SENATE BILL 621

47TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2005

INTRODUCED BY

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AN ACT

RELATING TO ELECTIONS; PERMITTING SAME DAY REGISTRATION AND
VOTING AT PRIMARY AND GENERAL ELECTIONS.

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

Section 1.   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
by mail, [or] in the office of the county clerk or, on election
day, at the polling place for the precinct in which the
qualified elector resides.

B.   Certificate of registration forms may be
requested from the secretary of state or any county clerk in
person, by telephone or by mail for oneself or for others or

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1 from a precinct board member on election day by the qualified

2 elector at the polling place for the precinct in which the

3 qualified elector resides.

4   C.   Except as provided in Subsection D of this

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

6 shall fill out completely and sign the certificate of

7 registration.   The qualified elector may seek the assistance of

8 any person in completing the certificate of registration.

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

10 of protection pursuant to the provisions of the Family Violence

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

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

13 required to provide address information on the certificate of

14 registration.

15   E.   Completed certificates of registration may be

16 mailed or presented in person by the registrant or any other

17 person to the secretary of state, [or] presented in person by

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

19 county in which the registrant resides or presented in person

20 by the registrant to a precinct board member at the polling

21 place for the precinct in which the registrant resides.

22   F.   If the registrant wishes to vote in the next

23 election, the completed and signed certificate of registration

24 shall be delivered or mailed and postmarked at least twenty-

25 eight days before the election or presented on election day in

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1 person by the registrant to a precinct board member at the

2 polling place for the precinct in which the registrant resides.

3 G. Upon receipt of a certificate of registration,

4 the secretary of state shall send the certificate to the county

5 clerk in the county where the qualified elector resides.

6 H. Only when the certificate of registration is

7 properly filled out, signed by the qualified elector and

8 accepted for filing by the county clerk as evidenced by [his]

9 the county clerk's signature or stamp and the date of

10 acceptance thereon and when notice has been received by the

11 registrant shall it constitute an official public record of the

12 registration of the qualified elector.

13 I. The secretary of state shall prescribe the form

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

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

16 English. The certificate of registration form shall be clear

17 and understandable to the average person and shall include

18 brief but sufficient instructions to enable the qualified

19 elector to complete the form without assistance. The form

20 shall also include:

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

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

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

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

25 eighteen years of age on or before election day?" and boxes for

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1   the applicant to check to indicate whether the applicant will

2   be eighteen years of age or older on election day;

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

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

5   form."; and

6   (4)   a statement informing the applicant that:

7   (a)   if the form is not submitted in

8   person by the applicant and the applicant is registering for

9   the first time in New Mexico, the applicant must submit with

10   the form a copy of a current and valid photo identification,

11   utility bill, bank statement, government check, paycheck or

12   other government document that shows the name and address of

13   the applicant; and

14   (b)   if the applicant does not submit the

15   required identification, he will be required to do so when he

16   votes in person or absentee.

17   J.   If a person registers to vote on election day,

18   the certificate of registration shall be provided to the county

19   clerk for filing at the same time as the ballots cast that

20   day."

21   Section 2.   Section 1-4-8 NMSA 1978 (being Laws 1969,

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

23   "1-4-8.   DUTIES OF COUNTY CLERK--ACCEPTANCE OF

24   REGISTRATION--CLOSE OF REGISTRATION--FEDERAL QUALIFIED ELECTORS

25   AND OVERSEAS VOTERS--ELECTION-DAY REGISTRATION--LATE

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1   REGISTRATION.--

2   A.   For qualified electors other than federal

3 qualified electors or overseas voters, the following provisions

4 shall apply:

5   (1)   the county clerk shall receive

6 certificates of registration at all times during normal working

7 hours, except that [he] the clerk shall close registration at

8 5:00 p.m. on the twenty-eighth day immediately preceding any

9 election at which the registration books are to be furnished to

10 the precinct board;

11   (2)   registration shall be reopened on the

12 Monday following the election, except that certificates of

13 registration of qualified electors registering at a polling

14 place on election day shall be accepted and filed before

15 provisional ballots are qualified for that election;

16   (3)   for purposes of a municipal or school

17 election, the registration period for those precincts within

18 the municipality or school district is closed at 5:00 p.m. on

19 the twenty-eighth day immediately preceding the municipal or

20 school election and is opened again on the Monday following the

21 election;

22   (4)   during the period when registration is

23 closed, the county clerk shall receive certificates of

24 registration and other documents pertaining thereto but, except

25 for election-day registrations, shall not file the certificate

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1   of registration in the registration book until the Monday

