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HOUSE BILL 575

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

INTRODUCED BY

Edward C. Sandoval

AN ACT

RELATING TO ELECTIONS; CHANGING WHEN MIDDLE RIO GRANDE  
CONSERVANCY DISTRICT ELECTIONS ARE HELD; PROVIDING FOR  
ABSENTEE-EARLY VOTING AND ABSENT VOTING; GRANTING DISCRETION  
AS TO HOW POLLS ARE OPENED AND CLOSED; ALLOWING WRITE-IN  
CANDIDATES.

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

Section 1. Section 73-14-20 NMSA 1978 (being Laws 1975,  
Chapter 262, Section 3, as amended) is amended to read:

"73-14-20. DEFINITIONS. -- As used in Sections 73-14-18  
through 73-14-32 NMSA 1978:

A. "absent voter" means a qualified elector who  
has requested an absentee ballot forty days prior to an  
election;

B. "absentee-early voter" means a qualified

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1 elector who has voted early, prior to election day, on an  
2 electronic voting machine at a designated absentee-early voter  
3 precinct;

4 [A-] C. "benefited area" means that area described  
5 by a property appraisal that receives a benefit as a result of  
6 the creation of a district for any of the purposes specified  
7 in Section 73-14-4 NMSA 1978;

8 [B-] D. "election director" means the person whom  
9 the board of directors may request to provide election  
10 services by a contract approved by the secretary of state;

11 [C-] E. "election officer" means a person  
12 appointed by the board of directors to conduct the election in  
13 the absence of an election director and who performs all  
14 election services required by statute;

15 [D-] F. "list compiler" means a contractor  
16 approved by the board of directors to compile and produce a  
17 qualified elector list for a conservancy district;

18 [E-] G. "qualified elector" means an individual  
19 who owns real property within the benefited area of the  
20 conservancy district and who has provided proof of an  
21 ownership interest to one of the sources specified in  
22 Subsection B of Section 73-14-20.1 NMSA 1978 within the  
23 required time period, or who resides on and owns legal or  
24 equitable title in tribal lands and who is over the age of  
25 majority;

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1           [F-] H. "qualified elector's list" means the list  
2 compiled before each election that contains the individual  
3 names of all qualified electors; and

4           [G-] I. "residence" means a dwelling that lies  
5 partially or completely within the benefited area [ of a  
6 ~~conservancy district~~]. "

7           Section 2. Section 73-14-20.1 NMSA 1978 (being Laws  
8 1990, Chapter 48, Section 1, as amended) is amended to read:

9           "73-14-20.1. QUALIFIED ELECTOR LIST. --

10           A. The board of directors of the conservancy  
11 district may contract for a list compiler before each election  
12 to compile and produce a qualified elector's list for the  
13 district. The list compiler shall deliver the completed list  
14 to the election director no later than [ ~~twenty~~] forty-five  
15 days prior to a district election. An individual who  
16 purchases property [ ~~twenty-eight~~] ninety days prior to an  
17 election and whose name does not appear on the qualified  
18 elector's list shall not vote in that election. The  
19 individual may become certified to vote in a future election  
20 by filing his deed of title with the appropriate county clerk  
21 at least [ ~~twenty-eight~~] ninety days before the next  
22 conservancy district election.

23           B. Names of qualified electors shall be obtained  
24 from the records of the county clerk of the appropriate  
25 county, the appropriate county assessor of the appropriate

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1 county, records of the conservancy district or from the census  
2 bureau and enrollment records provided by the pueblos. The  
3 county assessor of the appropriate county, the county clerk of  
4 the appropriate county and the tribal representatives of the  
5 appropriate pueblos shall deliver to the election director all  
6 records regarding qualified electors of the benefited area [ of  
7 ~~the conservancy district~~] no later than the last day of each  
8 [~~August~~] March before a district election.

9 C. Updating the qualified elector's list shall  
10 consist of adding, for any new qualified elector who has  
11 purchased property in the district, the name, address and  
12 description of all property owned by the qualified elector in  
13 the benefited area [~~of the conservancy district~~] and removing  
14 the name of any elector who is deceased or is no longer a  
15 qualified elector because he no longer owns property within  
16 the benefited [~~district~~] area.

