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HOUSE BILL 20

46TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2003

INTRODUCED BY

Joe Thompson

AN ACT

**RELATING TO ELECTIONS; ALLOWING POLLING PLACE CHALLENGERS TO
INSPECT PAPER OR ELECTRONIC SIGNATURE ROSTERS.**

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

Section 1. Section 1-2-23 NMSA 1978 (being Laws 1969,
Chapter 240, Section 42, as amended) is amended to read:

"1-2-23. CHALLENGERS--PERMITTED ACTIVITIES.--

A. A challenger or alternate challenger, upon
presentation of his written appointment to the precinct board,
shall be permitted to be present from the time the precinct
board convenes at the polling place until the completion of the
counting and tallying of the ballots after the polls close.

B. A challenger or alternate challenger, for the
purpose of interposing challenges, may:

(1) inspect the registration book or precinct

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1 voter list for the purpose of determining whether he desires to
2 interpose a challenge;

3 (2) inspect the poll books, registration book
4 or paper or electronic signature rosters to determine whether
5 entries are being made in accordance with the Election Code;

6 (3) examine each voting machine before the
7 polls are opened to compare the number on the metal seal and
8 the numbers on the counters with the numbers on the key
9 envelope and to see that all ballot labels are in their proper
10 places and that the voting machine is ready for voting at the
11 opening of the polls; and

12 (4) make in any polling place and preserve for
13 future reference written memoranda of any action or omission on
14 the part of any member of the precinct board."

15 Section 2. Section 1-6-14 NMSA 1978 (being Laws 1971,
16 Chapter 317, Section 11, as amended) is amended to read:

17 "1-6-14. HANDLING ABSENTEE BALLOTS BY ABSENT VOTER
18 PRECINCT BOARDS. --

19 A. Before opening [~~any~~] an official mailing
20 envelope, the presiding judge and the election judges shall
21 determine that the required information has been completed on
22 the reverse side of the official mailing envelope.

23 B. If the voter's signature is missing, the
24 presiding judge shall write "Rejected" on the front of the
25 official mailing envelope. The election clerks shall enter the

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1 voter's name in the signature rosters and shall write the
2 notation "Rejected--Missing Signature" in the "Notations"
3 column of the signature rosters. The presiding judge shall
4 place the official mailing envelope unopened in an envelope
5 provided for rejected ballots, seal the envelope and write the
6 voter's name on the front of the envelope and deposit it in the
7 locked ballot box.

8 C. The accredited challengers may examine the
9 official mailing envelope and paper or electronic signature
10 roster and may challenge the ballot of any absent voter for the
11 following reasons:

12 (1) the official mailing envelope has been
13 opened prior to being received by the absent voter precinct
14 board; or

15 (2) the person offering to vote is not a
16 federal voter, federal qualified elector, overseas citizen
17 voter or voter as provided in the Election Code.

18 Upon the challenge of an absentee ballot, the election
19 judges and the presiding election judge shall follow the same
20 procedure as when ballots are challenged when a person attempts
21 to vote in person. If a challenge is upheld, the official
22 mailing envelope shall not be opened but shall be placed in an
23 envelope provided for challenged ballots. The same procedure
24 shall be followed in canvassing and determining the validity of
25 challenged absentee ballots as with other challenged ballots.

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1 D. If the official mailing envelopes have been
2 properly subscribed and the voters have not been challenged:

3 (1) the election judges shall open the
4 official mailing envelopes and deposit the ballots in their
5 still-sealed official inner envelopes in the locked ballot box;
6 and

7 (2) the election clerks shall enter the absent
8 voter's name and residence address as shown on the official
9 mailing envelope in the signature rosters and shall mark the
10 notation "AB" opposite the voter's name in the "Notations"
11 column of the signature rosters.

12 E. Prior to the closing of the polls, the election
13 judges and the presiding election judge may either remove the
14 absentee ballots from the official inner envelopes and count
15 and tally the results of absentee balloting or, under the
16 personal supervision of the presiding election judge and one
17 election judge from each party, count and tally the absentee
18 ballots on an electronic voting machine the same as if the
19 absent voter had been present and voted in person. It is
20 unlawful for any person to disclose the results of a count and
21 tally or the registration on a voting machine of absentee
22 ballots prior to the closing of the polls.

23 F. Absentee ballots shall be counted and tallied on
24 an electronic voting machine as provided in the Election Code.

25 G. Absent voter precinct polls shall close at the

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1 time prescribed by the Election Code for other polling places,
2 and the results of the election shall be certified as
3 prescribed by the secretary of state.

