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SENATE BILL 3

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

ANN J. RILEY

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

AN ACT

RELATING TO ELECTIONS; ALLOWING THE USE OF MAIL BALLOTS FOR
SCHOOL ELECTIONS; AMENDING SECTIONS OF THE NMSA 1978.

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

Section 1. Section 1-22-3 NMSA 1978 (being Laws 1985,
Chapter 168, Section 5) is amended to read:

"1-22-3. SCHOOL DISTRICT ELECTIONS--QUALIFICATIONS OF
CANDIDATES. --

A. A school district election shall be held in each
school district to elect qualified persons to membership on a
local school board. No person shall become a candidate for
membership on a board unless his record of voter registration
shows that he is a qualified elector of the state and a resident
of the school district in which he is a candidate.

B. A regular school district election shall be held

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1 in each school district on the first Tuesday in February of each
2 odd-numbered year.

3 C. A school district election held at any time other
4 than the date for the regular school district election shall be
5 a special school district election.

6 D. All regular and special school district elections
7 may be conducted by use of a mail ballot pursuant to the
8 provisions of the Mail Ballot Election Act.

9 [~~D.~~] E. Except as otherwise provided in the School
10 Election Law and the Mail Ballot Election Act, school district
11 elections shall be called, conducted and canvassed as provided
12 in the Election Code. "

13 Section 2. Section 1-22-4 NMSA 1978 (being Laws 1985,
14 Chapter 168, Section 6, as amended) is amended to read:

15 "1-22-4. REGULAR ELECTION--PROCLAMATION--PUBLICATION. --

16 A. The board shall by resolution issue a public
17 proclamation in Spanish and English calling a regular school
18 district election within the school district on the date
19 prescribed by the School Election Law. The proclamation shall
20 be filed by the superintendent with the county clerk of record
21 on the last Friday in November of the even-numbered year
22 immediately preceding the date of the election.

23 B. The proclamation shall specify:

- 24 (1) the date when the election will be held;
25 (2) the positions on the board to be filled;

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1 (3) the date on which declarations of candidacy
2 are to be filed;

3 (4) the date on which declarations of intent to
4 be a write-in candidate are to be filed;

5 (5) the questions to be submitted to the
6 voters;

7 (6) the precincts in each county in which the
8 election is to be held and the location of each polling place or
9 that the election shall be conducted by mail ballot;

10 (7) the hours each polling place will be open;
11 and

12 (8) the date and time of the closing of the
13 registration books by the county clerk of record as required by
14 law.

15 C. After [~~filing~~] the proclamation is filed with the
16 county clerk of record and not less than fifty days before the
17 date of the election, the county clerk of record shall publish
18 the proclamation at least once in a newspaper of general
19 circulation within the school district. The publication of the
20 proclamation shall conform to the requirements of the federal
21 Voting Rights Act of 1965, as amended. "

22 Section 3. Section 1-22-5 NMSA 1978 (being Laws 1985,
23 Chapter 168, Section 7, as amended) is amended to read:

24 "1-22-5. SPECIAL ELECTION--PROCLAMATION--PUBLICATION.--

25 A. Whenever a special school district election is to

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1 be called or is required by law, the board shall by resolution
2 issue a public proclamation in Spanish and English calling the
3 election. The proclamation shall forthwith be filed by the
4 superintendent with the county clerk of record.

5 B. The proclamation shall specify:

6 (1) the date on which the special election will
7 be held;

8 (2) the positions on the board to be filled;

9 (3) the date on which declarations of candidacy
10 are to be filed;

11 (4) the date on which declarations of intent to
12 be a write-in candidate are to be filed;

13 (5) the questions to be submitted to the
14 voters;

15 (6) the precincts in each county in which the
16 election is to be held and the location of each polling place or
17 that the election shall be conducted by mail ballot;

18 (7) the hours each polling place will be open;
19 and

20 (8) the date and time of the closing of the
21 registration books by the county clerk of record as required by
22 law.

