

SENATE BILL 304

55TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2021

INTRODUCED BY

Brenda McKenna

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO ELECTIONS; DIRECTING THE SECRETARY OF STATE TO COLLECT AND MAKE PUBLICLY AVAILABLE THE GEOGRAPHIC INFORMATION SYSTEM DATA FOR EACH VOTING DISTRICT IN THE STATE Hf11→ENACTING THE REDISTRICTING ACT; CREATING THE CITIZEN REDISTRICTING COMMITTEE; DIRECTING THE COMMITTEE TO DEVELOP DISTRICT PLANS FOR APPROVAL BY THE LEGISLATURE AND GOVERNOR; PROVIDING DUTIES; ESTABLISHING REQUIREMENTS FOR CREATING DISTRICT PLANS AND PUBLIC PARTICIPATION IN THE PROCESS; AMENDING THE PRECINCT

.219413.1AIC March 20, 2021 (8:49am)

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BOUNDARY ADJUSTMENT ACT ←Hf11 .

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

SECTION 1. A new section of Chapter 1, Article SRC→2←SRC SRC→3←SRC NMSA 1978 is enacted to read:

"[NEW MATERIAL] SECRETARY OF STATE--GEOGRAPHIC INFORMATION SYSTEM DATA.--

A. Hf11→SRC→No later than January 1, 2022, the←SRC SRC→The←SRC←Hf11 Hf11→ Hf11→No later than←Hf11 Hf11→Beginning←Hf11 January 1, 2022, the←Hf11 secretary of state shall collect and make publicly available on the secretary of state's website the geographic information system data for each voting district SRC→that is elected pursuant to the Election Code←SRC SRC→in the state←SRC .

B. The geographic information system data shall be accessible free of charge and provided in shapefile format or any comparable SRC→open source or convertible←SRC geographic information system file format.

C. In the event of a change in voting district boundaries or precinct boundary adjustments, the secretary of state shall promptly update the geographic information system data accordingly.

D. For the purposes of this section, "voting district" means a political subdivision or boundary located in a geographical area that is represented by SRC→an←SRC elected

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office."

Hf11→SRC→SECTION 2. ~~APPLICABILITY.~~--The provisions of
this act are applicable starting January 1, 2022.←SRC←Hf11

Hf11→SECTION 2. [NEW MATERIAL] SHORT TITLE.--Sections 2
through 10 of this act may be cited as the "Redistricting Act".

SECTION 3. [NEW MATERIAL] DEFINITIONS.--As used in the
Redistricting Act:

A. "committee" means the citizen redistricting
committee;

B. "community of interest" means a contiguous
population that shares common economic, social or cultural
interests;

C. "district plan" means an entire plan of
single-member districts for electing members to the United
States house of representatives, the state house of
representatives, the state senate or other state offices
requiring redistricting;

D. "lobbyist" means a person who is required to
register as a lobbyist pursuant to the provisions of the
Lobbyist Regulation Act;

E. "political party" means a political party that
has been qualified in accordance with the provisions of the
Election Code; and

F. "public official" means a person elected to an
office of the executive or legislative branch of the state.

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SECTION 4. [NEW MATERIAL] CITIZEN REDISTRICTING COMMITTEE

~~CREATED--MEMBERSHIP--TERMS.--~~

A. The "citizen redistricting committee" is created.

B. The committee is composed of seven members, appointed, with due regard to the cultural and geographic diversity of the state, as follows:

(1) one member appointed by the speaker of the house of representatives;

(2) one member appointed by the minority floor leader of the house of representatives;

(3) one member appointed by the president pro tempore of the senate;

(4) one member appointed by the minority floor leader of the senate;

(5) two members appointed by the state ethics commission, who shall not be members of the largest or second largest political parties in the state; and

(6) one member appointed by the state ethics commission, who shall be a retired justice of the New Mexico supreme court or a retired judge of the New Mexico court of appeals, and who shall chair the committee.

C. No more than three members of the committee shall be members of the same political party. A member of the committee shall not have changed party registration in the two

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years preceding the member's appointment in such a manner that the member's prior party registration would cause one political party to have more than three members. A member of the committee shall not continue to serve on the committee if the member changes party registration after the date of appointment in such a manner as to cause one political party to have more than three members.

