SENATE BILL 52

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Jeff Steinborn

AN ACT

RELATING TO ELECTIONS; ALLOWING QUALIFIED ELECTORS TO REGISTER AND VOTE UP TO THREE DAYS BEFORE AN ELECTION AT EARLY VOTING SITES.

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

SECTION 1. A new section of the Election Code is enacted to read:

"[NEW MATERIAL] EARLY VOTING--REGISTRATION PROCEDURES.--

A. If a qualified elector is not registered to vote or needs to update the qualified elector's existing certificate of registration and is at an early voting site for a primary or general election in the county in which the qualified elector resides, the qualified elector shall be allowed to complete a certificate of registration and cast a ballot from the precinct in which the qualified elector resides; provided that the

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qualified elector:

(1)   presents a physical form of identification as defined in Subsection A of Section 1-1-24 NMSA 1978 to the county clerk or the clerk's authorized representative;

(2)   completes a certificate of registration form and the registration information is entered into the statewide electronic voter file; and

(3)   subscribes an application to vote.

B.   If the early voting site does not have real-time access to the statewide electronic voter file and the qualified elector fulfills the conditions specified in Paragraphs (1) through (3) of Subsection A of this section, the voter shall be issued a provisional ballot.

C.   A voter shall not be allowed to change party affiliation when registering at an early voting site during a primary election.

D.   For registration purposes, "early voting site" means an alternate voting site or the office of the county clerk during the time when in-person absentee voting is being conducted."

SECTION 2.   Section 1-4-5.1 NMSA 1978 (being Laws 1993, Chapter 314, Section 7 and Laws 1993, Chapter 316, Section 7, as amended) is amended to read:

"1-4-5.1.   METHOD OF REGISTRATION--FORM.--

A.   A qualified elector may apply for registration:

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1   (1) by mail;

2   (2) in the office of the secretary of state or

3   county clerk; or

4   (3) with a registration agent or officer.

5   B. A person may request certificate of registration

6   forms from:

7   (1) the secretary of state or any county clerk

8   in person, by telephone or by mail for that person or for other

9   persons; or

10   (2) a county clerk or the clerk's authorized

11   representative at an early voting site.

12   C. Except as provided in Subsection D of this

13   section, a qualified elector who wishes to register to vote

14   shall fill out completely and sign the certificate of

15   registration. The qualified elector may seek the assistance of

16   any person in completing the certificate of registration.

17   D. A qualified elector who has filed for an order

18   of protection pursuant to the provisions of the Family Violence

19   Protection Act and who presents a copy of that order from a

20   state or tribal court to the registration officer shall not be

21   required to provide physical residence address information on

22   the certificate of registration and may register to vote

23   without publicly disclosing the applicant's street address

24   pursuant to the Confidential Substitute Address Act.

25   E. Completed certificates of registration may be:

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1   (1) mailed or presented in person by the

2   registrant or any other person to the secretary of state; [or]

3   (2) mailed or presented in person by the

4   registrant or any other person to the county clerk of the

5   county in which the registrant resides; or

6   (3) completed at an early voting site and

7   presented to the county clerk or the clerk's authorized

8   representative at the early voting site in the county in which

9   the registrant resides.

10   F.   If the registrant wishes to vote in [the next]

11   an election, the completed and signed certificate of

12   registration shall be delivered or mailed and postmarked at

13   least twenty-eight days before the election or completed at an

14   early voting site and presented to the county clerk or the

15   clerk's authorized representative at an early voting site in

16   the county in which the registrant resides.

17   G.   Within one business day after receipt of a

18   certificate of registration, the secretary of state shall send

19   the certificate to the county clerk in the county where the

20   qualified elector resides. Within one business day after

21   receipt of a certificate of registration of another county, a

22   county clerk shall send the certificate of registration to the

23   county clerk in the county where the qualified elector resides.

24   H.   Only when the certificate of registration is

25   properly filled out, signed by the qualified elector and

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1   accepted for filing by the county clerk as evidenced by the

2   county clerk's signature or stamp and the date of acceptance

3   thereon shall it constitute an official public record of the

4   registration of the qualified elector. A qualified elector

5   complies with a voter registration deadline established in the

6   Election Code when a properly filled-out voter registration

7   certificate has been received by a county clerk or the

8   secretary of state, regardless of the date the certificate is

9   processed.

10   I.   The secretary of state shall prescribe the form

11   of the certificate of registration, which form shall be a

12   postpaid mail-in format and shall be printed in Spanish and

13   English. The certificate of registration form shall be clear

14   and understandable to the average person and shall include

15   brief but sufficient instructions to enable the qualified

16   elector to complete the form without assistance. The form

17   shall also include:

18   (1)   the question "Are you a citizen of the

19   United States of America?" and boxes for the applicant to check

20   to indicate whether the applicant is or is not a citizen;

21   (2)   the question "Will you be at least

22   eighteen years of age on or before the next general election?"

