

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: CS/HB 143a

52nd Legislature, 2nd Session, 2016

Tracking Number: .203747.3

Short Title: Change Dates for Certain Elections

Sponsor(s): Representative Paul C. Bandy and Senator Daniel A. Ivey-Soto

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HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR HOUSE BILL 143

AS AMENDED

The House Floor amendment strikes language in the bill that would have not allowed a nonbinding or merely advisory question to be placed on the ballot for any election held pursuant to the Election Code.

Bill Summary:

CS/HB 143 proposes to change the dates for certain elections for school districts, special districts, and other political subdivision elections to the first Tuesday after the first Monday in November in odd-numbered years and adjusts election procedures of those districts. The bill amends the *School Election Law* to be renamed the *Community Election Act*. The Secretary of State (SOS), instead of the local school board, is required to issue a resolution proclaiming a regular school district election. Candidates may file for only one position on the same school board; however, the candidate may also file for a position on more than one school board during the filing period. The candidate is required to attest that he or she does not have a felony conviction or a misdemeanor involving moral turpitude.

*This LESC analysis only focuses on provisions of the bill that affect school board elections included in sections 2 through 5 and sections 8 through 19 of CS/HB 143.

The bill will impact the following public education elections and other acts: school boards; general obligation bonds of school districts; *Public School Capital Improvements Act*; *Public School Buildings Act*; and the *Public School Lease Purchase Act*.

Fiscal Impact:

The bill does not contain an appropriation.

In its analysis, the SOS noted the bill would cause minimal fiscal implications for its office; however, the county clerks will be required to bear the burden of the elections addressed in CS/HB 143. Consolidation of several different districts can be costly due to the possibly dozens of ballot styles required to incorporate all the entities into one election as well as how to issue ballots.

In a bill analysis on HB 338 from the 2015 session, a bill similar to CS/HB 143, the New Mexico Clerks Affiliate stated the passage of the bill will save taxpayers of New Mexico a significant amount of money by combining elections.

At a Glance:

- This bill would allow school elections to be held at the same time as other elections in the state, hopefully taking advantage of greater voter turnout usually associated with higher-profile elections.
- The bill allows candidates more time to declare candidacy.
- The bill allows more advanced notice from school boards of an election.

Detailed Bill Provisions:

Section 2 amends Section 1-22-1 NMSA 1978 to change the short title from “School Election Law” to “Community Election Act.”

Section 3 amends 1-22-2 NMSA 1978 to add the definition of “district,” which includes a school district.

Section 4 amends Section 1-22-3 NMSA 1978 to change the date of a regular school district election to the first Tuesday after the first Monday in November of each odd-numbered year from the first Tuesday in February of each odd-numbered year.

Section 5 amends Section 1-22-4 NMSA 1978 to change the date of when the SOS, instead of the school board, issues a public proclamation calling for a regular school district election the second Monday in August immediately preceding the date of the election from the last Tuesday in November of the even-numbered year. It also requires the county clerk of record to publish the proclamation at least 63 days before the election. The county clerk is required to post the entire proclamation on their website. The proclamation is required to include: date when the election will be held; positions on each school board that is available; date declarations of candidacy are required to be filed; date for write-in candidates to declare candidacy; location of each polling place and alternative voting locations for early voting; hours for polling places; and date and time of closing of the registration books.

Section 8 amends Section 1-22-7 NMSA 1978 to change the first date in which a candidate can file a declaration of candidacy to the 63rd day before the date of the school district election from the third Tuesday in December of the even-numbered year. A candidate is required to file for only one position on the same school board, but may file for a position on more than one school board during the filing period. A candidate is required to attest that he or she does not have a felony conviction or any misdemeanor involving moral turpitude.

Section 9 amends Section 1-22-8 NMSA 1978 to reflect consistent language in prior amendments for the candidate’s statement of intent for declaration of candidacy.

Section 10 amends Section 1-22-9 NMSA 1978 to require candidates who are seeking to withdraw from a school district election to withdraw no later than the 56th day before the election.

Section 11 amends Section 1-22-10 NMSA 1978 to require ballots for the school district election be prepared by the proper filing officer and printed by the 45th day, instead of the 30th day, preceding the election.

Section 12 amends Section 1-22-11 NMSA 1978 to require the proclamation listing to include the name of each school district with a candidate or question appearing on the ballot. The proclamation is required to be published in a newspaper of general circulation in the county, instead of the school district.

