

FIFTY-THIRD LEGISLATURE  
FIRST SESSION

February 22, 2017

HOUSE FLOOR AMENDMENT number   1   to HOUSE LOCAL GOVERNMENT,  
ELECTIONS, LAND GRANTS AND  
CULTURAL AFFAIRS COMMITTEE  
SUBSTITUTE FOR HOUSE BILL  
174

Amendment sponsored by Representative Paul C. Bandy

1. On page 1, line 18, strike "; ELIMINATING WRITE-IN CANDIDATES IN LOCAL ELECTIONS".

2. On page 23, line 5, after "1978", insert "and a watershed district governed pursuant to the Watershed District Act".

3. On page 25, line 10, after "filed", insert "and the date on which declarations of intent to become a write-in candidate are to be filed".

4. On page 28, between lines 23 and 24, insert a new section to read:

"SECTION 23. A new section of the Local Election Act, Section 1-22-8.1 NMSA 1978, is enacted to read:

"1-22-8.1. [NEW MATERIAL] WRITE-IN CANDIDATES.--

A. Write-in candidates shall be permitted in local elections.

B. A person may be a write-in candidate only if the person has the qualifications to be a candidate for the position for which the person is running.

C. A person desiring to be a write-in candidate for an

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office shall file with the proper filing officer a declaration of intent to be a write-in candidate. The declaration shall be filed between 9:00 a.m. and 5:00 p.m. on the sixty-third day preceding the date of the election.

D. A write-in vote shall be counted and canvassed only if:

(1) the name written in is the name of a declared write-in candidate and shows two initials and last name; first name, middle initial or name and last name; first and last name; or the full name as it appears on the declaration of intent to be a write-in candidate and if misspellings of those combinations can be reasonably determined by a majority of the members of the precinct board to identify a declared write-in candidate; and

(2) the name is written on the proper line provided on the ballot for write-in votes for the office and position for which the candidate has declared intent and the voter has followed the directions for voting for the write-in candidate.

E. At the time of filing the declaration of intent to be a write-in candidate, the write-in candidate shall be considered a candidate for all purposes and provisions relating to candidates in the Local Election Act except that the write-in candidate's name shall not be printed on the ballot.

F. A write-in vote shall be cast by writing in the name. As used in this section, "write-in" does not include the imprinting of any name by rubber stamp or similar device or the use of a preprinted sticker or label.

G. No unopposed write-in candidate shall have an election certified unless the candidate receives at least the number of write-in votes equal to twenty percent of the total number of ballots on which the office appears on the ballot that are cast in the local election, or two hundred."".

5. On page 30, line 24, strike the closing quotation mark and

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between lines 24 and 25, insert a new subsection to read:

"F. Space shall be provided on each ballot for a voter to write in the name of one candidate for each position to be filled when a declaration of intent to be a write-in candidate has been filed.""

6. On page 263, between lines 5 and 6, insert the following sections to read:

"SECTION 155. Section 73-20-1 NMSA 1978 (being Laws 1957, Chapter 210, Section 1) is amended to read:

"73-20-1. SHORT TITLE.--~~[This act]~~ Sections 73-20-1 through 73-20-24 NMSA 1978 may be cited as the "Watershed District Act"."

SECTION 156. Section 73-20-9 NMSA 1978 (being Laws 1957, Chapter 210, Section 9, as amended) is amended to read:

"73-20-9. REFERENDUM.--After the board of supervisors has made and recorded a determination that there is need, in the interest of the public health, safety and welfare, for creation of the proposed watershed district, it shall consider the question whether the operation of a district within the proposed boundaries with the powers conferred upon such districts in Section ~~[45-5-31 NMSA 1953]~~ 73-20-13 NMSA 1978 is administratively practicable and feasible. To assist the board of supervisors in this determination, the board shall, within a reasonable time after entry of the finding that there is need for the organization of the district and the determination of the boundaries of the district, hold a referendum within the proposed district upon the proposition of the creation of the district. Due notice of the referendum shall be given as provided in ~~[Section 45-5-26 NMSA 1953]~~ the Local Election Act, except that notice sent to absentee landowners shall also inform them of their right to request a ballot. ~~[Such notice shall state the date of holding the referendum, the hours of opening and closing the polls and shall designate one or more places within the proposed~~

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~~district as polling places. The board shall appoint a polling superintendent and other necessary polling officers giving equal representation to the proponents and opponents of the question involved.]~~ Ballots shall be sent to all absentee landowners upon request and they may vote by return ballot by first class mail."