23 C. After [~~filin~~] the proclamation is filed with the
24 county clerk of record and not less than fifty days before the
25 date of the election, the county clerk of record shall publish

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1 the proclamation at least twice in a newspaper of general
2 circulation in the school district. The publication of the
3 proclamation shall conform to the requirements of the federal
4 Voting Rights Act of 1965, as amended. "

5 Section 4. Section 1-22-10 NMSA 1978 (being Laws 1985,
6 Chapter 168, Section 12, as amended) is amended to read:

7 "1-22-10. BALLOTS. --

8 A. The proper filing officer shall determine whether
9 a candidate filing a declaration of candidacy is a registered
10 qualified elector of the state residing within the school
11 district. If the candidate is so qualified and no withdrawal of
12 candidacy has been filed as provided in the School Election Law,
13 the proper filing officer shall place the candidate's name on
14 the ballot for the position specified in the declaration of
15 candidacy. A declaration of candidacy shall not be amended
16 after it has been filed with the proper filing officer.

17 B. Mail ballots or voting machine ballots for the
18 school district election shall be prepared by the proper filing
19 officer and printed by the thirtieth day preceding the election.
20 The cost of printing the ballots shall be paid by the school
21 district. The proper filing officer shall furnish printed
22 ballots to the county clerk of each county in which the school
23 district is situate. The printed ballot shall contain the name
24 of each candidate and the position on the board for which he is
25 a candidate. The ballot shall also contain all questions to be

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1 submitted to the voters of the district as certified to the
2 proper filing officer by the board.

3 C. Paper ballots and ballot labels shall be printed
4 in a form in substantial compliance with the provisions of
5 Section 1-12-44 NMSA 1978 and in compliance with the provisions
6 of the federal Voting Rights Act of 1965, as amended.

7 D. A school district election shall be a nonpartisan
8 election, and the names of all candidates shall be listed on the
9 ballot without party or slate designation. The order in which
10 the names of candidates are listed on the ballot shall be
11 determined by lot.

12 E. Whenever two or more members of the board are to
13 be elected for terms of the same length of time, the positions
14 shall be numerically designated on the ballot as "position one",
15 "position two" and such additional consecutively numbered
16 positions as are necessary, but only one member shall be elected
17 for each position.

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

22 G. Unless conducted by mail ballot, voting machines
23 shall be used for the recording of votes cast in a school
24 district election; provided that paper ballots may be used in
25 lieu of a voting machine for:

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1 (1) school districts of less than five hundred
2 average daily membership;

3 (2) school district elections in which only one
4 candidate has filed a declaration of candidacy for each position
5 to be filled at the election, no declared write-ins have filed
6 for any position and there are no questions or bond issues on
7 the ballot and notwithstanding any other provision in this
8 chapter; or

9 (3) [~~for~~] emergency ballots in case of a
10 malfunction of the voting machine."

11 Section 5. Section 1-22-12 NMSA 1978 (being Laws 1985,
12 Chapter 168, Section 14, as amended) is amended to read:

13 "1-22-12. CONDUCT OF ELECTIONS. --

14 A. Except as otherwise provided in the School
15 Election Law or the Mail Ballot Election Act, the county clerk
16 shall administer and conduct school district elections pursuant
17 to the provisions of the Election Code [~~for the conduct of~~
18 ~~general elections~~] and the Absent Voter Act.

19 B. Precinct board members for [~~each polling place~~] a
20 regular precinct board or for an absent voter precinct board
21 shall be appointed by the county clerk from among those persons
22 who meet the qualifications set forth in Section 1-2-7 NMSA 1978
23 and who reside within the school district. The number of
24 members on [~~each~~] a precinct board shall be as provided in
25 Section 1-2-12 NMSA 1978. Vacancies on election day shall be

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1 filled as provided in Section 1-2-15 NMSA 1978.

2 C. In the event that only one candidate has filed a
3 declaration of candidacy for each position to be filled at the
4 election, no declared write-ins have filed for any position and
5 there are no questions or bond issues on the ballot, the county
6 clerk shall perform the duties of the precinct board and no
7 other precinct board shall be appointed.

8 D. All costs of school district elections shall be
9 paid by the school district. "

10 Section 6. Section 1-22-18 NMSA 1978 (being Laws 1985,
11 Chapter 168, Section 20) is amended to read:

12 "1-22-18. WRITE-IN CANDIDATES. --

13 A. Write-in candidates for the office of board
14 member shall be permitted in school district elections.

15 B. A person may be a write-in candidate only if he
16 has the qualifications to be a candidate for membership on the
17 board in the school district election as provided in the School
18 Election Law.

19 C. A person desiring to be a write-in candidate for
20 the office of board member shall file with the proper filing
21 officer a declaration of intent to be a write-in candidate. The
22 declaration shall be filed before 5:00 p.m. on the thirty-fifth
23 day preceding the date of the election.