23   and boxes for the applicant to check to indicate whether the

24   applicant will be eighteen years of age or older on or before

25   the next general election;

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1   (3) the statement "If you checked 'no' in

2 response to either of these questions, do not complete this

3 form.";

4   (4) a statement informing the applicant that:

5   (a) if the form is submitted by mail by

6 the applicant and the applicant is registering for the first

7 time in New Mexico, the applicant [must] shall submit with the

8 form a copy of: 1) a current and valid photo identification;

9 or 2) a current utility bill, bank statement, government check,

10 paycheck, student identification card or other government

11 document, including identification issued by an Indian nation,

12 tribe or pueblo, that shows the name and current address of the

13 applicant; and

14   (b) if the applicant does not submit the

15 required identification, the applicant will be required to do

16 so when voting in person or absentee; and

17   (5) a statement requiring the applicant to

18 swear or affirm that the information supplied by the applicant

19 is true."

20   **SECTION 3.** Section 1-4-8 NMSA 1978 (being Laws 1969,

21 Chapter 240, Section 66, as amended) is amended to read:

22   "1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF

23 REGISTRATION--CLOSE OF REGISTRATION--LATE REGISTRATION.--For

24 qualified electors, the following provisions shall apply:

25   A. the county clerk shall receive certificates of

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1   registration at all times during normal working hours, except

2   that the clerk shall close registration at the end of the

3   twenty-eighth day immediately preceding any election at which

4   the registration books are to be furnished to the precinct

5   board;

6   B.   during the period when early voting sites are

7   open, the county clerk shall accept for filing a certificate of

8   registration from any qualified elector who registers to vote

9   at an early voting site in the county in which the qualified

10   elector resides;

11   [B.] C.   registration shall be reopened on the

12   Monday following the election;

13   [C.] D.   for purposes of a [municipal or school]

14   local election held pursuant to the Local Election Act, the

15   registration period for those precincts within the

16   [municipality or school] local government district is closed at

17   the end of the twenty-eighth day immediately preceding the

18   [municipal or school] local election and is opened again on the

19   Monday following the election;

20   [D.] E.   during the period when registration is

21   closed, the county clerk shall receive certificates of

22   registration and other documents pertaining thereto but, except

23   for certificates of registration received from an early voting

24   site, shall not file any certificate of registration in the

25   registration book until the Monday following the election, at

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which time a voter information document shall be mailed to the
registrant at the address shown on the certificate of
registration;

[E.] F. when the twenty-eighth day prior to any
election referred to in this section is a Saturday, Sunday or
legal holiday, registration shall be closed at the end of the
next succeeding regular business day for the office of the
county clerk; and

[F.] G. the county clerk shall accept for filing
any certificate of registration that is subscribed and dated on
or before the twenty-eighth day preceding the election and:

(1) received by the county clerk by the end of
the regular business day for the office of the county clerk on
the Friday immediately following the close of registration;

(2) mailed and postmarked not less than
twenty-eight days prior to any election referred to in this
section; or

(3) accepted at a state agency designated
pursuant to Section 1-4-5.2 NMSA 1978."

SECTION 4. Section 1-12-8 NMSA 1978 (being Laws 1969,
Chapter 240, Section 247, as amended) is amended to read:

"1-12-8. CONDUCT OF ELECTION--PROVISIONAL VOTING.--

A. A person shall be permitted to vote on a
provisional paper ballot even though the person's original
certificate of registration cannot be found in the county

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1   register or even if the person's name does not appear on the

2   signature roster; provided <u>that</u>:

3   (1) the person's residence is within the

4   boundaries of the county in which the person offers to vote;

5   (2) the person's name is not on the list of

6   persons submitting absentee ballots; and

7   (3) the person executes a statement swearing

8   or affirming to the best of the person's knowledge that the

9   person is a qualified elector, is currently registered and

10   eligible to vote in that county and has not cast a ballot or

11   voted in that election.

12   <u>B. A person shall vote on a provisional ballot if</u>

13   <u>the person:</u>

14   <u>(1) is not registered or is not registered in</u>

15   <u>the correct precinct;</u>

16   <u>(2) attempts to register to vote at an early</u>

17   <u>voting site but the early voting site does not have real-time</u>

18   <u>access to the statewide electronic voting file; and</u>

19   <u>(3) would otherwise be eligible to vote at the</u>

20   <u>early voting site.</u>

21   [<s>B.</s>] <u>C.</u> A voter shall vote on a provisional paper

22   ballot if the voter:

23   (1) has not previously voted in a general

24   election in New Mexico or has been purged from the voter list;

25   (2) registered to vote by mail;

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(3) did not submit the physical form of the required voter identification with the certificate of registration form; and

(4) does not present to the election judge a physical form of the required voter identification.

