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SENATE BILL 416

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Mark Moores and Bill Tallman and Kelly K. Fajardo

AN ACT

RELATING TO ELECTIONS; ENACTING THE REDISTRICTING ACT.

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

SECTION 1. [NEW MATERIAL] SHORT TITLE.--This act may be cited as the "Redistricting Act".

SECTION 2. [NEW MATERIAL] DEFINITIONS.--As used in the Redistricting Act:

A. "commission" means the temporary redistricting advisory commission established in the Redistricting Act;

B. "federal census" means the decennial census required by federal law to be conducted by the United States census bureau in every year ending in zero;

C. "four selecting authorities" means:

(1) the majority floor leader of the senate;

(2) the minority floor leader of the senate;

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1 (3) the majority floor leader of the house of
2 representatives; and

3 (4) the minority floor leader of the house of
4 representatives;

5 D. "partisan public office" means:

6 (1) an elective or appointive office in the
7 executive or legislative branch or in an independent
8 establishment of the federal government;

9 (2) an elective office in the executive or
10 legislative branch of the government of New Mexico;

11 (3) an office that is filled by appointment
12 and is exempt from the merit system under Section 3-13-4 NMSA
13 1978; and

14 (4) an office of a county, city or other
15 political subdivision of the state that is filled by an
16 election process involving nomination and election of
17 candidates on a partisan basis;

18 E. "plan" means a plan for legislative,
19 congressional, public regulation commission and public
20 education commission redistricting drawn up pursuant to the
21 requirements of the Redistricting Act;

22 F. "political party office" means an elective
23 office in the national or state organization of a political
24 party that is qualified under Section 1-7-2 NMSA 1978; and

25 G. "relative" means an individual who is related to

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1 a commission appointee as father, mother, son, daughter,
2 brother, sister, uncle, aunt, first cousin, nephew, niece,
3 husband, wife, grandfather, grandmother, grandson,
4 granddaughter, father-in-law, mother-in-law, son-in-law,
5 daughter-in-law, brother-in-law, sister-in-law, stepfather,
6 stepmother, stepson, stepdaughter, stepbrother, stepsister,
7 half brother or half sister.

8 SECTION 3. [NEW MATERIAL] PREPARATIONS FOR
9 REDISTRICTING.--

10 A. The legislative council service shall acquire
11 appropriate information, review and evaluate available
12 facilities and develop programs and procedures in preparation
13 for drawing congressional, legislative, public regulation
14 commission and public education commission redistricting plans
15 on the basis of each federal census. Funds shall be expended
16 for the purchase or lease of equipment and materials only with
17 prior approval of the New Mexico legislative council.

18 B. By December 31 of each year ending in zero, the
19 legislative council service shall obtain from the United States
20 census bureau the data needed for redistricting that the United
21 States census bureau is required to provide to the state under
22 United States Pub. L. No. 94-171. The legislative council
23 service shall use the data so obtained to prepare:

- 24 (1) necessary descriptions of geographic and
25 political units for which census data will be reported and that

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1 are suitable for use as components of election districts; and
2 (2) maps of counties, cities and other
3 geographic units within the state that may be used to
4 illustrate the locations of district boundaries proposed in
5 plans drawn in accordance with the Precinct Boundary Adjustment
6 Act and the Redistricting Act.

7 C. Upon receiving the data needed for redistricting
8 that the United States census bureau is required to provide to
9 the state under United States Pub. L. No. 94-171, the
10 legislative council service shall begin the preparation of
11 congressional, legislative, public regulation commission and
12 public education commission redistricting plans as required by
13 the Redistricting Act.

14 D. Upon introduction of a bill embodying a plan,
15 the legislative council service shall at the earliest feasible
16 time make available to the public:

- 17 (1) copies of the bill;
18 (2) maps illustrating the plan;
19 (3) a summary of the standards prescribed by
20 the Redistricting Act for development of the plan; and
21 (4) a statement of the population of each
22 district included in the plan and the relative deviation of
23 each district population from the ideal district population.