17 D. Proof of ownership of land within the benefited  
18 area [~~of the conservancy district~~] requires one of the  
19 following:

20 (1) a recorded deed or real estate contract  
21 indicating current ownership of land within the benefited area  
22 [~~of the district~~];

23 (2) an individual's name on county clerk  
24 records indicating a description of property the individual  
25 owns within the benefited area [~~of the district~~];

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1 (3) an individual's name on a list compiled  
2 by the governing body of a pueblo within the benefited area  
3 [~~of the conservancy district~~] indicating that the individual  
4 named is residing on and has legal or equitable title in the  
5 pueblo; or

6 (4) a current property tax bill indicating  
7 ownership of land within the benefited area [~~of the district~~].

8 E. The election officer or the election director  
9 [~~of the conservancy district~~] shall distribute to each polling  
10 place a current qualified elector's list for the appropriate  
11 county. The election officer or the election director shall  
12 distribute the qualified elector's list to each polling place  
13 within a pueblo located within the benefited area [~~of the~~  
14 ~~conservancy district~~]. A qualified elector may vote at any  
15 one polling place in the pueblo or county where he owns land.  
16 An individual who seeks to cast his vote but finds his name is  
17 not on the qualified elector's list shall not be allowed to  
18 vote in that election. "

19 Section 3. Section 73-14-24 NMSA 1978 (being Laws 1975,  
20 Chapter 262, Section 7, as amended) is amended to read:

21 "73-14-24. TIME AND PROCEDURE FOR ELECTION. --

22 A. On the first Tuesday after the first Monday in  
23 January prior to the middle Rio Grande conservancy district  
24 election, an election proclamation shall be published that  
25 includes a list of the offices for which a candidate may file,

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1 the date and place at which declarations of candidacy shall be  
2 filed and the date of the election. The election proclamation  
3 shall be published once in a newspaper of general circulation  
4 in the counties in which the election shall be held.

5 [A-] B. The members of the boards of directors  
6 created [by] pursuant to provisions of Sections 73-14-18  
7 through 73-14-32 NMSA 1978 shall be elected at an election  
8 held on the first Tuesday after the first Monday in [ November]  
9 June in [1996] 2001 and in each [even-numbered] odd-numbered  
10 year thereafter.

11 [B-] C. The elections for the members of the board  
12 of directors of the conservancy district shall be conducted,  
13 counted and canvassed as provided in Sections 73-14-18 through  
14 73-14-32 and 73-14-84 through 73-14-86 NMSA 1978. The polls  
15 [~~shall~~] may be opened and closed [at] in the same [time]  
16 manner as provided for the general election under the Election  
17 Code.

18 D. If only one candidate has filed a declaration  
19 of candidacy for a position to be filled at an election, no  
20 declared write-in candidate has filed for a position and there  
21 are no questions or bond issues on the ballot, only one  
22 polling place for the election may be designated. The one  
23 polling place may be located in the office of the election  
24 director or in the office of the middle Rio Grande conservancy  
25 district. "

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1           Section 4. Section 73-14-25 NMSA 1978 (being Laws 1975,  
2 Chapter 262, Section 8, as amended) is amended to read:

3           "73-14-25. DECLARATION OF CANDIDACY--SIGNATURES OF  
4 ELECTORS. --

5           A. Any person who desires to become a candidate  
6 for election as a member of the conservancy district board of  
7 directors shall file his written declaration of candidacy with  
8 the election director or with the election officer at least  
9 [~~thirty~~] sixty days before the election. The election officer  
10 or the election director shall certify the candidates to the  
11 board of directors.

