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HOUSE BILL 224

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

INTRODUCED BY

Debbie A. Rodella

AN ACT

RELATING TO ELECTIONS; LIMITING THE LOCATION WHERE ABSENTEE
BALLOTS MAY BE HAND DELIVERED.

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

Section 1. Section 1-6-5 NMSA 1978 (being Laws 1969,
Chapter 240, Section 131, as amended by Laws 1993, Chapter
314, Section 43 and also by Laws 1993, Chapter 316, Section
43) is amended to read:

"1-6-5. PROCESSING APPLICATION--ISSUANCE OF BALLOT--
[MAKING] MARKING AND DELIVERY OF BALLOT IN PERSON.--

A. The county clerk shall mark each completed
absentee ballot application with the date and time of receipt
in the clerk's office and enter the required information in
the absentee ballot register. The county clerk shall then
determine if the applicant is a voter, an absent uniformed

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1 services voter or an overseas voter.

2 B. If the applicant has no valid certificate of
3 registration on file in the county and he is not a federal
4 qualified elector or if the applicant states he is a federal
5 qualified elector but his application indicates he is not a
6 federal qualified elector, no absentee ballot shall be issued
7 and the county clerk shall mark the application "rejected" and
8 file the application in a separate file from those accepted.

9 C. The county clerk shall notify in writing each
10 applicant of the fact of acceptance or rejection of his
11 application and, if rejected, shall explain why the
12 application was rejected.

13 D. If the applicant is determined to be a voter or
14 a federal qualified elector, the county clerk shall mark the
15 application "accepted" and hand deliver within the clerk's
16 office or mail to the applicant an absentee ballot and the
17 required envelopes for use in returning the ballot.

18 Acceptance of an application of a federal qualified elector
19 constitutes registration for the election in which the ballot
20 is to be cast. Acceptance of an application from an overseas
21 voter who is not an absent uniformed services voter
22 constitutes a request for changing information on the
23 certificate of registration of any such voter. No absent
24 voter shall be permitted to change his party affiliation
25 during those periods when change of party affiliation is

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1 prohibited by the Election Code. Upon delivery or mailing of
2 an absentee ballot to any applicant who is a voter, an
3 appropriate designation shall be made on the signature line of
4 the signature roster next to the name of the person who has
5 been sent an absentee ballot.

6 E. If an application for an absentee ballot is
7 delivered in person to the county clerk and is accepted, the
8 county clerk shall deliver the absentee ballot and it shall be
9 marked by the applicant in a voting booth of a type prescribed
10 by the secretary of state in the courthouse, sealed in the
11 proper envelopes and otherwise properly executed and returned
12 to the county clerk or his authorized representative before
13 the applicant leaves the office of the county clerk. The act
14 of marking the absentee ballot in the office of the county
15 clerk shall be a convenience to the voter in the delivery of
16 the absentee ballot and does not make the office of the county
17 clerk a polling place subject to the requirements of a polling
18 place in the Election Code other than is provided in this
19 subsection. It shall be unlawful to solicit votes, display or
20 otherwise make accessible any posters, signs or other forms of
21 campaign literature whatsoever in the clerk's office.

22 Absentee ballots may be marked in person during the regular
23 hours and days of business at the county clerk's office from
24 8:00 a. m. on the fortieth day preceding the election up until
25 5:00 p. m. on the Saturday immediately prior to the date of the

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1 election. In marking the absentee ballot, the voter may be
2 assisted by one person of the voter's own choice upon the
3 execution with the county clerk of an affidavit for assistance
4 stating [~~therein~~] that the voter meets at least one of the
5 conditions for receiving such assistance as is set forth by
6 the provisions of Section 1-12-12 NMSA 1978.

7 F. Absentee ballots shall be air mailed to
8 applicants temporarily domiciled inside or outside the
9 continental limits of the United States not later than on the
10 Thursday immediately prior to the date of the election.

11 G. No absentee ballot shall be delivered or mailed
12 to any person other than the applicant for such ballot.

13 H. The county clerk shall accept and process with
14 respect to a primary or general election for any federal
15 office, any otherwise valid voter registration application
16 from an absent uniformed services voter or overseas voter if
17 the application is received not less than thirty days before
18 the election. The county clerk shall also accept and process
19 federal write-in absentee ballots from overseas voters in
20 general elections for federal offices in accordance with the
21 provisions of Section 103 of the federal Uniformed and
22 Overseas Citizens Absentee Voting Act. "

23 Section 2. Section 3-9-4 NMSA 1978 (being Laws 1973,
24 Chapter 375, Section 3, as amended) is amended to read:

25 "3-9-4. ABSENTEE BALLOT APPLICATION--REJECTION--

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1 ACCEPTANCE. - -

2 A. Application by a federal qualified elector or
3 federal voter shall be made on the federal postcard
4 application form to the municipal clerk.

5 B. The municipal clerk shall prescribe the form of
6 the absentee ballot application.

7 C. Upon receipt of a properly completed and
8 delivered application for an absentee ballot, the municipal
9 clerk shall contact the county clerk to determine if the
10 applicant is a qualified elector of the municipality.

11 D. The municipal clerk shall reject an absentee
12 ballot application for any of the following reasons:

13 (1) the application does not set forth the
14 applicant's full name and address;

15 (2) the application is not signed by the
16 applicant; or

17 (3) the applicant:

18 (a) has no valid affidavit of
19 registration on file with the county clerk and is not a
20 federal qualified elector or federal voter; or

21 (b) has a valid affidavit of
22 registration on file with the county clerk, but is not a
23 resident of the municipality; or

24 (c) is a federal qualified elector or
25 federal voter, but is not entitled to vote in the municipal

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1 election; and

2 (d) cannot comply with Subparagraph
3 (a), (b) or (c) of this paragraph pursuant to Subsection C of
4 Section 3-8-40 NMSA 1978.