24 SECTION 4. [NEW MATERIAL] TIMETABLE FOR PREPARATION OF
25 PLAN.--

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1 A. Unless as provided in Subsection B of this
2 section, upon introduction in the senate and the house of
3 representatives of bills embodying a plan prepared in
4 accordance with the Redistricting Act, the senate or house of
5 representatives shall bring the bill to a vote expeditiously
6 but not less than three days after the report of the commission
7 required by the Redistricting Act is received and made
8 available to the members of the legislature, the vote being
9 taken under a rule permitting no amendments except those of a
10 purely technical nature. If the bill is approved by the first
11 chamber in which it is considered, the bill shall expeditiously
12 be brought to a vote in the second chamber under a similar rule
13 permitting no amendments except those of a purely technical
14 nature. If the bill fails to be approved by a majority in
15 either the senate or the house of representatives, the chief
16 clerk of the chamber shall, no later than seven days after the
17 date the bill failed to be approved, transmit to the
18 legislative council service a resolution specifying reasons why
19 the plan was not approved.

20 B. If the population data for redistricting that
21 the United States census bureau is required to provide to the
22 state under Pub. L. No. 94-171 and, if used by the legislative
23 council service, the corresponding topologically integrated
24 geographic encoding and referencing data file for that
25 population data are not available to the legislative council

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1 service on or before February 15 of the year ending in one, the
2 time period available to the legislative council service to
3 produce a plan shall be extended by a number of days equal to
4 the number of days after February 15 of the year ending in one
5 that the federal census population data and the topologically
6 integrated geographic encoding and referencing data file for
7 redistricting become available.

8 C. If a bill embodying the plan submitted by the
9 legislative council service under Subsection A of this section
10 fails to be enacted, the legislative council service shall
11 prepare a bill embodying a second plan. The bill shall be
12 prepared in accordance with the Redistricting Act and, insofar
13 as it is possible to do so within the requirements of that act,
14 with the reasons cited by the senate or house of
15 representatives by resolution, or the governor by veto message,
16 for the failure to approve the plan. If a second plan is
17 required under this subsection, the bill embodying it shall be
18 delivered to the chief clerk of the senate and the chief clerk
19 of the house of representatives not later than thirty-five days
20 after the date of the vote by which the senate or the house of
21 representatives failed to approve the bill submitted under
22 Subsection A of this section or the date the governor vetoed or
23 failed to approve the bill. If it is necessary to submit a
24 bill under this subsection, the bill shall be brought to a vote
25 not less than seven days after the bill is introduced and made

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1 available to the members of the legislature under a rule
2 permitting no amendments except those of a purely technical
3 nature. If the bill is approved by the first chamber in which
4 it is considered, it shall expeditiously be brought to a vote
5 in the second chamber under a similar rule permitting no
6 amendments except those of a purely technical nature. If the
7 bill embodying the plan submitted by the legislative council
8 service under this subsection fails to be approved by a
9 majority in either the senate or the house of representatives,
10 the chief clerk of the senate or the chief clerk of the chamber
11 shall, no later than seven days after the date the bill failed
12 to be approved, transmit to the legislative council service a
13 resolution specifying reasons why the plan was not approved.

14 D. If the bill embodying the plan submitted by the
15 legislative council service under Subsection B of this section
16 fails to be enacted, the same procedure as prescribed by that
17 subsection shall be followed. If a third plan is required
18 under this subsection, the bill embodying it shall be
19 introduced in the senate or the house of representatives no
20 later than thirty-five days after the date of the vote by which
21 the senate or the house of representatives failed to approve
22 the bill submitted under Subsection B of this section or the
23 date the governor vetoed or failed to approve the bill. The
24 legislative council service shall provide a bill to the chief
25 clerk of the senate and the chief clerk of the house of

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1 representatives pursuant to this subsection sufficiently in
2 advance of September 1 of the year ending in one to permit the
3 legislature to consider the plan prior to that date. If it is
4 necessary to submit a bill under this subsection, the bill
5 shall be brought to a vote within the same time period after
6 its delivery to the chief clerk of the senate and the chief
7 clerk of the house of representatives as is prescribed for the
8 bill submitted under Subsection B of this section, but it shall
9 be subject to amendment in the same manner as other bills.