12           B. The declaration of candidacy shall contain:

13                   (1) a statement that the candidate is a  
14 qualified elector of the district and meets the qualifications  
15 of a director as required by law;

16                   (2) the candidate's name, address, [~~date and~~]  
17 county of residence and date of declaration of candidacy;

18                   (3) the numerical designation of the position  
19 on the board of directors for which he desires to be a  
20 candidate;

21                   (4) if a candidate for a position  
22 representing a county in the conservancy district, a petition  
23 signed by at least seventy-five qualified electors of the  
24 district who reside in that county;

25                   (5) if a candidate for the position at large

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1 in the conservancy district, a petition signed by at least one  
2 hundred twenty-five qualified electors; and

3 (6) a statement that the candidate resides  
4 within the conservancy district and in the county for which he  
5 desires to be a candidate on the board of directors. "

6 Section 5. Section 73-14-27 NMSA 1978 (being Laws 1975,  
7 Chapter 262, Section 10, as amended) is amended to read:

8 "73-14-27. ELECTION--LOCATION OF POLLING PLACES--NOTICE  
9 OF ELECTION--CREATION OF ABSENT VOTER PRECINCT.--

10 A. For every conservancy district election, the  
11 board of directors shall provide for [~~a polling place at each~~  
12 ~~physical location~~] adequate polling places within the  
13 boundaries of the conservancy district [~~at which polling~~  
14 ~~places for the general election are located~~]. In addition,  
15 the board of directors shall provide a polling place at the  
16 main office of the conservancy district and may provide such  
17 other locations as it deems necessary. The board of directors  
18 may also create [~~an absent voter precinct~~] absentee-early  
19 voter and absent voter precincts.

20 B. Notice of the election shall be published three  
21 times in a newspaper of general circulation within each county  
22 of the district. Each notice shall state the time, place and  
23 purpose of the election and shall be published twenty, ten and  
24 five days before the election. "

25 Section 6. Section 73-14-28 NMSA 1978 (being Laws 1975,

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1 Chapter 262, Section 11, as amended) is amended to read:

2 "73-14-28. ELECTION JUDGES. --The election officer or the  
3 election director [~~shall~~] may select three election judges for  
4 each polling place established within the conservancy  
5 district. The election officer or the election director shall  
6 also appoint [~~an absent voter~~] absentee-early voter and absent  
7 voter precinct [board] boards. "

8 Section 7. Section 73-14-31 NMSA 1978 (being Laws 1975,  
9 Chapter 262, Section 14, as amended) is amended to read:

10 "73-14-31. ABSENTEE VOTING BY BALLOT PERMITTED--  
11 PROCEDURE. --

12 A. In any election of officers of the conservancy  
13 district, a qualified elector shall be entitled to vote by  
14 absentee ballot. An absentee ballot shall be furnished by the  
15 election director in a form prescribed by the board of  
16 directors. The election director shall also furnish to each  
17 qualified elector requesting an absentee ballot an official  
18 inner envelope for use in sealing the completed absentee  
19 ballot and an official outer envelope for use in returning the  
20 inner envelope to the election director. No absentee ballot  
21 shall be delivered or mailed to any person other than the  
22 applicant for the ballot.

23 B. A qualified elector voting by absentee ballot  
24 shall secretly mark his ballot, place it in the official inner  
25 envelope and securely seal the envelope. The qualified

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1 elector shall place the inner envelope inside the outer  
2 envelope and securely seal the envelope. The qualified  
3 elector shall then sign his name and address on the outer  
4 envelope and deliver or mail it to the election director or  
5 the election officer.

6 C. Absentee ballots shall be distributed by the  
7 election director or the election officer during the regular  
8 hours and days of business from the [~~twentieth~~] fortieth day  
9 preceding the election up until 5:00 p.m. on the Saturday  
10 immediately prior to the date of the election.

11 D. No absentee ballot shall be counted unless it  
12 is received by the [~~secretary of the board of directors~~]  
13 election director or election officer prior to the closing of  
14 the polls.

15 E. An absentee ballot received after the closing  
16 of the polls on the day of the election shall not be collected  
17 by the absent voter precinct board but shall be preserved by  
18 the [~~conservancy district~~] election director or election  
19 officer until the time for election contests has expired. In  
20 the absence of a court order after expiration of the time for  
21 election contests, the [~~conservancy district~~] election  
22 director or election officer shall destroy all late official  
23 mailing envelopes without opening them or permitting the  
24 contents to be examined, cast, counted or canvassed. Before  
25 their destruction, the election director or election officer

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1 shall count the number of late ballots from voters of the  
2 conservancy district and report the number to the election  
3 officer and the secretary of state.