4 H. The county clerk may convene the absent voter
5 precinct board no more than three days before the day of the
6 election to alphabetize, enter on the roster and sort the
7 absentee ballots by legislative district; provided that no
8 member of the absent voter precinct board shall open an
9 official mailing envelope or count and canvass any absentee
10 ballot prior to the day of the election. "

11 Section 3. Section 3-8-31 NMSA 1978 (being Laws 1971,
12 Chapter 306, Section 10, as amended) is amended to read:

13 "3-8-31. REGULAR MUNICIPAL ELECTION--CHALLENGERS--
14 WATCHERS--OBSERVERS.--

15 A. Upon petition filed with the municipal clerk by
16 an unopposed candidate or by both candidates for a municipal
17 office, if only two candidates are running for the office, or
18 by a majority of the candidates for a municipal office, if more
19 than two candidates are running for the office, those
20 candidates may:

21 (1) appoint one person as a challenger and one
22 alternate for each polling place in the municipal election; and

23 (2) appoint one person as a watcher and one
24 alternate for each polling place in the municipal election.

25 B. The petition appointing a challenger and watcher

1 and alternates shall be filed not later than 5:00 p.m. on the
2 fourth day preceding the election.

3 C. Upon receipt of the petition, the municipal
4 clerk shall verify whether the challengers, watchers and
5 alternates are properly qualified pursuant to Subsection D of
6 this section. Not later than 3:00 p.m. on the day prior to the
7 election, the municipal clerk shall prepare official
8 identification badges for those challengers, watchers and
9 alternates who are properly qualified. Such identification
10 badges shall be signed by the municipal clerk and contain the
11 name of the challenger, watcher or alternate and state that
12 person's title and the polling place where such person serves.
13 Challengers, watchers and alternates shall be responsible to
14 obtain their identification badges from the office of the
15 municipal clerk prior to the opening of the polls on election
16 day.

17 D. A challenger, watcher or alternate shall
18 function only at a polling place that serves the precinct
19 within which such challenger, watcher or alternate resides. No
20 sheriff, deputy sheriff, marshal, deputy marshal, municipal or
21 state police officer, candidate or any person who is a spouse,
22 parent, child, brother or sister of a candidate to be voted for
23 at the election or any municipal clerk, deputy clerk or
24 assistant shall serve as a challenger, watcher or alternate.
25 No person shall serve as a challenger or watcher unless that

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1 person is a qualified elector of the municipality.

2 E. Upon presentation of their official
3 identification badges to the precinct board, challengers,
4 watchers and alternates shall be permitted to be present at the
5 polling place from the time the precinct board convenes at the
6 polling place until the completion of the counting and tallying
7 of the ballots after the polls close.

8 F. Challengers, watchers and alternates shall wear
9 their official identification badges at all times while they
10 are present in the polling place. They shall not wear any
11 other form of identification or any pins or other
12 identification associated with any candidate, group of
13 candidates or any question presented at the election.

14 G. Challengers, watchers and alternates shall not:

15 (1) be permitted to perform any duty of a
16 precinct board member;

17 (2) handle the ballots, signature rosters,
18 absentee voter lists or voting machines;

19 (3) take any part in the tallying or counting
20 of the ballots; or

21 (4) interfere with the orderly conduct of the
22 election.

23 H. If a challenger, watcher or alternate is wearing
24 his official identification badge, it is a petty misdemeanor
25 to:

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1 (1) deny him the right to be present at the
2 polling place;

3 (2) deny him the right to examine voting
4 machines as authorized by law;

5 (3) deny a challenger or alternate challenger
6 the right to challenge voters pursuant to Section 3-8-43 NMSA
7 1978 and inspect the paper or electronic signature rosters; or

8 (4) deny him the right to witness the counting
9 and tallying of ballots.

10 I. A challenger or alternate challenger, for the
11 purposes of interposing challenges pursuant to Section 3-8-43
12 NMSA 1978, shall be permitted to:

13 (1) inspect the voter registration list;

14 (2) inspect the paper or electronic signature
15 rosters or absentee voter lists to determine whether entries
16 are being made in accordance with law;

17 (3) examine each voting machine before the
18 polls are opened to compare the number on the metal seal and
19 the numbers on the counters with the numbers on the key
20 envelope, to see that all ballot labels are in their proper
21 places and to see that the voting machine is ready for voting
22 at the opening of the polls;

23 (4) make written memoranda of any action or
24 omission on the part of any member of the precinct board and
25 preserve such memoranda for future use; and

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1 (5) witness the counting and tallying of the
2 ballots.

3 J. A watcher or alternate watcher shall be
4 permitted to:

5 (1) observe the election to assure that it is
6 conducted in accordance with law;

7 (2) examine any voting machine used at the
8 polling place in the same manner that challengers may examine
9 voting machines;

10 (3) make written memoranda of any action or
11 omission on the part of any member of the precinct board and
12 preserve such memoranda for future use; and

13 (4) witness the counting and tallying of
14 ballots.

15 K. The governing body of a municipality may, at its
16 discretion, appoint one qualified elector for each polling
17 place to serve as an observer of the election. The governing
18 body shall make such appointment not later than 3:00 p.m. on
19 the day before the election and shall notify the municipal
20 clerk of such appointment. The municipal clerk shall issue
21 identification badges to all observers. An observer shall have
22 no powers other than to observe the conduct of the election and
23 observe the counting and tallying and report to the governing
24 body. "