10 SECTION 5. [NEW MATERIAL] REDISTRICTING STANDARDS.--

11 A. Legislative, congressional, public regulation
12 commission and public education commission districts shall be
13 established on the basis of population.

14 B. Senate and house of representatives districts,
15 respectively, shall each have a population as nearly equal as
16 practicable to the ideal population for such districts,
17 determined by dividing the number of districts to be
18 established into the population of the state reported in the
19 federal census. Senate districts and house of representatives
20 districts shall not vary in population from the respective
21 ideal district populations, except as necessary to comply with
22 one of the other standards enumerated in this section. In no
23 case shall the quotient, obtained by dividing the total of the
24 absolute values of the deviations of all district populations
25 from the applicable ideal district population by the number of

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1 districts established, exceed one percent of the applicable
2 ideal district population. No senate district shall have a
3 population that exceeds that of any other senate district by
4 more than five percent, and no house of representatives
5 district shall have a population that exceeds that of any other
6 house of representatives district by more than five percent.

7 C. Congressional districts shall each have a
8 population as nearly equal as practicable to the ideal district
9 population, derived as prescribed in Subsection B of this
10 section. No congressional district shall have a population
11 that varies by more than one percent from the applicable ideal
12 district population.

13 D. If a challenge is filed with the New Mexico
14 supreme court alleging excessive population variance among
15 districts established in a plan adopted by the legislature, the
16 legislature has the burden of justifying any variance in excess
17 of one percent between the population of a district and the
18 applicable ideal district population.

19 E. To the extent consistent with this section,
20 district boundaries shall coincide with the boundaries of
21 political subdivisions of the state. The number of counties
22 and cities divided among more than one district shall be as low
23 as possible. When there is a choice between dividing local
24 political subdivisions, the more populous subdivisions shall be
25 divided before the less populous subdivisions, but this does

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1 not apply to a legislative district boundary drawn along a
2 county line that passes through a city that lies in more than
3 one county.

4 F. Districts shall be composed of convenient
5 contiguous territory. Areas that meet only at the points of
6 adjoining corners are not contiguous.

7 G. Districts shall be reasonably compact in form to
8 the extent consistent with the standards established by
9 Subsections B through F of this section. In general,
10 reasonably compact districts are those that are square,
11 rectangular or hexagonal in shape, and not irregularly shaped,
12 to the extent permitted by natural or political boundaries. If
13 it is necessary to compare the relative compactness of two or
14 more districts or of two or more alternative redistricting
15 plans, the tests prescribed shall be:

16 (1) length-width compactness. The compactness
17 of a district is greatest when the length of the district and
18 the width of the district are equal. The measure of a
19 district's compactness is the absolute value of the difference
20 between the length and the width of the district. In general,
21 the length-width compactness of a district is calculated by
22 measuring the distance from the northernmost point or portion
23 of the boundary of a district to the southernmost point or
24 portion of the boundary of the same district and the distance
25 from the westernmost point or portion of the boundary of the

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1 district to the easternmost point or portion of the boundary of
2 the same district. The absolute values computed for individual
3 districts under this paragraph may be cumulated for all
4 districts in a plan to compare the overall compactness of two
5 or more alternative redistricting plans for the state or for a
6 portion of the state; or

7 (2) perimeter compactness. The compactness of
8 a district is greatest when the distance needed to traverse the
9 perimeter boundary of a district is as short as possible. The
10 total perimeter distance computed for individual districts
11 under this paragraph may be cumulated for all districts in a
12 plan to compare the overall compactness of two or more
13 alternative redistricting plans for the state or for a portion
14 of the state.

15 H. No district shall be drawn for the purpose of
16 favoring a political party, incumbent legislator, member of
17 congress, public regulation commissioner, public education
18 commissioner or other person or group or for the purpose of
19 augmenting or diluting the voting strength of a language or
20 racial minority group. In establishing districts, no use shall
21 be made of:

22 (1) addresses of incumbent legislators,
23 members of congress, public regulation commissioners or public
24 education commissioners;

25 (2) political affiliations of qualified

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1 electors;

2 (3) previous election results; or

3 (4) demographic information, other than
4 population head counts, except as required by the constitution
5 and the laws of the United States.

