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SENATE BILL 25

44TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 1999

INTRODUCED BY

Richard M. Romero

AN ACT

RELATING TO ELECTIONS; CLARIFYING RESIDENCY REQUIREMENTS;
CHANGING THE DATE OF LOCAL SCHOOL BOARD, BRANCH COMMUNITY
COLLEGE BOARD, TECHNICAL AND VOCATIONAL INSTITUTE BOARD AND
AREA VOCATIONAL SCHOOL BOARD ELECTIONS.

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

Section 1. Section 1-1-7 NMSA 1978 (being Laws 1969,
Chapter 240, Section 6, as amended) is amended to read:

"1-1-7. RESIDENCE-- RULES FOR DETERMINING.-- For the
purpose of determining residence for voting, the place of
residence is governed by the following rules.

A. The residence of a person is that place [~~in
which his habitation is fixed, and to which, whenever he is
absent, he has the intention to return.~~

~~B. The place where a person's family resides is~~

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1 ~~presumed to be his place of residence, but a person who takes~~
2 ~~up or continues his abode with the intention of remaining at a~~
3 ~~place other than where his family resides is a resident where~~
4 ~~he abides] where he physically resides.~~

5 [C.] B. A change of residence is made only by the
6 act of removal joined with the intent to remain in another
7 place. There can be only one residence.

8 [D.] C. A person does not gain or lose residence
9 solely by reason of his presence or absence while employed in
10 the service of the United States or of this state, or while a
11 student at an institution of learning, or while kept in an
12 institution at public expense, or while confined in a public
13 prison or while residing upon an Indian or military
14 reservation.

15 [E.] D. No member of the armed forces of the
16 United States, his spouse or his dependent is a resident of
17 this state solely by reason of being stationed in this state.

18 [F.] E. A person does not lose his residence if he
19 leaves his home and goes to another country, state or place
20 within this state for temporary purposes only and with the
21 intention of returning.

22 [G.] F. A person does not gain a residence in a
23 place to which he comes for temporary purposes only.

24 [H.] G. A person loses his residence in this state
25 if he votes in another state in an election requiring

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1 residence in that state, and has not upon his return regained
2 his residence in this state under the provisions of the
3 constitution of New Mexico.

4 ~~[F.]~~ H. "Residence" is computed by not including
5 the day on which the person's residence commences and by
6 including the day of the election.

7 ~~[J.]~~ I. A person does not acquire or lose
8 residence by marriage only. "

9 Section 2. Section 1-1-7.1 NMSA 1978 (being Laws 1979,
10 Chapter 378, Section 1, as amended by Laws 1993, Chapter 314,
11 Section 1 and also by Laws 1993, Chapter 316, Section 1) is
12 amended to read:

13 "1-1-7.1. RESIDENCE FOR PURPOSE OF CANDIDACY AND SIGNING
14 OF PETITIONS--RULE FOR DETERMINING.--For the purpose of
15 determining the residence of a person desiring to be a
16 candidate for the nomination or election to an office under
17 the provisions of the Election Code or for the purpose of
18 determining the residence of any signer of a petition required
19 by the Election Code, permanent residence shall be resolved in
20 favor of that place shown on the person's affidavit of
21 registration as his permanent residence, provided the person
22 physically resides on the premises. "

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

25 "1-22-3. SCHOOL DISTRICT ELECTIONS--QUALIFICATIONS OF

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1 CANDIDATES. --

2 A. A school district election shall be held in
3 each school district to elect qualified persons to membership
4 on a [~~local school~~] board. No person shall become a candidate
5 for membership on a board unless his record of voter
6 registration shows that he is a qualified elector of the
7 state, physically resides in the school district in which he
8 is a candidate and physically resided in the district on the
9 date of the [~~school~~] board's proclamation calling a regular
10 school district election.

11 B. A regular school district election shall be
12 held in each school district on the [~~first Tuesday in~~
13 ~~February~~] second Tuesday of November of each odd-numbered
14 year.

15 C. A school district election held at any time
16 other than the date for the regular school district election
17 shall be a special school district election.

18 D. Except as otherwise provided in the School
19 Election Law, school district elections shall be called,
20 conducted and canvassed as provided in the Election Code. "

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

23 "1-22-4. REGULAR ELECTION--PROCLAMATION--PUBLICATION. --

24 A. The board shall by resolution issue a public
25 proclamation in Spanish and English calling a regular school

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1 district election within the school district on the date
2 prescribed by the School Election Law. The proclamation shall
3 be filed by the superintendent with the county clerk of record
4 on the [~~last Friday in November of the even-numbered~~] first
5 Friday in September of the odd-numbered year immediately
6 preceding the date of the election.

7 B. The proclamation shall specify:

- 8 (1) the date when the election will be held;
- 9 (2) the positions on the board to be filled;
- 10 (3) the date on which declarations of
11 candidacy are to be filed;
- 12 (4) the date on which declarations of intent
13 to be a write-in candidate are to be filed;
- 14 (5) the questions to be submitted to the
15 voters;
- 16 (6) the precincts in each county in which the
17 election is to be held and the location of each polling place;
- 18 (7) the hours each polling place will be
19 open; and
- 20 (8) the date and time of the closing of the
21 registration books by the county clerk of record as required
22 by law.