2   following the election, at which time a voter identification

3   card shall be mailed to the registrant at the address shown on

4   the certificate of registration;

5   (5)   when the twenty-eighth day prior to any

6   election referred to in this section is a Saturday, Sunday or

7   legal holiday, registration shall be closed at 5:00 p.m. of the

8   next succeeding regular business day for the office of the

9   county clerk; and

10   (6)   the county clerk shall accept for filing

11   any certificate of registration that is hand delivered before

12   5:00 p.m. on the Friday immediately following the close of

13   registration.   The county clerk shall accept for filing any

14   mailed certificate of registration postmarked not less than

15   twenty-eight days prior to any election referred to in this

16   section.   The county clerk shall accept for filing any

17   certificate of registration accepted at a state agency

18   designated pursuant to Section 1-4-5.2 NMSA 1978 not later than

19   twenty-eight days prior to any election.   The county clerk

20   shall accept for filing on election day certificates of

21   registration of registrants registering at a polling place on

22   election day.

23   B.   For federal qualified electors and overseas

24   voters, the county clerk shall accept a certificate of

25   registration by electronic transmission from a voter qualified

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1   to apply for and vote by absentee ballot in the county if the

2   transmission is received before 5:00 p.m. on the Friday

3   immediately preceding the election."

4   Section 3.   Section 1-5-12 NMSA 1978 (being Laws 1969,

5   Chapter 240, Section 114, as amended) is amended to read:

6   "1-5-12.   VOTER WHOSE NAME IS NOT ON LIST OR ROSTER.--

7   A.   A voter whose name does not appear on the voter

8   list and signature roster for the precinct in which he offers

9   to vote may register and shall be permitted to vote in the

10   precinct pursuant to the federal National Voter Registration

11   Act of 1993 and Section 1-12-8 NMSA 1978.

12   B.   The election clerks in charge of the signature

13   rosters shall add the voter's name and address in ink to the

14   signature roster on the line immediately following the last

15   entered voter's name and the voter shall be allowed to sign an

16   affidavit of eligibility and cast a provisional paper ballot,

17   provided he has first signed or marked both the signature

18   roster and checklist of registered voters.

19   C.   The provisional paper ballot number for the

20   voter shall be entered on the affidavit of eligibility, the

21   signature roster and the checklist of registered voters.

22   D.   In a primary election, a voter shall not be

23   permitted to vote for a candidate of a party different from the

24   party designation shown on his certificate of registration.

25   Upon making that determination, the county clerk shall transmit

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1   the ballot to the county canvassing board to be tallied and

2   included in the canvass of that county for the appropriate

3   precinct.

4   E.   Verbal authorization from the county clerk to

5   allow a person to vote is not permitted."

6   Section 4.   Section 1-12-8 NMSA 1978 (being Laws 1969,

7   Chapter 240, Section 247, as amended) is amended to read:

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

9   A.   A person shall be permitted to vote on a

10   provisional paper ballot even though [his] the person's

11   original certificate of registration cannot be found in the

12   county register or even if [his] the person's name does not

13   appear on the signature roster, provided:

14   (1)   [his] the person's residence is within the

15   boundaries of the county in which [he] the person offers to

16   vote;

17   (2)   [his] the person's name is not on the list

18   of persons submitting absentee ballots; and

19   (3)   [he] the person executes a statement

20   swearing or affirming to the best of [his] the person's

21   knowledge that [he] the person is a qualified elector, is

22   [currently registered and] eligible to vote in that county and

23   has not cast a ballot or voted in that election.

24   B.   A voter shall vote on a provisional paper ballot

25   if the voter:

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          (1)   has not previously voted in a general election in New Mexico;

          (2)   did not register to vote in person;

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

          (4)   does not present to the election judge one of the following forms of identification that matches the name and address on the voter's certificate of registration:

          (a)   a current and valid photo identification; or

          (b)   a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter; or

          (5)   registers to vote at the polling place on election day after complying with the requirements of Section 1-4-5.1 NMSA 1978.

        C.   An election judge shall have the voter sign the signature roster 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 precinct officer. The election judge shall ensure that the required information is completed on the outer envelope, have the voter sign it in the appropriate place and

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1   place it in an envelope designated for provisional paper

2   ballots.

3   D.   Knowingly executing a false statement

4   constitutes perjury as provided in the Criminal Code of this

5   state, and voting on the basis of such falsely executed

6   statement constitutes fraudulent voting."

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