration of candidacy shall be certified. In order to be certified as a candidate, the documents submitted to the municipal clerk shall prove that the individual is a qualified elector as defined in Subsection K of Section 3-1-2 NMSA 1978 and, if appropriate, that the individual resides in and is registered to vote in the municipal election district from which the individual

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seeks election. In the event that an individual fails to submit to the municipal clerk on candidate filing day the documents listed in Subsection B of this section in the form and with the contents as required by this section, the municipal clerk shall not certify that individual as a candidate for municipal office.

H. The municipal clerk shall post in the clerk's office a list of the names of those individuals who have been certified as candidates. The municipal clerk shall also post in the clerk's office the names of those individuals who have not been certified as candidates, along with the reasons therefor. The posting shall occur no later than 9:00 a.m. on the [~~forty-fourth~~] sixty-first day preceding the election.

I. Not later than 5:00 p.m. on the [~~forty-ninth~~] fifty-seventh day before the day of the election, a candidate for municipal office may file an affidavit on the form provided by the municipal clerk in the office of the municipal clerk stating that the candidate is no longer a candidate for municipal office. A municipal clerk shall not place on the ballot the name of any person who has filed an affidavit as provided in this subsection.

J. Not later than 10:00 a.m. on the [~~forty-eighth~~] fifty-sixth day preceding the election, the municipal clerk shall confirm with the printer on contract with the municipality and the county clerk the names of the candidates and their position on the ballot.

K. Any person knowingly making a false statement in the declaration of candidacy is guilty of a fourth degree felony.

L. No person shall be elected to municipal office as a write-in candidate unless that person has been certified as a declared write-in candidate by the municipal clerk, as follows:

(1) write-in candidates filing day shall be on the [~~forty-ninth~~] fifty-seventh day preceding the election between the hours of 8:00 a.m. and 5:00 p.m.;

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(2) write-in candidates shall file a declaration of write-in candidacy with the same documents and satisfy the same requirements as established in this section for candidates;

(3) the municipal clerk shall, on the [~~forty-eighth~~] fifty-sixth day preceding the election, certify those individuals who have satisfied the requirements of this section as declared write-in candidates;

(4) not later than 9:00 a.m. on the [~~forty-seventh~~] fifty-fifth day preceding the election, the municipal clerk shall, in the office of the municipal clerk:

(a) post the names of those individuals who have been certified as declared write-in candidates; and

(b) post the names of those individuals who have not been certified as declared write-in candidates along with the reasons; and

(5) not later than 5:00 p.m. on the thirty-fifth day preceding the election, a declared write-in candidate may file an affidavit that the candidate is no longer a write-in candidate for municipal office. In the event that a declared write-in candidate files an affidavit of withdrawal, votes for that candidate shall not be counted and canvassed."

**SECTION 4.** Section 3-8-29 NMSA 1978 (being Laws 1985, Chapter 208, Section 37, as amended) is amended to read:

"3-8-29. REGULAR MUNICIPAL ELECTION--BALLOTS.--

A. At 5:01 p.m. on the [~~fifty-fourth~~] fifty-seventh day preceding the election, in the presence of the certified candidates or their authorized representatives who desire to be present, the municipal clerk shall administer an impartial and fair drawing by lot to determine the order in which the candidates for each office

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shall be listed on the ballot. If a candidate or an authorized representative fails to appear, then the municipal clerk shall draw a lot for the absent candidate.

B. The ballot shall first set forth candidates running for executive office (mayor), if any; then candidates running for legislative office (councilors, trustees, commissioners), if any; and finally candidates running for judicial office (municipal judge), if any. For each office to be filled, the ballot shall contain:

(1) the office to be filled and its term;

(2) the names of the candidates running for office exactly as shown on the candidate's declaration of candidacy and in the order determined by the drawing by lot;

(3) a space for a qualified elector to write in the name of one declared write-in candidate, if any, per position to be filled; and

(4) any necessary reference to districts, positions or other similar official designations for office.

C. The only reference to a candidate for office to be placed on a ballot is the candidate's name as it appears on the candidate's declaration of candidacy. No ticket designations or party affiliations shall be shown on the ballot. Municipal elections shall be nonpartisan.

D. If it appears to the municipal clerk that the name of two or more candidates for any office are the same or so similar as to tend to confuse the voter as to the candidates' identities, the occupation and address of each such candidate shall be printed immediately under the candidate's name on the ballot.

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E. The municipal clerk shall place on the ballot any question in the order designated by the governing body."".

4. Renumber the succeeding sections accordingly.,  
and thence referred to the **JUDICIARY COMMITTEE.**

Respectfully submitted,

\_\_\_\_\_  
Linda M. Lopez, Chairman

Adopted \_\_\_\_\_ Not Adopted \_\_\_\_\_  
(Chief Clerk) (Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 7 For 1 Against  
Yes: 7  
No: Pirtle  
Excused: Ingle, Moores  
Absent: None

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