23 C. After [~~filing~~] the superintendent files the
24 proclamation with the county clerk of record and not less than
25 fifty days before the date of the election, the county clerk

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

6 Section 5. Section 1-22-7 NMSA 1978 (being Laws 1985,
7 Chapter 168, Section 9) is amended to read:

8 "1-22-7. DECLARATION OF CANDIDACY--FILING DATE--
9 PENALTY. --

10 A. A declaration of candidacy for membership on
11 the board to be filled at a regular school district election
12 shall be filed with the proper filing officer during the
13 period commencing at 9:00 a.m. on the [~~third Tuesday in~~
14 ~~December of the even-numbered~~] fourth Tuesday in September of
15 the odd-numbered year immediately preceding the date of the
16 regular school district election and ending at 5:00 p.m. on
17 the same day.

18 B. A declaration of candidacy for membership on
19 the board to be filled at a special school district election
20 shall be filed with the proper filing officer during the
21 period commencing at 9:00 a.m. on the forty-eighth day before
22 the election and ending at 5:00 p.m. on the same day.

23 C. Any person who knowingly [~~making~~] makes a false
24 statement in his declaration of candidacy is guilty of a
25 fourth degree felony. "

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1 Section 6. Section 3-8-9 NMSA 1978 (being Laws 1985,
2 Chapter 208, Section 17, as amended) is amended to read:

3 "3-8-9. ELECTION SCHEDULING--CONFLICTS--NOTICE. --

4 A. Except as otherwise provided by law, no
5 municipal election shall be held within forty-two days prior
6 to or within thirty days after any statewide special, general
7 or primary election [~~or any regular school district election~~].
8 Whenever a municipal election would be or has been scheduled
9 within the prohibited time, the governing body shall adopt an
10 election resolution scheduling or rescheduling the election on
11 a date as soon as is practicable outside the prohibited period
12 and in compliance with the requirements of the Municipal
13 Election Code and any other statute specifically related to
14 such election. If an election resolution has already been
15 adopted, the new election resolution shall supersede the
16 existing election resolution and the new election resolution
17 shall be published as required by the Municipal Election Code.

18 B. Except as otherwise provided by law, one or
19 more municipal special elections, including but not limited to
20 bond elections, may be held in conjunction with a regular
21 municipal election or one or more special municipal elections.

22 C. When concurrent elections are called for,
23 publications, notices, selection of precinct boards, election
24 schools, ordering election supplies, conduct of the election,
25 canvassing, record keeping and all other election matters

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1 shall be conducted to comply with all election requirements
2 for each such election as if it were held separately. However,
3 any requirement may be satisfied by a combined action if such
4 action would satisfy the requirements set by law for each
5 individual election. Allowable combined actions include but
6 are not limited to, combined:

- 7 (1) publications;
- 8 (2) notices;
- 9 (3) appointment of precinct boards;
- 10 (4) ordering of election supplies;
- 11 (5) conduct of election;
- 12 (6) canvassing; and
- 13 (7) record keeping. "

14 Section 7. Section 21-14-2.1 NMSA 1978 (being Laws 1985,
15 Chapter 238, Section 29) is amended to read:

16 "21-14-2.1. BRANCH COMMUNITY COLLEGE BOARD- -LOCAL
17 OPTION. - -

18 A. A majority of the local school board [~~of~~
19 ~~education~~] or the combined boards of education acting as a
20 single board may cease to operate as the branch community
21 college board and provide for an elected branch community
22 college board. In that event, the majority of the local
23 school board [~~of education~~] or the combined boards of
24 education acting as a single board shall elect five persons as
25 members of the branch community college board. The persons

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1 elected shall be assigned position numbers one through five.
2 Board members shall be over twenty-one years of age, qualified
3 electors and residents of the branch community college
4 district. The members of the board shall continue to serve
5 until the next regular branch community college election, to
6 be held on the [~~first Tuesday of February~~] second Tuesday of
7 November of each odd-numbered year, at which time five board
8 members shall be elected by the registered voters of the
9 branch community college district. The candidates shall file
10 for and be elected to a particular position number. The
11 candidate receiving the highest number of votes for a
12 particular position shall be elected. At the first board
13 meeting after the election, the five members shall draw lots
14 for the following terms: two for terms of two years and three
15 for terms of four years. Thereafter, board members shall be
16 elected for terms of four years from [~~March 1~~] December 1
17 succeeding their election. All vacancies caused in any other
18 manner than by the expiration of the term of office shall be
19 filled by appointment by the remaining members.

20 B. Immediately after the election of the five
21 members by the assembled board of education members, the board
22 shall select from its members a chairman and secretary who
23 shall serve in these offices until the next regular branch
24 community college board election. After each branch community
25 college board election, the members shall proceed to

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1 reorganize.

