

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 453

47TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2006

INTRODUCED BY

Mary Helen Garcia

FOR THE ELECTION REFORM TASK FORCE

AN ACT

RELATING TO ELECTIONS; ESTABLISHING PRECINCT REPORTING
REQUIREMENTS; CHANGING VOTER REGISTRATION PROCEDURES; REQUIRING
THIRD-PARTY REGISTRATION ORGANIZATIONS TO REGISTER WITH THE
STATE; CHANGING THE FILING DATE FOR MINOR PARTY CANDIDATES;
CHANGING PROVISIONS ON DEPOSITS FOR COSTS OF RECOUNTS AND
RECHECKS; PROVIDING PENALTIES; REPEALING PROVISIONS OF THE
ELECTION CODE; DECLARING AN EMERGENCY.

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] REPORTING OF VOTE TOTALS BY PRECINCT--
VOTING DATA MAINTAINED BY PRECINCT.--

A. The county clerk shall report to the secretary
of state the vote totals in each precinct for each candidate

underscoring material = new
[bracketed material] = delete

underscored material = new
[bracketed material] = delete

1 and ballot question to the extent that the county clerk can do
2 so without compromising the secrecy of a voter's ballot.

3 B. The county clerk shall maintain voting data by
4 precinct that includes the number of voters who voted early in-
5 person, absentee by mail and on election day and the number of
6 voters who voted using each type of voting system; provided
7 that the county clerk may combine data in accordance with rules
8 promulgated by the secretary of state to protect the secrecy of
9 each voter's ballot. The county clerk shall not be required to
10 report the data required by this subsection until at least
11 sixty days after the election."

12 Section 2. Section 1-4-5 NMSA 1978 (being Laws 1969,
13 Chapter 240, Section 63, as amended) is amended to read:

14 "1-4-5. METHOD OF REGISTRATION--UNLAWFUL USE OF
15 INFORMATION--PENALTY.--

16 A. A qualified elector may apply to a registration
17 officer or agent for registration.

18 B. The registration officer or agent or qualified
19 elector shall fill out each of the blanks on the certificate of
20 registration by typing or printing in ink. The ~~[voter]~~
21 qualified elector shall be given a receipt ~~[for the original,~~
22 ~~and the registration agent shall receive a copy that omits the~~
23 ~~voter's social security number and date of birth and which]~~
24 that shall contain:

25 (1) a number traceable to the registration

.159750.1

underscored material = new
[bracketed material] = delete

1 agent or officer; and

2 (2) a statement informing the qualified
3 elector that if the qualified elector does not receive
4 confirmation of the qualified elector's registration within
5 twenty days of the receipt date, that the qualified elector
6 should contact the office of the county clerk in the county
7 where the qualified elector resides or the office of the
8 secretary of state.

9 C. The qualified elector shall subscribe a
10 certificate of registration as follows:

11 (1) by signing the certificate of registration
12 using the qualified elector's given name, middle name or
13 initial and last name; or

14 (2) if any qualified elector seeking to
15 register is unable to read and write either the English or
16 Spanish language or is unable to read or write because of some
17 physical disability, the certificate of such person shall be
18 filled out by a registration officer or agent and the name of
19 the qualified elector so registering shall be subscribed by the
20 making of the qualified elector's mark.

21 D. When properly executed by the registration agent
22 or officer, or qualified elector, the original of the
23 certificate of registration shall be presented, either in
24 person or by mail by the qualified elector or by the
25 registration agent or officer, to the county clerk of the

.159750.1

underscored material = new
[bracketed material] = delete

1 county in which the qualified elector resides.