D. Members shall be appointed not later than July 1, 2021, and August 1 of each year ending in the number zero thereafter, and shall serve until a district plan for each of New Mexico's congressional districts, the state house of representatives, the state senate and other state offices requiring redistricting is submitted to the legislature.

E. When any member of the committee dies, resigns or no longer has the qualifications required for the member's original appointment, the member's position on the committee becomes vacant and the chair shall notify the original appointing authority of the vacant position. The vacancy shall be filled by appointment by the original appointing authority no later than fifteen days following notification of the vacancy.

F. The committee shall meet as necessary to carry out its duties pursuant to the Redistricting Act.

G. Members are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act and shall

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receive no other compensation, perquisite or allowance.

SECTION 5. [NEW MATERIAL] MEMBERS--QUALIFICATIONS--
LIMITATIONS.--

A. To qualify for appointment to the committee, a person shall:

(1) be a qualified elector of New Mexico and a voter; and

(2) not be, or in the two years prior to appointment have been, in New Mexico, any of the following:

- (a) a public official;
- (b) a candidate for public office;
- (c) a lobbyist;
- (d) an office holder in a political party at the state or federal level;
- (e) a relative in the first degree of consanguinity of a member of congress, the state house of representatives, the state senate or the public education commission;
- (f) an employee of congress, the legislative branch of government or other state office required to be redistricted by the committee; or
- (g) an employee of the executive branch of government.

B. Before entering upon the duties of the office of member, a member shall review the Redistricting Act and take

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the oath of office as provided by state law.

SECTION 6. [NEW MATERIAL] COMMITTEE--DUTIES.--

A. Beginning July 1, 2021, and every August 1 of each year ending in the number zero thereafter, the committee shall:

(1) no later than October 30, 2021, or as soon thereafter as practicable, and September 1 of each year ending in the number one thereafter, adopt three district plans each for:

(a) New Mexico's congressional districts;

(b) the state house of representatives;

(c) the state senate; and

(d) the other state offices required to be redistricted;

(2) hold no fewer than six public meetings that allow for virtual participation before publishing the district plans for public comment; provided that in-person meetings shall not be required if such meetings would violate a public health order;

(3) hold no fewer than six public meetings that allow for virtual participation for the purpose of adopting district plans; provided that in-person meetings shall not be required if such meetings would violate a public health order;

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(4) conduct all meetings pursuant to the requirements of the Open Meetings Act; and

(5) compile, index, maintain and provide public access to the committee's record for each district plan it adopts.

B. Beginning no later than July 1, 2021, and August 1 of each year ending in the number zero thereafter, the committee may:

(1) develop and adopt procedures for public hearings; and

(2) hire staff and enter into contracts and any interagency agreements, including agreements to provide for professional technical or legal services, as necessary to accomplish the duties set forth in this section.

SECTION 7. [NEW MATERIAL] COMMITTEE MEETINGS BEFORE PROPOSING DISTRICT PLANS.--

A. Before the committee issues proposed district plans for public comment, the committee shall hold no fewer than six public meetings at which the committee shall receive testimony, documents and information regarding the identification of communities of interest and other testimony, documents and information regarding the creation of district plans. The committee shall provide the public with notice not later than thirty days before these meetings and the notice shall include information about how the public may participate

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and submit testimony, documents and information. The committee shall hold meetings in various regions across the state, including in central New Mexico and in each of the four geographic quadrants of the state, with at least one meeting on tribal lands.

B. The committee shall compile, index, maintain and provide public access to all testimony, documents and information received in the meetings conducted before issuing proposed district plans for public comment.

C. The proposed district plans that the committee issues for public comment shall be based, in part, on the testimony, documents and information received.

SECTION 8. [NEW MATERIAL] DISTRICT PLANS--REQUIREMENTS AND PROHIBITIONS.--

A. The committee shall develop district plans in accordance with the following provisions:

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

(2) state districts shall be substantially equal in population; no plans for state office will be considered that have a total deviation of more than ten percent;

(3) the committee shall use the most recent federal decennial census data generated by the United States census bureau and may use other reliable sources of demographic

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data as determined by majority vote of the committee;

(4) proposed redistricting plans to be considered by the legislature shall not be composed of districts that split precincts;

(5) plans must comport with the provisions of the federal Voting Rights Act of 1965, as amended, and federal constitutional standards; plans that dilute a protected minority's voting strength are unacceptable; race may be considered in developing redistricting plans but shall not be the predominant consideration; traditional race-neutral districting principles shall not be subordinated to racial considerations;

(6) all redistricting plans shall use only single-member districts;

(7) districts shall be drawn consistent with traditional districting principles;

(8) districts shall be composed of contiguous precincts and shall be reasonably compact;

(9) to the extent feasible, districts shall be drawn in an attempt to preserve communities of interest and shall take into consideration political and geographic boundaries, including the boundaries of Indian nations, tribes and pueblos; and

(10) in addition, and to the extent feasible, the committee may seek to preserve the core of existing

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districts.