SECTION 157. Section 73-20-10 NMSA 1978 (being Laws 1957, Chapter 210, Section 10, as amended) is amended to read:

"73-20-10. [BALLOTS] QUALIFIED ELECTOR LIST.--[The question to be voted on shall be submitted by ballots that define the boundaries of the proposed district as determined by the board of supervisors.] Only owners of lands lying within the boundaries of the territory, as determined by the board, shall be eligible to vote in the referendum or in elections following formation of the district. The board shall compile and deliver to the appropriate county clerks a list of qualified electors one hundred eighty days prior to a district election and update the list every thirty days until ninety days before an election, which list the county clerk shall use for the election."

SECTION 158. Section 73-20-11 NMSA 1978 (being Laws 1957, Chapter 210, Section 11, as amended) is amended to read:

"73-20-11. VOTES--RESULTS.--The votes shall be counted [by the election officers at the close of the polls and report of the results along with the ballots delivered to the polling superintendent, who shall certify the results to the board of supervisors] in accordance with the provisions of the Local Election Act. If a majority of the votes cast ~~[favor]~~ favours creation of the district, the county canvassing board [of supervisors] shall certify the results to the county clerk in the county involved. Upon proper recording of the action, the watershed district shall be duly created. After recording, the certification shall be filed with the New Mexico department of agriculture."

SECTION 159. Section 73-20-12 NMSA 1978 (being Laws 1957,

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Chapter 210, Section 12, as amended) is amended to read:

"73-20-12. DIRECTORS--ELECTION.--

A. [~~Within thirty days~~] At the next regular local election held pursuant to the Local Election Act after a watershed district is created, the board of supervisors of the soil and water conservation district involved shall cause an election to be held for the election of a board of directors of the watershed district. The board shall consist of five members. The first board shall determine by lot from among its membership two members to serve terms of two years, two members to serve terms of three years and one member to serve a term of four years. Thereafter, as these initial terms expire, their replacements shall be elected for terms of four years. Vacancies occurring before the expiration of a term shall be filled by the remaining members of the board for the unexpired term. Two or more vacancies occurring simultaneously shall be filled by appointment by the board of supervisors. The board of directors shall, under the supervision of the board of supervisors, be the governing body of the watershed district.

B. If the territory embraced within a watershed district lies within more than one soil and water conservation district, each additional soil and water conservation district having a minority of the land involved in the watershed shall be entitled to elect three additional directors. These additional directors after their election shall determine by lot one of their number to serve a term of two years, one a term of three years and one a term of four years. Thereafter, their successors shall be elected for terms of four years. The representatives of each of these minority districts shall fill vacancies in the district's membership for the unexpired term.

C. The board of directors shall annually elect from its membership a [~~chairman~~] chair, secretary and treasurer. The treasurer shall execute an official bond for the faithful performance of the duties of [~~his~~] office to be approved by the

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board of directors. The bond shall be executed with at least three solvent personal sureties whose solvency shall exceed the amount of the bond, or by a surety company authorized to do business in this state, and shall be in an amount determined by the board of directors. If the treasurer is required to execute a surety company bond, the premium of the bond shall be paid by the board of directors.

D. The board of directors shall prepare and submit to the department of finance and administration such reports as it may require from among those required to be submitted by other political subdivisions.

E. Each person desiring to be a director of a watershed district shall file a nominating petition with the [~~board of supervisors~~] proper filing officer in accordance with the provisions of the Local Election Act, signed by ten or more landowners within the watershed districts of the county involved, or, if less than fifty landowners are involved, a majority of such landowners. If the candidates nominated do not exceed the positions available, they shall be declared elected. [~~No~~] A person shall not be eligible to be a director of a watershed district [who] if the person is not a landowner in the district in which [he] the person seeks election."

**SECTION 160.** Section 73-20-14 NMSA 1978 (being Laws 1957, Chapter 210, Section 14, as amended) is amended to read:

"73-20-14. BONDS.--

A. Bonds authorized by Section 73-20-13 NMSA 1978 shall not be issued until proposed by order or resolution of the board of directors, specifying the purpose for which the funds are to be used, and the proposed undertaking, the amount of bonds to be issued, the rate of interest they are to bear and the amount of any necessary assessment levy in excess of the maximum authorized in Section 73-20-17 NMSA 1978 to establish a sinking fund for the liquidation of bonds as provided in Section 73-20-17 NMSA 1978. A

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copy of the order or resolution shall be certified to the board of supervisors.

