

HOUSE LOCAL GOVERNMENT, ELECTIONS, LAND GRANTS AND  
CULTURAL AFFAIRS COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 455

**53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017**

AN ACT

RELATING TO ELECTIONS; CHANGING DEADLINES FOR BALLOT CHANGES  
AND MAKING CONFORMING AMENDMENTS; CHANGING REGISTRATION CLOSURE  
TIMES; CHANGING REQUIREMENTS FOR THE INVALIDATION OF NOMINATING  
PETITIONS; AMENDING SECTIONS OF THE ELECTION CODE.

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

**SECTION 1.** Section 1-2-1 NMSA 1978 (being Laws 1969,  
Chapter 240, Section 22, as amended) is amended to read:

"1-2-1. SECRETARY OF STATE--CHIEF ELECTION OFFICER--  
RULES.--

A. The secretary of state is the chief election  
officer of the state.

B. The secretary of state shall:

(1) obtain and maintain uniformity in the  
application, operation and interpretation of the Election Code;

.207844.1

underscored material = new  
[bracketed material] = delete

1 and

2 (2) subject to the State Rules Act, make rules  
3 pursuant to the provisions of, and necessary to carry out the  
4 purposes of, the Election Code and shall furnish to the county  
5 clerks copies of such rules; provided that no rule is adopted  
6 or amended within the [~~fifty-six~~] sixty-three days before a  
7 primary or a general election.

8 C. No forms or procedures shall be used in any  
9 election held pursuant to the Election Code without prior  
10 approval of the secretary of state."

11 SECTION 2. Section 1-4-8 NMSA 1978 (being Laws 1969,  
12 Chapter 240, Section 66, as amended) is amended to read:

13 "1-4-8. DUTIES OF COUNTY CLERK--ACCEPTANCE OF  
14 REGISTRATION--CLOSE OF REGISTRATION--LATE REGISTRATION.--For  
15 qualified electors, the following provisions shall apply:

16 A. the county clerk shall receive certificates of  
17 registration at all times during normal working hours, except  
18 that the clerk shall close registration at [~~5:00 p.m. on~~] the  
19 end of the twenty-eighth day immediately preceding any election  
20 at which the registration books are to be furnished to the  
21 precinct board;

22 B. registration shall be reopened on the Monday  
23 following the election;

24 C. for purposes of a municipal or school election,  
25 the registration period for those precincts within the

1 municipality or school district is closed at [~~5:00 p.m. on~~] the  
2 end of the twenty-eighth day immediately preceding the  
3 municipal or school election and is opened again on the Monday  
4 following the election;

5 D. during the period when registration is closed,  
6 the county clerk shall receive certificates of registration and  
7 other documents pertaining thereto but shall not file any  
8 certificate of registration in the registration book until the  
9 Monday following the election, at which time a voter  
10 information document shall be mailed to the registrant at the  
11 address shown on the certificate of registration;

12 E. when the twenty-eighth day prior to any election  
13 referred to in this section is a Saturday, Sunday or legal  
14 holiday, registration shall be closed at [~~5:00 p.m.~~] the end of  
15 the next succeeding regular business day for the office of the  
16 county clerk; and

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

20 (1) received by the county clerk before  
21 5:00 p.m. on the Friday immediately following the close of  
22 registration;

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

.207844.1

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

3 SECTION 3. Section 1-8-4 NMSA 1978 (being Laws 1969,  
4 Chapter 240, Section 154, as amended by Laws 2014, Chapter 40,  
5 Section 4 and by Laws 2014, Chapter 81, Section 4) is amended  
6 to read:

7 "1-8-4. SECRETARY OF STATE--CERTIFICATION OF NOMINEES--  
8 MINOR POLITICAL PARTY.--

9 A. Upon receipt of certificates of nomination of  
10 any minor political party and nominating petitions, and no  
11 later than 5:00 p.m. on the first Tuesday following the filing  
12 date, the proper filing officer shall:

13 (1) determine whether the method of nomination  
14 used by the certifying political party complies with the  
15 current rules of that party on file in the secretary of state's  
16 office;

17 (2) determine whether the number of signatures  
18 required have been submitted and all the requirements of  
19 Sections 1-8-1 through 1-8-3 NMSA 1978 have been complied with;  
20 and

21 (3) if such determinations are answered in the  
22 affirmative, mail notice to the certifying party and the  
23 candidate no later than 5:00 p.m. on the Tuesday following the  
24 filing date that the certificates of nomination and nominating  
25 petitions are in proper order and that the candidate, based on

.207844.1

1 those documents, is qualified to have the candidate's name  
2 placed on the ballot.

3 B. If a minor political party candidate is notified  
4 by the proper filing officer that the candidate is not  
5 qualified to have the candidate's name appear on the ballot,  
6 the candidate may challenge the decision by filing a petition  
7 with the district court within ten days of the notification.  
8 The district court shall hear and render a decision on the  
9 matter within ten days after the petition is filed. The  
10 decision of the district court may be appealed to the supreme  
11 court within five days after the decision is rendered. The  
12 supreme court shall hear and render a decision no later than  
13 [~~fifty-six~~] sixty-three days prior to the general election.

14 C. Any voter may file a court action challenging a  
15 minor political party candidate's nominating petitions pursuant  
16 to the provisions of Section 1-8-35 NMSA 1978."