2 E. Only when the certificate of registration is
3 properly filled out, subscribed by the qualified elector and
4 accepted for filing by the county clerk as evidenced by the
5 county clerk's signature or stamp and the date of acceptance
6 thereon shall it constitute an official public record of the
7 registration of the qualified elector. It is unlawful for the
8 ~~[voter's]~~ qualified elector's date of birth or any portion of
9 the ~~[voter's]~~ qualified elector's social security number
10 required on the certificate of registration to be copied,
11 conveyed or used by anyone other than the person registering to
12 vote, either before or after it is filed with the county clerk,
13 except by elections administrators for purposes of the
14 registration and voting process.

15 F. A person who unlawfully copies, conveys or uses
16 information from a certificate of registration is guilty of a
17 fourth degree felony."

18 Section 3. Section 1-4-5.3 NMSA 1978 (being Laws 2005,
19 Chapter 270, Section 18) is amended to read:

20 "1-4-5.3. REGISTRATION--LACK OF PHYSICAL ADDRESS.--

21 A. If a qualified elector resides in an area
22 lacking a specific physical address, the qualified elector
23 shall be allowed to substitute a map or give a description and,
24 if available, a mailing address or the latitude and longitude
25 from a geographical information system, indicating where the

.159750.1

underscored material = new
[bracketed material] = delete

1 qualified elector resides for a physical address [~~and register~~
2 ~~to vote~~]. The [~~voter~~] qualified elector shall be assigned to a
3 precinct based on the geographic description of where the
4 [~~voter~~] qualified elector resides.

5 B. As used in this section, "geographical
6 information system" means a system that stores and analyzes
7 geographic data that can be used to display and map addresses
8 and locations."

9 Section 4. Section 1-4-11 NMSA 1978 (being Laws 1969,
10 Chapter 240, Section 67, as amended) is amended to read:

11 "1-4-11. DUTIES OF COUNTY CLERK--UPON RECEIPT OF
12 CERTIFICATES.--

13 A. Upon receipt of a complete certificate of
14 registration, if in proper form, the county clerk shall
15 determine if the qualified elector applying for registration is
16 already registered in the registration records of the county.
17 If the qualified elector is not already registered in the
18 county and if the certificate of registration is received
19 within the time allowed by law for filing certificates of
20 registration in the county clerk's office, the county clerk
21 shall sign or stamp, in the space provided therefor on each
22 copy of the certificate, [~~his~~] the qualified elector's name and
23 the date the certificate was accepted for filing in the county
24 registration records. A voter identification card shall be
25 handed or mailed as soon as practical to the [~~voter~~] qualified

.159750.1

underscored material = new
[bracketed material] = delete

1 elector and to no other person.

2 B. If the qualified elector is already registered
3 in the county as shown by ~~[his]~~ the qualified elector's
4 original certificate of registration currently on file in the
5 county registration records, the county clerk shall not accept
6 the new certificate of registration unless it is filed pursuant
7 to Section 1-4-13, 1-4-15, 1-4-17 or 1-4-18 NMSA 1978. ~~[He]~~ If
8 the applicant's certificate of registration is rejected for any
9 reason, the county clerk shall stamp or write the word
10 "rejected" on the new certificate of registration and hand or
11 mail it, if possible, to the ~~[voter]~~ applicant with an
12 explanation why the new certificate of registration was
13 rejected and what remedial action, if any, the ~~[voter]~~
14 applicant must take to bring ~~[his]~~ the registration up to date
15 or into compliance with the Election Code.

16 C. If the qualified elector does not register in
17 person, indicates that ~~[he]~~ the qualified elector has not
18 previously voted in a general election in New Mexico and does
19 not provide the registration officer with the required
20 identification, the registration officer shall indicate this on
21 the ~~[voter's]~~ qualified elector's certificate of registration
22 and the county clerk shall note this on the appropriate
23 precinct signature roster.

24 D. If the qualified elector substitutes latitude
25 and longitude from a geographical information system for a

.159750.1

underscored material = new
[bracketed material] = delete

1 physical address pursuant to Section 1-4-5.3 NMSA 1978, the
2 county clerk shall use a mail service, if available, that has
3 geographical information system delivery capability to deliver
4 the voter identification card or certificate of registration."