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

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

9 (2) the name is written in the proper slot on
10 the voting machine or on the proper line provided on the paper
11 ballot, absentee ballot, ~~[or]~~ emergency ballot or mail ballot
12 for write-in votes for the office and position for which the
13 candidate has declared his intent.

14 E. At the time of filing the declaration of intent
15 to be a write-in candidate, the write-in candidate shall be
16 considered a candidate for all purposes and provisions relating
17 to candidates in the School Election Law except that he shall
18 not be entitled to have his name printed on the ballot.

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

23 Section 7. Section 1-23-3 NMSA 1978 (being Laws 1987,
24 Chapter 160, Section 3, as amended) is amended to read:

25 "1-23-3. ELECTION BY ~~[ALL-MAILED]~~ MAIL BALLOTS. --

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1 A. Notwithstanding any other provision of law and
2 regardless of the number of eligible voters within its
3 boundaries, a local government may, by resolution of its
4 governing body, conduct by ~~[all-mailed]~~ use of a mail ballot any
5 bond election, any election on the imposition of a mill levy or
6 a property tax rate for a specified purpose or any special
7 election at which no candidates are to be nominated for or
8 elected to office.

9 B. Notwithstanding any other provision of law and
10 regardless of the number of eligible voters within its
11 district's boundaries, a local school board may conduct all
12 regular and special school district elections by use of a mail
13 ballot. "

14 Section 8. Section 1-23-5 NMSA 1978 (being Laws 1987,
15 Chapter 160, Section 5, as amended) is amended to read:

16 "1-23-5. NO POLLING PLACE. --Upon the adoption of a
17 resolution by the governing body to conduct an election by ~~[an~~
18 ~~all-mailed]~~ mail ballot, each registered voter of the local
19 government shall be mailed an absentee ballot along with a
20 statement that there will be no polling place for the election.
21 The voter shall not be required to file an application for the
22 absentee ballot. The ballot shall be mailed to each voter no
23 earlier than the thirty-fifth day prior to the election, and the
24 mailing shall be completed by the ~~[fifth]~~ tenth day before the
25 election. "

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Section 9. Section 1-23-7 NMSA 1978 (being Laws 1987,
Chapter 160, Section 7, as amended) is amended to read:
"1-23-7. MAIL BALLOT ELECTION NOT TO BE COMBINED WITH
OTHER ELECTIONS.--Mail ballot elections shall be used
exclusively for voting in those elections specified in Section
1-23-3 NMSA 1978 and shall not be used in connection with
elections at which candidates other than school board candidates
are to be nominated for or elected to office."

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5 FEBRUARY 9, 1996

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7 Mr. President:

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9 Your COMMI TTEES' COMMI TTEE, to whom has been referred

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11 SENATE BILL 3

12
13 has had it under consideration and finds same to be GERMANE, PURSUANT
14 TO SENATE EXECUTIVE MESSAGE NUMBER 13, and thence referred to the
15 EDUCATI ON COMMI TTEE.

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17 Respectfully submit ted,

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22 _____
23 SENATOR MANNY M. ARAOGON, Chai rman
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Adopted _____

Not Adopted _____

(Chief Clerk)

(Chief Clerk)

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Date _____

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1 FORTY- SECOND LEGI SLATURE
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5 February 10, 1996
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7 Mr. President:
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9 Your EDUCATION COMMI TTEE, to whom has been referred
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11 SENATE BILL 3
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13 has had it under consideration and reports same with recommendation that
14 it DO PASS, and thence referred to the RULES COMMI TTEE.
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16 Respectfully submit ted,
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21 Carlos R. Cisneros, Chair man
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25 Adopted _____

(Chi ef Clerk)

Not Adopted _____

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Date _____

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The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Carraro, Duran, Lyons, Scott

Absent: None

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1 FORTY- SECOND LEGI SLATURE
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5 February 14, 1996
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7 Mr. President:
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9 Your RULES COMMI TTEE, to whom has been referred
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11 SENATE BILL 3
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13 has had it under consideration and reports same with recommendation that
14 it DO PASS.
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16 Respectfully submit ted,
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21 Gl oria Howes, Chair man
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The roll call vote was 6 For 0 Against

Yes: 6

No: 0

Excused: Aragon, Doni sthorpe, EJenni ngs

Absent: 0

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