5 E. If the municipal clerk rejects the absentee
6 ballot application pursuant to Subsection D of this section,
7 then the municipal clerk shall refuse to issue an absentee
8 ballot and shall mark the application "rejected" and enter
9 "rejected" in the absentee ballot register and file the
10 application in a separate file. The municipal clerk shall,
11 within twenty-four hours of rejection of the application,
12 notify the applicant in writing by certified mail, return
13 receipt requested, by telephone or in person of the reasons
14 for rejection of the application. In addition, if the
15 application is incomplete, the clerk shall mail immediately a
16 new application for absentee ballot. Notwithstanding any
17 provisions of this section to the contrary, the only method of
18 notification pursuant to rejection of an absentee ballot under
19 the provisions of Paragraph (3) of Subsection D of this
20 section shall be by certified mail, return receipt requested.
21 The person whose application has been rejected shall have ten
22 days from receipt of notice to appeal or show cause why the
23 application should be accepted.

24 F. If the application for absentee ballot is
25 accepted, the municipal clerk shall:

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- 1 (1) mark the application "accepted";
- 2 (2) enter the required information in the
- 3 absentee ballot register; and
- 4 (3) issue to the applicant an absentee
- 5 ballot.

6 G. The municipal clerk shall hand deliver within
7 the clerk's office or mail an absentee ballot to any qualified
8 elector, federal qualified elector or federal voter whose
9 application for an absentee ballot has been accepted. The
10 municipal clerk shall notify the county clerk who shall write
11 "absentee ballot" on the signature line of the signature
12 roster next to the name of the person who has been sent an
13 absentee ballot. Names of individuals which have been labeled
14 "absentee ballot" shall appear on a separate list called the
15 "absentee voter list". This list shall be submitted to the
16 municipal clerk by the county clerk in the same manner as
17 provided in Subsection B of Section 3-8-7 NMSA 1978.

18 H. It is the duty of the municipal clerk to verify
19 the signature roster and absentee voter list to ensure that
20 all names of individuals who have been issued absentee ballots
21 have been labeled "absentee ballot" on the signature roster
22 and their names listed on the absentee voter list. If not,
23 then the municipal clerk shall write "absentee ballot" on the
24 signature line of the signature roster next to the name of the
25 person who has been sent an absentee ballot. The municipal

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1 clerk shall then enter the name and all required information
2 on the absentee voter list.

3 I. If the application for an absentee ballot is
4 delivered in person to the municipal clerk during regular
5 hours and days of business and is accepted, the municipal
6 clerk shall deliver the absentee ballot and it shall be marked
7 by the applicant in a voting booth in the municipal clerk's
8 office, sealed in the proper envelopes and otherwise properly
9 executed and returned to the municipal clerk or the clerk's
10 authorized representative before the applicant leaves the
11 office of the municipal clerk. Absentee ballots may be cast
12 in person at the municipal clerk's office until 5:00 p.m. on
13 the Thursday immediately prior to the date of election.

14 J. The act of marking the absentee ballot in the
15 office of the municipal clerk shall be a convenience to the
16 voter in the delivery of the absentee ballot and does not make
17 the office of the municipal clerk a polling place subject to
18 the requirements of a polling place in the Municipal Election
19 Code other than is provided in this subsection. During the
20 period of time between the date a person may first apply in
21 person for an absentee ballot and the final date for such
22 application and marking of the ballot in the office of the
23 municipal clerk, it is unlawful to solicit votes or display or
24 otherwise make accessible any posters, signs or other forms of
25 campaign literature whatsoever in the clerk's office.

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K. Absentee ballots shall be air mailed to federal qualified electors and federal voters whose applications have been accepted not earlier than thirty-five days prior to the election and not later than 5:00 p.m. on the Thursday immediately prior to the date of the election.

L. Absentee ballots shall be mailed to voters whose applications have been approved not earlier than thirty-five days prior to the election and not later than 5:00 p.m. on Thursday immediately prior to the date of the election.

M. No absentee ballot shall be delivered or mailed to any person other than the applicant for such ballot. "

1 FORTY-FOURTH LEGISLATURE
2 FIRST SESSION, 1999
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6 February 4, 1999
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8 Mr. Speaker:
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10 Your VOTERS AND ELECTIONS COMMITTEE, to whom has
11 been referred
12

13 HOUSE BILL 224
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15 has had it under consideration and reports same with
16 recommendation that it DO PASS.

17 Respectfully submitted,
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21 _____
22 Edward C. Sandoval, Chairman
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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

3 **HB 224**

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4 Adopted _____ Not Adopted _____

6 (Chief Clerk)

(Chief Clerk)

8 Date _____

10 The roll call vote was 13 For 0 Against

11 Yes: 13

12 Excused: None

13 Absent: None

15 J: \99BillSWP\H0224

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FORTY-FOURTH LEGISLATURE
FIRST SESSION, 1999

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March 16, 1999

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Mr. President:

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Your RULES COMMITTEE, to whom has been referred

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HOUSE BILL 224

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has had it under consideration and reports same with
recommendation that it DO PASS.

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Respectfully submitted,

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Gloria Howes, Co-Chair

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FORTY-FOURTH LEGISLATURE
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Adopted _____ Not

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Adopted _____

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(Chief Clerk)

(Chief Clerk)

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Date _____

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The roll call vote was 5 For 0 Against

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Yes: 5

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No: 0

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Excused: Adair, Altamirano, Gorham

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Absent: None

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