B. The committee may incorporate suggested changes to its proposed district plans in accordance with public comments and testimony it receives, but shall not subordinate the requirements of Paragraphs (1) through (9) of Subsection A of this section in doing so.

C. When proposing or adopting district plans, the committee shall not:

(1) use, rely upon or reference partisan data, such as voting history or party registration data; provided that voting history in elections may be considered to ensure that the district plan complies with applicable federal law; or

(2) consider the voting address of candidates or incumbents, except to avoid the pairing of incumbents unless necessary to conform to other traditional districting principles.

SECTION 9. [NEW MATERIAL] COMMITTEE ADOPTION OF DISTRICT PLANS.--The committee shall adopt at a minimum three district plans for each of New Mexico's congressional districts, the state house of representatives, the state senate and other state offices required to be redistricted at an open meeting. After the committee adopts the district plans, the committee shall provide written evaluations of each district plan that address the satisfaction of the requirements set forth in the Redistricting Act, the ability of racial and language

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minorities to elect candidates of their choice, a measure of partisan fairness and the preservation of communities of interest.

SECTION 10. [NEW MATERIAL] LEGISLATIVE SELECTION OF DISTRICT PLANS.--

A. The committee shall deliver its adopted district plans and accompanying written evaluations and all accompanying concise explanatory statements to the legislature by October 30, 2021, or as soon thereafter as practicable, and September 1 of each year ending in the number one thereafter.

B. The legislature shall receive the adopted district plans for consideration in the same manner as for legislation recommended by interim legislative committees.

SECTION 11. Section 1-3-12 NMSA 1978 (being Laws 1984 (1st S.S.), Chapter 3, Section 4, as amended) is amended to read:

"1-3-12. ADJUSTING PRECINCT BOUNDARIES.--

A. Before each federal decennial census, every precinct shall comply with the requirements of Section 1-3-1 NMSA 1978, and if necessary its boundary shall be adjusted to coincide with a feature or a boundary that is:

(1) shown on the standard base maps developed pursuant to Subsection B of this section;

(2) a designated census block boundary on the proposed federal PL 94-171 [2020] census block maps; or

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(3) approved by the secretary of state and the United States bureau of the census.

B. Prior to commencement of the federal decennial census, the secretary of state shall have prepared and shall furnish to each county clerk standard base maps of the county. The standard base map for urban and nonurban areas of the county shall, as nearly as practical, show:

- (1) all state and federal highways;
- (2) all numbered and named county roads that have been certified to the department of transportation;
- (3) all military installation boundaries and federal and state prison boundaries;
- (4) all major railroad lines;
- (5) federal, state and county political boundaries, municipal boundaries and school district boundaries;
- (6) Indian nation, tribe and pueblo boundaries and subdivisions or chapter house boundaries;
- ~~(7)~~ (7) all streets within urban areas; and
- ~~(7)~~ (8) other major terrain features, such as flowing rivers and streams, arroyos, power lines, pipelines, roads, trails and ridgelines and other acceptable census block boundaries.

C. The board of county commissioners, upon receipt of the standard base maps from the secretary of state and upon

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the recommendation of the county clerk, shall:

(1) adjust all precinct boundaries to coincide with numbered or named street boundaries or suitable visible terrain features shown on the standard base map; provided that the precincts shall be composed of contiguous and compact areas, and state, county, municipal, school district and other special district or political boundary lines shall serve as precinct boundaries whenever possible; and

(2) upon the completion of the precinct boundary adjustments as required in this section, indicate on the standard base maps the boundaries for both urban and nonurban precincts and, together with a written description of the precincts, shall send an electronic copy to the secretary of state for approval.