4 F. Prior to the delivery of the absentee ballots  
5 to the absentee-early voter and absent voter precinct board,  
6 the absentee ballots shall be held unopened at the absentee  
7 voter precinct in a locked ballot box. At the close of the  
8 polls on election day, the [~~absent voter~~] absentee-early voter  
9 and absent voter precinct [~~board~~] boards shall obtain the  
10 absentee ballot box from the election director or election  
11 officer and tally the absentee ballots. The presiding judge  
12 shall have authority to unlock the absentee ballot box.

13 G. Absentee ballots shall be counted and tallied  
14 as are other ballots for the conservancy district election."

15 Section 8. A new Section 73-14-31.3 NMSA 1978 is enacted  
16 to read:

17 "73-14-31.3. [NEW MATERIAL] ABSENTEE-EARLY VOTING--  
18 ELECTIONEERING. --

19 A. A voter may apply to vote absentee-early by  
20 completing an absentee-early ballot application on the  
21 official form prescribed by the board of directors and printed  
22 and furnished by the election director. The form shall  
23 identify the applicant and contain information to establish  
24 his qualifications as a qualified elector for issuance of an  
25 affidavit for absentee-early voting. Each application shall

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1 be subscribed and sworn to by the applicant.

2 B. Once it is determined that the application form  
3 is complete, the election director shall mark the application  
4 with the date and time of receipt and enter the required  
5 information in the absentee ballot register.

6 C. If the voter is determined to be a registered  
7 voter, the elections director shall inform the voter that his  
8 application has been accepted and instruct the voter on how to  
9 vote.

10 D. For the purpose of absentee-early voting,  
11 electioneering is not permitted in the election director's  
12 office, the middle Rio Grande conservancy district offices or  
13 designated satellite locations.

14 E. For the purpose of this section,  
15 "electioneering" means any form of campaigning within one  
16 hundred feet of the election director's office, the middle Rio  
17 Grande conservancy district office or designated satellite  
18 locations and includes the display of signs or distribution of  
19 campaign literature. "

20 Section 9. Section 73-14-84 NMSA 1978 (being Laws 1961,  
21 Chapter 67, Section 16) is amended to read:

22 "73-14-84. ELECTION--PROCEDURE. --The board of directors  
23 [~~shall~~] may promulgate necessary and reasonable rules [~~and~~  
24 ~~regulations~~] for the procedure to be followed at the polling  
25 places, instructions to voters, methods to allow for write-in

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candidates and methods of determining voter eligibility. "

1 FORTY- FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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5  
6 February 18, 1999

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8 Mr. Speaker:

9  
10 Your VOTERS AND ELECTIONS COMMITTEE, to whom has  
11 been referred

12  
13 HOUSE BILL 575

14  
15 has had it under consideration and reports same with  
16 recommendation that it DO PASS, amended as follows:

- 17 1. On page 1, line 13, strike "GRANTING DISCRETION".
- 18
- 19 2. On page 1, line 14, strike "AS TO HOW POLLS ARE OPENED  
20 AND CLOSED" and insert in lieu thereof "PROVIDING POLLING  
21 LOCATIONS".
- 22
- 23 3. On page 9, line 3, strike the brackets and line through,  
24 strike "may" and "three" and after "select" insert "two or more".
- 25 4. On page 12, lines 6 and 7, strike "registered voter" and

FORTY-FOURTH LEGISLATURE  
FIRST SESSION, 1999

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insert in lieu thereof "qualified elector".

Respectfully submitted,

\_\_\_\_\_  
Edward C. Sandoval, Chairman

Adopted \_\_\_\_\_

Not Adopted \_\_\_\_\_

(Chief Clerk)

(Chief Clerk)

Date \_\_\_\_\_

The roll call vote was 10 For 0 Against

Yes: 10

Excused: Coll

Absent: Foley

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