5 Section 5. Section 1-4-49 NMSA 1978 (being Laws 2005,
6 Chapter 270, Section 17) is amended to read:

7 "1-4-49. THIRD-PARTY REGISTRATION AGENTS--REGISTRATION
8 REQUIRED--PROCEDURES--REPORTS--PENALTY.--

9 A. Registration agents who either register or
10 assist persons to register to vote on behalf of an organization
11 that is not a state or federal agency shall register with the
12 secretary of state, and the organization shall register and
13 provide the secretary of state with:

14 (1) the names and addresses of the officers of
15 the organization and the name and permanent address of the
16 organization;

17 (2) the names, permanent addresses, temporary
18 addresses, if any, dates of birth and social security numbers
19 of each person registering persons to vote in the state on
20 behalf of the organization; and

21 (3) a sworn statement from each registration
22 agent employed by or volunteering for the organization stating
23 that the agent will obey all state laws and rules regarding the
24 registration of voters on a form that gives notice of the
25 criminal penalties for false registration.

.159750.1

underscored material = new
[bracketed material] = delete

1 B. Organizations employing registration agents or
2 using volunteer registration agents shall deliver or mail a
3 certificate of registration to the secretary of state or county
4 clerk within forty-eight hours of its completion by the person
5 registering to vote or deliver it the next business day if the
6 appropriate office is closed for that forty-eight-hour period.

7 C. The secretary of state may issue rules to ensure
8 the integrity of the registration process, including rules
9 requiring that organizations account for all registration forms
10 used by their registration agents.

11 D. A person who [~~willfully~~] violates the provisions
12 of this section is guilty of a petty misdemeanor and [~~shall~~
13 ~~have his~~] the person's third-party registration agent status
14 shall be revoked. If the person who violates a provision of
15 this section is an employee of an organization and has
16 decision-making authority involving the organization's voter
17 registration activities or is an officer of the organization,
18 that organization shall be subject to civil penalties as
19 described in Subsection E of this section.

20 E. If the secretary of state reasonably believes
21 that a person committed, or is about to commit, a violation of
22 the provisions of this section, the secretary of state shall
23 refer the matter to the attorney general or a district attorney
24 for enforcement. The attorney general or district attorney may
25 institute a civil action in district court for a violation of

.159750.1

underscored material = new
[bracketed material] = delete

1 the provisions of this section or to prevent a violation of the
2 provisions of this section. An action for relief may include a
3 permanent or temporary injunction, a restraining order or any
4 other appropriate order, including a civil penalty of two
5 hundred fifty dollars (\$250) for each violation, not to exceed
6 five thousand dollars (\$5,000)."

7 Section 6. Section 1-8-2 NMSA 1978 (being Laws 1969,
8 Chapter 240, Section 152, as amended) is amended to read:

9 "1-8-2. NOMINATION BY MINOR POLITICAL PARTY--
10 CONVENTION-DESIGNATED NOMINEES.--

11 A. If the rules [~~and regulations~~] of a minor
12 political party require nomination by political convention:

13 (1) the chairman and secretary of the state
14 political convention shall certify to the secretary of state
15 the names of their party's nominees for United States senator,
16 United States representative, all elective state offices,
17 legislative offices elected from multicounty districts, the
18 public regulation commission, all elective judicial officers in
19 the judicial department and all offices representing a district
20 composed of more than one county; and

21 (2) the chairman and secretary of the county
22 political convention shall certify to the county clerk the
23 names of their party's nominees for elected county offices and
24 for legislative offices elected from a district located wholly
25 within one county or that is composed of only one county.

.159750.1

underscored material = new
[bracketed material] = delete

1 B. The names certified to the secretary of state
2 shall be filed on the [~~second Tuesday in July~~] day following
3 the primary election in the year of the general election and
4 shall be accompanied by a petition containing a list of
5 signatures and addresses of voters totaling not less than one
6 percent of the total number of votes cast at the last preceding
7 general election for the office of governor or president of the
8 United States, as the case may be:

- 9 (1) in the state for statewide offices; and
10 (2) in the district for offices other than
11 statewide offices.