6 I. Each redistricting plan shall comport with the
7 following:

8 (1) congressional districts shall be as equal
9 in population as practicable;

10 (2) state districts shall be substantially
11 equal in population. No plan for state office shall be
12 considered that includes any district with a total population
13 that deviates more than plus or minus five percent from the
14 ideal;

15 (3) redistricting plans to be considered by
16 the legislature shall not be composed of districts that split
17 precincts;

18 (4) redistricting plans shall comply with the
19 provisions of the federal Voting Rights Act of 1965, as
20 amended, and federal constitutional standards. Plans that
21 dilute a protected minority's voting strength are unacceptable.
22 Race may be considered in developing redistricting plans but
23 shall not be the predominant consideration. Traditional race-
24 neutral redistricting principles shall not be subordinated to
25 racial considerations;

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1 (5) all redistricting plans shall use only
2 single-member districts; and

3 (6) districts shall be drawn consistent with
4 traditional districting principles. Districts shall be
5 composed of contiguous precincts and shall be reasonably
6 compact. To the extent feasible, districts shall be drawn in
7 an attempt to preserve communities of interest and shall take
8 into consideration political and geographic boundaries.

9 J. When a congressional district is composed of two
10 or more counties, it shall not be entirely separated by a
11 county belonging to another district.

12 SECTION 6. [NEW MATERIAL] TEMPORARY REDISTRICTING
13 ADVISORY COMMISSION.--

14 A. Not later than February 15 of each year ending
15 in one, a five-member "temporary redistricting advisory
16 commission" shall be established as provided by this section.
17 The commission's only functions shall be those prescribed by
18 Section 7 of the Redistricting Act.

19 B. Each of the four selecting authorities shall
20 certify to the secretary of state the authority's appointment
21 of a person to serve on the commission. The certifications may
22 be made at any time after the majority and minority floor
23 leaders have been selected for the legislature that is in
24 session in the year ending in one, even though that
25 legislature's session has not actually begun.

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1 C. Within thirty days after the four selecting
2 authorities have certified their respective appointments to the
3 commission, but in no event later than February 15 of the year
4 ending in one, the four commission members so appointed shall
5 select, by a vote of at least three members, and certify to the
6 secretary of state the fifth commission member, who shall serve
7 as chair.

8 D. A vacancy on the commission shall be filled by
9 the initial selecting authority within fifteen days after the
10 vacancy occurs.

11 E. Members of the commission shall receive per diem
12 as specified in the Per Diem and Mileage Act and reimbursement
13 for other necessary expenses incurred in performing their
14 duties under the Redistricting Act.

15 F. No person shall be appointed to the commission
16 who:

17 (1) is not a qualified elector of the state at
18 the time of selection;

19 (2) holds partisan public office or political
20 party office; or

21 (3) is a relative of or is employed by a
22 member of the legislature, congress, the public regulation
23 commission or the public education commission or is employed
24 directly by the legislature or congress.

25 SECTION 7. [NEW MATERIAL] DUTIES OF COMMISSION.--The

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1 functions of the commission shall be as follows:

2 A. if, in preparation of plans as required by the
3 Redistricting Act, the legislative council service is
4 confronted with the necessity to make any decision for which no
5 clearly applicable guideline is provided by that act, the
6 legislative council service may submit a written request to the
7 commission for direction;

8 B. prior to delivering any plan and a bill
9 embodying that plan to the chief clerk of the senate and the
10 chief clerk of the house of representatives in accordance with
11 the Redistricting Act, the legislative council service shall
12 provide to persons outside the legislative council service only
13 such information regarding the plan as may be required by
14 policies agreed upon by the commission. This subsection does
15 not apply to population data furnished to the legislative
16 council service by the United States census bureau; and

17 C. upon the introduction of a bill embodying an
18 initial plan as required by the Redistricting Act, the
19 commission shall, as expeditiously as reasonably possible,
20 schedule and conduct at least three public hearings, in
21 different geographic regions of the state, on the plan embodied
22 in the bill.

23 **SECTION 8. EFFECTIVE DATE.**--The effective date of the
24 provisions of this act is July 1, 2019.