B. The board of supervisors shall conduct a hearing on the proposal after notice given pursuant to Section 73-20-8 NMSA 1978. If it appears that the proposal is within the scope and purpose of the Watershed District Act and meets all other requirements of the law, the proposal shall be submitted to the landowners of the district [~~by referendum under supervision of the board of supervisors~~] at an election held pursuant to the Local Election Act.

~~[G. Provisions of Sections 73-20-8 through 73-20-11 NMSA 1978 as to notice, qualifications of voters and manner of holding referendum election in organizing a watershed district shall apply to the referendum held under this section.~~

~~D.]~~ C. If two-thirds of the landowners voting favor the proposal, the bonds may be issued."

SECTION 161. Section 73-20-21 NMSA 1978 (being Laws 1957, Chapter 210, Section 20, as amended) is amended to read:

"73-20-21. ADDITION OF LAND.--

A. Any one or more owners of land may petition the board of supervisors to have their lands added to a watershed district. The petition shall define the boundaries of the land desired to be annexed, the number of acres of land involved and other information pertinent to the proposal. When the boundary described embraces lands of others than the petitioners, the petition shall so state and shall be signed by twenty-five or more of the landowners in the territory described, if fifty or more such owners are involved, or by a majority if less than fifty landowners are involved.

B. Within thirty days after the petition is filed, the board shall cause due notice to be given as provided in Section 73-20-8 NMSA 1978 of a hearing on the petition. All interested

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parties shall have a right to attend the hearing and be heard. The board shall determine whether the lands described in the petition or any portion of them shall be included in the district. If all the landowners in the territory involved are not petitioners, a referendum shall be held within the territory [~~as provided in Sections 73-20-8 through 73-20-11 NMSA 1978~~] in accordance with the Local Election Act before making a final determination. If it is determined that the land should be added, this fact shall be certified by the board of supervisors to the county clerk in the county involved. After recording, the certification shall be filed with the New Mexico department of agriculture."

**SECTION 162.** Section 73-20-23 NMSA 1978 (being Laws 1957, Chapter 210, Section 22, as amended by Laws 2013, Chapter 17, Section 2 and by Laws 2013, Chapter 169, Section 2) is amended to read:

"73-20-23. DISCONTINUANCE OF DISTRICTS.--

A. At any time after five years from the organization of a watershed district, a majority of the landowners in the district may file a petition with the board of supervisors and the board of directors requesting that the existence of the district be discontinued if all obligations of the district have been met. The petition shall state the reasons for discontinuance and demonstrate that all obligations of the district have been met.

B. After giving notice as defined in Section 73-20-8 NMSA 1978, the board of supervisors may conduct hearings on the petition as may be necessary to assist it in making a determination.

C. Within sixty days after petition is filed, a referendum shall be held [~~under the supervision of the board of supervisors as provided in Section 73-20-14 NMSA 1978. No informalities in the conduct of the referendum or in any matters relating to the referendum shall invalidate it or its result if notice of the referendum has been given substantially as provided in Subsection B~~]



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~~of this section]~~ pursuant to the provisions of the Local Election Act.

D. If a majority of the votes cast in the referendum [~~favor~~] favours the discontinuance of the district and it is found that all obligations have been met, the board of supervisors shall make a determination that the watershed district shall be discontinued. A copy of the determination shall be certified by the clerk of the county involved for recording. After recording, the certification shall be filed with the New Mexico department of agriculture."".

7. On page 275, line 2, after "district", insert "or watershed district".

8. On page 275, line 3, strike "160" and insert in lieu thereof "169".

9. On page 275, lines 5, 13 and 21, after "district", insert "or watershed district".

10. On page 278, line 9, after "1 through", strike the line up to "of" and insert in lieu thereof "134, 163 through 168, 170 and 171".

11. On page 278, line 11, strike "134 through 152" and insert in lieu thereof "135 through 162".

12. On page 278, line 12, strike "160 and 163" and insert in lieu thereof "169 and 172".

13. Renumber sections to correspond with these amendments.

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Paul C. Bandy

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

Date \_\_\_\_\_