12 The petition shall contain a statement that the voters
13 signing the petition are residents of the state, district,
14 county or area to be represented by the office for which the
15 person being nominated is a candidate.

16 C. The names certified to the county clerk shall be
17 filed on the [~~second Tuesday in July~~] day following the primary
18 election in the year of the general election and shall be
19 accompanied by a petition containing a list of signatures and
20 addresses of voters totaling not less than one percent of the
21 total number of votes cast at the last preceding general
22 election for the office of governor or president of the United
23 States, as the case may be:

- 24 (1) in the county for countywide offices; and
25 (2) in the district for offices other than

underscored material = new
[bracketed material] = delete

1 countywide offices.

2 The petition shall contain a statement that the voters
3 signing the petition are residents of the state, district,
4 county or area to be represented by the office for which the
5 person being nominated is a candidate.

6 D. Persons certified as nominees shall be members
7 of that party before the day the governor issues the primary
8 election proclamation.

9 E. No voter shall sign [~~any~~] a petition prescribed
10 by this section for more persons than the number of minor party
11 candidates necessary to fill the office at the next ensuing
12 general election."

13 Section 7. Section 1-14-15 NMSA 1978 (being Laws 1978,
14 Chapter 48, Section 1, as amended) is amended to read:

15 "1-14-15. RECOUNTS--RECHECKS--COST OF PROCEEDINGS.--

16 A. An applicant for a recount shall deposit with
17 the proper canvassing board or, in the case of an office for
18 which the state canvassing board issues a certificate of
19 nomination or election, with the secretary of state fifty
20 dollars (\$50.00) in cash, or a sufficient surety bond in an
21 amount equal to fifty dollars (\$50.00), for each precinct for
22 which a recount is demanded. An applicant for a recheck shall
23 deposit with the proper canvassing board or, in the case of an
24 office for which the state canvassing board issues a
25 certificate of nomination or election, with the secretary of

.159750.1

underscored material = new
[bracketed material] = delete

1 state ten dollars (\$10.00) in cash, or a sufficient surety bond
2 in an amount equal to ten dollars (\$10.00), for each voting
3 machine to be rechecked.

4 B. The deposit or surety bond shall be security for
5 the payment of the costs and expenses of the recount or recheck
6 in case the results of the recount or recheck are not
7 sufficient to change the results of the election. [~~The state~~
8 ~~canvassing board may condition the issuance of the summons on a~~
9 ~~receipt of a portion of or the full estimated costs of the~~
10 ~~recount or recheck to ensure sufficient security.~~]

11 C. If it appears that error or fraud sufficient to
12 change the winner of the election has been committed, the costs
13 and expenses of the recount or recheck shall be paid by the
14 state upon warrant issued by the secretary of finance and
15 administration supported by a voucher of the secretary of
16 state, or shall be paid by the county upon warrant of the
17 county clerk from the general fund of the county, as the case
18 may be.

19 D. If no error or fraud appears to be sufficient to
20 change the winner, the costs and expenses for the recount or
21 recheck shall be paid by the applicant. Costs shall consist of
22 any docket fees, mileage of the sheriff in serving summons and
23 fees and mileage of precinct board members, at the same rates
24 allowed witnesses in civil actions. If error or fraud has been
25 committed by a precinct board, the board members shall not be

.159750.1

underscored material = new
~~[bracketed material]~~ = delete

1 entitled to such mileage or fees."

2 Section 8. REPEAL.--Section 1-6-10.2 NMSA 1978 (being
3 Laws 2003, Chapter 378, Section 1) is repealed.

4 Section 9. EMERGENCY.--It is necessary for the public
5 peace, health and safety that this act take effect immediately.

6 - 13 -
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25