[C.] D. A voter shall vote on a provisional paper ballot in accordance with the provisions of Section 1-12-7.1 NMSA 1978 if the voter does not provide the required voter identification to the election judge.

[D.] E. A judge or election clerk shall have the voter sign the signature roster or application to vote and issue the voter a provisional paper ballot, an outer envelope and an official inner envelope. The voter shall vote on the provisional paper ballot in secrecy and, when done, place the ballot in the official inner envelope and place the official inner envelope in the outer envelope and return it to the judge or election clerk. The judge or election clerk shall ensure that the required information is completed on the outer envelope, have the voter sign it in the appropriate place and place it in an envelope designated for provisional paper ballots.

[E.] F. Knowingly executing a false statement constitutes perjury as provided in the Criminal Code, and voting on the basis of such falsely executed statement constitutes fraudulent voting."

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1   **SECTION 5.** Section 1-12-20 NMSA 1978 (being Laws 1969,

2   Chapter 240, Section 273, as amended) is amended to read:

3   "1-12-20.   CONDUCT OF ELECTION--INTERPOSING CHALLENGES.--A

4   challenge may be interposed by a member of the precinct board

5   or by a party challenger for the following reasons:

6   A.   the person offering to vote is not registered to

7   vote <u>and is not a qualified elector</u>;

8   B.   the person offering to vote is listed among

9   those persons to whom an absentee ballot was mailed;

10   C.   the person offering to vote has already cast a

11   ballot in that election;

12   D.   the person offering to vote is improperly

13   registered because the person is not a qualified elector; or

14   E.   in the case of a primary election, the person

15   desiring to vote is not affiliated with a political party

16   represented on the ballot."

17   **SECTION 6.** Section 1-12-25.4 NMSA 1978 (being Laws 2003,

18   Chapter 356, Section 7, as amended) is amended to read:

19   "1-12-25.4.   PROVISIONAL PAPER BALLOTS--DISPOSITION.--

20   A.   Upon closing of the polls, provisional paper

21   ballots shall be delivered to the county clerk, who shall

22   determine if the ballots will be counted prior to certification

23   of the election.

24   B.   A provisional paper ballot shall not be counted

25   if the registered voter did not sign either the signature

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1   roster <u>or, in the case of a person who registered to vote at an</u>

2   <u>early voting site, the application to vote</u>, or the ballot's

3   envelope.

4   C.   If there is no record of the [voter] <u>person</u> ever

5   having been registered in the county, the [voter] <u>person</u> shall

6   be offered the opportunity to register and the provisional

7   paper ballot shall not be counted; <u>provided that this</u>

8   <u>subsection does not apply to a provisional ballot of a</u>

9   <u>qualified elector who registered to vote at an early voting</u>

10   <u>site</u>.

11   D.   If the voter was registered in the county, the

12   registration was later canceled and the county clerk determines

13   that the cancellation was in error or that the voter's name

14   should not have been placed on the list of voters whose

15   registrations were to be canceled, the voter's registration

16   shall be immediately restored and the provisional paper ballot

17   counted.

18   E.   If the county clerk determines that the

19   cancellation was not in error, the voter shall be offered the

20   opportunity to register at the voter's correct address and the

21   provisional paper ballot shall not be counted.

22   F.   If the voter is a registered voter in the county

23   but has voted on a provisional paper ballot at a polling place

24   other than the voter's designated polling place, the county

25   canvassing board shall ensure that only those votes for the

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1   positions or measures for which the voter was eligible to vote

2   are counted.

3   G.   If the county clerk finds that the voter who

4   voted on a provisional paper ballot [at the polls] has also

5   voted [an absentee] another ballot in that election, the

6   provisional paper ballot shall not be counted.

7   H.   The county canvassing board shall prepare a

8   tally displaying the number of provisional paper ballots

9   received, the number found valid and counted, the number

10   rejected and not counted and the reason for not counting the

11   ballots as part of the canvassing process and forward it to the

12   secretary of state immediately upon certification of the

13   election.

14   I.   The secretary of state shall issue rules to

15   ensure securing the secrecy of the provisional paper ballots,

16   especially during canvassing, reviewing or recounting, and

17   protecting against fraud in the voting process."

18   **SECTION 7.**   EFFECTIVE DATE.--The effective date of the

19   provisions of this act is July 1, 2019.

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