~~D. The precincts shown upon the standard base maps submitted pursuant to the provisions of this section and as revised and approved by the secretary of state pursuant to the Precinct Boundary Adjustment Act shall become the official precincts of each county for the 2021 redistricting. For the 2022 and subsequent statewide elections, changes in precincts shall be made in accordance with the provisions of Chapter 1, Article 3 NMSA 1978.~~

~~E. In the same calendar year in which the state receives the results of a federal decennial census, the state legislature shall redistrict federal representative districts,~~

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~~each chamber of the legislature, public regulation commission districts, public education commission districts and any other state districts requiring redistricting.~~

~~F. In the calendar year following the receipt of the results of a federal decennial census, each local public body subject to districting shall create or redraw districts for the local public body. A local public body, when creating or redrawing districts, shall not split a precinct into two or more districts for any elected office unless necessary to comply with federal law or to preserve communities of interest.]"~~

SECTION 12. Section 1-3-13 NMSA 1978 (being Laws 1983, Chapter 223, Section 4, as amended) is amended to read:

"1-3-13. [SECRETARY OF STATE POWERS AND DUTIES] ADJUSTING PRECINCT BOUNDARIES--TIME LINES FOR LEGISLATIVE AND LOCAL PUBLIC BODY REDISTRICTING--RELEASE OF NOMINATING PETITIONS.--

A. Prior to commencement of the federal decennial census, the secretary of state shall review all county precinct maps submitted pursuant to Section 1-3-12 NMSA 1978 for compliance with the provisions of the Precinct Boundary Adjustment Act and Section 1-3-1 NMSA 1978. Those county precinct maps determined not to be in compliance with the precinct boundary criteria set forth in Subsection A of Section 1-13-12 NMSA 1978 or Section 1-3-1 NMSA 1978 shall be rejected

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and returned to the appropriate county clerk with a written statement setting forth those instances in which the map does not comply. The county clerk and the board of county commissioners shall make the required adjustments within thirty days after receiving notice of noncompliance.

B. Following receipt of the results of a federal decennial census, the secretary of state shall again follow the procedures outlined in Subsection A of this section to allow the counties to make any necessary adjustments. For any county that does not make the required adjustments within thirty days after receiving notice of noncompliance following receipt of the results of a federal decennial census, the secretary of state shall send a second notice of noncompliance, and no later than ~~[June 30 of the same year]~~ ninety days following receipt of the results of the federal decennial census, if any precinct boundary adjustments are necessary to meet the legal requirements of redistricting, pursuant to Sections 1-3-1 and 1-3-12 NMSA 1978, the secretary of state shall adjust the boundaries of the precincts only to the extent necessary to achieve compliance with the requirements of those sections and notify the county of those boundary adjustments.

C. The precincts shown upon the standard base maps submitted pursuant to the provisions of this section and as revised and approved by the secretary of state pursuant to the Precinct Boundary Adjustment Act shall become the official

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precincts of each county for redistricting.

D. Following completion of the procedures outlined in Subsection B of this section and in the same calendar year in which the state receives the results of a federal decennial census:

(1) the legislature shall redistrict federal congressional districts, each house of the legislature and any other state districts requiring redistricting; and

(2) each local public body subject to districting and whose governing body members are not elected at the regular local election shall create or redraw districts for the local public body.

E. In the calendar year following the receipt of the results of a federal decennial census, each local public body subject to districting and whose governing body members are elected at the regular local election shall create or redraw districts for the local public body.

F. A local public body shall establish districts in which the number of persons in each district, as shown in the most recent federal decennial census, is as nearly equal in population as practical, but within five percent of the mean. A local public body subject to districting shall not split a precinct into two or more districts for any elected office unless necessary to comply with federal law or to preserve communities of interest. Each local public body subject to

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districting shall create or redraw districts pursuant to the time lines of this section.

G. During years in which districts are redrawn pursuant to the provisions of this section, nominating petitions shall not be made available for relevant offices until completion of the procedures specified in Subsection D or E of this section, as applicable.

H. As used in this section:

(1) "local public body subject to districting" means any political subdivision of the state with elected governing body members who:

(a) must reside in designated areas of the political subdivision to qualify for election; or

(b) are elected by a geographically defined subset of voters within the boundaries of the political subdivision; and

(2) "mean" means the total number of persons residing within a political subdivision of the state divided by the number of districts from which governing body members are elected."

SECTION 13. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021.←Hf11