Section 13 amends Section 1-22-12 NMSA 1978 to require all costs of the school district election to be paid for by the school districts participating in the school election in proportion to the costs attributable to each school district.

Section 15 amends Section 1-22-15 NMSA 1978 to require the canvassing board for the canvass of the results of a school district election to be composed of the county commission of the county in which the administrative office of the school district is located. Within 10 days, instead of 3 days, after the date of the school district election, the canvassing board is required to meet in the office of the proper filing officer.

Section 18 amends Section 1-22-18 NMSA 1978 to change the day a declaration can be filed to be a write-in candidate to the 56th day from the 35th day preceding the date of the election.

Section 19 amends Section 1-22-19 NMSA 1978 to require that absentee ballots be printed at least 45 days prior to the date of the election. Early voting is required to be conducted in each office of the county clerk and at alternative voting locations. The county clerk is required to establish in counties with more than 15,000 voters, no fewer than one alternate voting location. In counties with more than 50,000 voters, no fewer than four alternate voting locations will be established. In counties with more than 250,000 voters, no fewer than 10 alternate voting sites are required to be established.

Substantive Issues:

Currently, the *School Election Law* requires school board elections to be held only on the first Tuesday in February of odd-numbered years. By placing regular school district elections in November and holding non-regular school district elections in accordance with the *Mail Ballot Election Act*, CS/HB 143 could allow the state to take advantage of greater voter turnout of school district elections:

- According to the US Census Bureau statistics for 2014, New Mexico had a population of 2,085,572; approximately 1,582,949, or 75.9 percent, were over the age of 18.
- In 2015, there were 1,291,272 registered voters in New Mexico.
- According to KRQE News, only 7,700 voters participated in the Albuquerque Public Schools election in 2015, approximately 2.9 percent of the 438,819 registered voters in Bernalillo County.
- By comparison, in the 2014 midterm elections in New Mexico, 40.4 percent of registered voters participated, and 39.1 percent of registered voters participated in Bernalillo County.

SOS notes each of the special districts and political subdivisions addressed in this bill have different procedures for the call, conduct, and canvassing of the election. While the bill does

address some of those issues and makes them consistent, there are several aspects that have not been addressed. Specifically, the selection of polling places and method of balloting needs to be consistent for all entities that will consolidate their elections with the regular school board elections. The timing of absentee, early, and election day voting must also be consistent for the involved entities.

Additionally, SOS states there are different schedules for the entities to adopt and publish election resolutions, nominate candidates, hold a filing day for candidates, and to whom those are submitted. As the county clerk would be ultimately responsible for carrying out the administration of the election, it is vital that the county clerk is given ample time to program the election and eliminate the likelihood of error due to multiple different and confusing deadlines and assure that the clerks are in receipt of the various resolutions, publications, and voter pools.

Technical Issues:

Under Section 5(B)(5) of the bill, the proclamation is no longer required to include “the questions to be submitted to the voters” for regular school district elections; however, in Section 6(B)(2), the proclamation is required to include “the questions to be submitted to the voters” for special school district elections. The sponsor may wish to amend Section 5(B)(5) to include “the questions to be submitted to the voters” to be consistent with both regular and special school district elections.

Under Section 15(B) of the bill, language is taken out that describes how ballots cast in multi-county school districts are to be transported by the presiding judge of the precinct board to the office of the proper filing officer. By striking this language, there will not be a codified transportation requirement for the submittal of ballots cast in a multi-county school district. The sponsor may wish to amend Section 15(B) to retain language requiring a transportation requirement.

Background:

According to the National School Boards Association, school elections:

- were originally separated from general elections in order to “remove politics from education”;
- suffer from low-voter turnout when separated from general elections (for example, districts that hold their elections on the same day as national or state elections report voter turnouts up to 18 percent higher); and
- are scheduled by states at different times of the year, with little conformity nationally. For instance:
 - Arizona holds their school board elections on general election day;
 - Colorado’s elections are scheduled for the first Tuesday after the first Monday in November of odd-numbered years; and
 - Delaware holds their school elections on the second Tuesday of May.

Related Bills:

HB 138 *Voting for Some 17 Year-Olds*
HJR 7 *School Elections with Other Elections, CA*