2 C. The duties of the board shall continue as set
3 out in Chapter 21, Article 14 NMSA 1978. "

4 Section 8. Section 21-16-5 NMSA 1978 (being Laws 1963,
5 Chapter 108, Section 5, as amended) is amended to read:

6 "21-16-5. BOARD. --

7 A. The initial board of [~~the~~] a technical and
8 vocational institute district shall be composed of:

9 (1) the board of the initiating school
10 district, if only one school district is involved; or

11 (2) if more than one school district is
12 involved in the initiation of the technical and vocational
13 institute district, one member delegated from each
14 participating school board. If there are an even number of
15 participating school districts, the boards of all
16 participating school districts shall jointly appoint an
17 additional member to the governing board of the technical and
18 vocational institute district, who shall serve as a member at
19 large.

20 B. At the second school board election held
21 pursuant to Section 1-22-3 NMSA 1978 following the creation of
22 the technical and vocational institute district, an election
23 shall be held to elect seven members to the institute board to
24 replace the members holding office under the provisions of
25 Subsection A of this section.

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1 (1) Except where specific provision is
2 otherwise provided by law, all election proceedings for
3 institute district elections shall be conducted pursuant to
4 the provisions of the School Election Law with the president
5 of the technical and vocational institute serving in the place
6 of the superintendent of schools in every case.

7 (2) The board shall consist of seven separate
8 positions, and each position shall be designated by number.
9 Qualified electors seeking election to the board shall file
10 and run for only one of the numbered positions.

11 (3) At the second school board election to be
12 held following the creation of the technical and vocational
13 institute district, ~~members~~ of the board elected to positions
14 1, 3, 5 and 7 shall be elected for two-year terms and ~~members~~
15 elected to positions 2, 4 and 6 shall be elected for four-year
16 terms. Thereafter, each board member shall be elected for a
17 term of four years. The elections shall be held in the same
18 manner and at the same time as regular school district
19 elections on the [~~first Tuesday in February~~] second Tuesday in
20 November of each odd-numbered year.

21 C. A vacancy occurring on the board shall be
22 filled in the same manner as provided for school board
23 vacancies in Section 22-5-9 NMSA 1978. "

24 Section 9. Section 21-17-4 NMSA 1978 (being Laws 1967,
25 Chapter 177, Section 4, as amended) is amended to read:

1 "21-17-4. DESIGNATION AS AN AREA VOCATIONAL SCHOOL BY
2 THE STATE BOARD. --

3 A. Upon receipt and examination of the plan and
4 supporting evidence, the state board shall conduct hearings,
5 investigate records and procure such other information
6 relating to vocational training as it deems necessary and
7 appropriate.

8 B. If the state board finds that the plan provides
9 an adequate, broad vocational and technical educational
10 program, serves sufficient students for an economical
11 operation, provides for adequate financing and sensibly
12 relates to a statewide pattern for development of vocational
13 and technical education, the state board may approve the plan.

14 C. After approval by the state board of the plan,
15 the area vocational high school shall be officially designated
16 by the state board as an area vocational school, shall be
17 operated in accordance with provisions in the state plan for
18 vocational education and shall meet all other requirements of
19 an accredited school.

20 D. [~~At the first area vocational school board~~
21 ~~election, members of the board elected to positions 1, 3 and 5~~
22 ~~shall be elected for terms ending February 28, 1989 and~~
23 ~~members elected to positions 2 and 4 shall be elected for~~
24 ~~terms ending February 28, 1991. Thereafter]~~ Each board member
25 shall be elected for a term of four years. The elections

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1 shall be conducted pursuant to the provisions of the Election
2 Code and shall be held in the same manner and at the same time
3 as regular school district elections on the [~~first~~] second
4 Tuesday in [~~February~~] November of each odd-numbered year
5 [~~beginning with the election to be held in February of 1987~~].

6 E. A vacancy occurring on the board shall be
7 filled in the same manner as provided for school board
8 vacancies in [~~Section 22-5-9 NMSA 1978~~] Section 1-22-3 NMSA
9 1978.

10 F. A member of the board may be recalled pursuant
11 to the provisions of the Local School Board Member Recall Act,
12 except that a recall election may be held only at the same
13 time as a regular school district election. "

14 Section 10. Section 22-5-8 NMSA 1978 (being Laws 1967,
15 Chapter 16, Section 31, as amended) is amended to read:

16 "22-5-8. TERM OF OFFICE. --

17 A. The full term of office of a member of a local
18 school board shall be four years from [~~March 1~~] December 1
19 succeeding his election to office at a regular school district
20 election.

21 B. Any member of a local school board whose term
22 of office has expired shall continue in that office until his
23 successor is elected and qualified. "

24 Section 11. TEMPORARY PROVISION-- TERM OF OFFICE. -- The
25 term of office for a local school board member, a branch

1 community college board member, a member of a board of a
2 technical and vocational institute or an area vocational
3 school board member due to expire on March 1, 2001 shall be
4 extended until December 1, 2001. All subsequent terms of
5 office shall be for the regular term. Members elected in the
6 November 2001 election shall take office December 1, 2001.

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