17 SECTION 4. Section 1-8-8 NMSA 1978 (being Laws 1969,  
18 Chapter 240, Section 158, as amended) is amended to read:

19 "1-8-8. VACANCY ON GENERAL ELECTION BALLOT--OCCURRING  
20 AFTER PRIMARY.--

21 A. If after a primary election, but seventy or more  
22 days before the general election, a vacancy occurs, for any  
23 cause, in the list of the nominees of a qualified political  
24 party for any public office to be filled in the general  
25 election, or a vacancy occurs because of the resignation or

.207844.1

1 death of a person holding a public office not included in the  
2 governor's proclamation and which office is required by law to  
3 be filled at the next succeeding general election, or a vacancy  
4 occurs because a new public office is created and was not  
5 included in the governor's proclamation but is capable by law  
6 of being filled at the next succeeding general election, the  
7 vacancy on the general election ballot may be filled by:

8 (1) the central committee of the state  
9 political party filing the name of its nominee for the office  
10 with the proper filing officer when the office is a federal  
11 office, state office, district office or multicounty  
12 legislative district office; and

13 (2) the central committee of the county  
14 political party filing the name of its nominee for the office  
15 with the proper filing officer when the office is a magistrate  
16 office, county office or legislative district office where the  
17 district is entirely within the boundaries of a single county.

18 B. Appointments made pursuant to Subsection A of  
19 this section shall qualify pursuant to Section 1-8-18 NMSA  
20 1978.

21 C. The county or state central committee members  
22 making the appointment pursuant to Subsection A of this section  
23 shall be as provided for in the rules of the respective party;  
24 provided that, at a minimum, the committee shall include those  
25 members residing within the boundaries of the area to be

.207844.1

1 represented by the public office.

2 D. Appointments to fill vacancies in the list of a  
3 party's nominees shall be made and filed at least [~~fifty-six~~]  
4 sixty-three days prior to the general election.

5 E. When the name of a nominee is filed as provided  
6 in this section, the name shall be placed on the general  
7 election ballot as the party's candidate for that office."

8 SECTION 5. Section 1-8-9 NMSA 1978 (being Laws 1975,  
9 Chapter 255, Section 104, as amended) is amended to read:

10 "1-8-9. GENERAL ELECTION--WITHDRAWAL OF CANDIDATES.--No  
11 candidate shall withdraw from a general election unless the  
12 candidate withdraws at least [~~sixty-three~~] seventy days prior  
13 to that election and the candidate files a signed and notarized  
14 statement of withdrawal with the proper filing officer."

15 SECTION 6. Section 1-8-31 NMSA 1978 (being Laws 1973,  
16 Chapter 228, Section 5, as amended) is amended to read:

17 "1-8-31. [~~PRIMARY ELECTION LAW~~] NOMINATING PETITION--  
18 SIGNATURES TO BE COUNTED.--

19 A. A person who signs a nominating petition shall  
20 sign only one petition for the same office unless more than one  
21 candidate is to be elected to that office, and in that case, a  
22 person may sign not more than the number of nominating  
23 petitions equal to the number of candidates to be elected to  
24 the office.

25 B. A person who signs a nominating petition shall

.207844.1

1 indicate the person's registration address. If the person does  
2 not have a standard street address, the person may provide the  
3 mailing address as shown on the person's certificate of  
4 registration.

5 C. A signature shall be counted on a nominating  
6 petition unless there is evidence presented that the person  
7 signing:

8 ~~[(1) was not a registered member of the~~  
9 ~~candidate's political party ten days prior to the filing of the~~  
10 ~~nominating petition;~~

11 ~~(2)]~~ (1) failed to provide information  
12 required by the nominating petition;

13 ~~[(3)]~~ (2) is not a voter of the state,  
14 district, county or area to be represented by the office for  
15 which the person seeking the nomination is a candidate;

16 ~~[(4)]~~ (3) has signed more than one petition  
17 for the same office, except as provided in Subsection A of this  
18 section, or has signed one petition more than once;

19 ~~[(5)]~~ (4) is not of the same political party  
20 as the candidate named in the nominating petition as shown by  
21 the signer's certificate of registration; or

22 ~~[(6)]~~ (5) is not the person whose name appears  
23 on the nominating petition.

24 D. The following information shall be listed in the  
25 appropriate space at the top of the nominating petition before

1 the petition has been signed by any voter:

2 (1) the party affiliation of voters signing  
3 the petition;

4 (2) the candidate's name [~~the candidate's~~  
5 ~~address, the candidate's county of residence and~~];

6 (3) the office sought by the candidate [~~which~~  
7 ~~shall include~~]; and

8 (4) the district [~~or division~~] of the office  
9 sought, or if [applicable] the office sought is a judicial  
10 division office within a judicial district, the judicial  
11 division number.

12 E. With or without a showing of fraud or reasonable  
13 opportunity for fraud, a nominating petition, including all  
14 signatures on the petition page, shall be invalid if any of the  
15 [~~preceding~~] information required by Subsection D of this  
16 section is not listed on the petition before the petition is  
17 signed by a voter or if any of the [~~preceding~~] required  
18 information is altered.

19 [~~E.~~] F. The procedures set forth in this section  
20 shall be used to validate signatures on any petition required  
21 by the Election Code, except that [~~Paragraphs (1) and (5)~~]  
22 Paragraph (4) of Subsection C of this section shall not apply  
23 to petitions filed by unaffiliated candidates or petitions  
24 filed by candidates of minor political parties."

25 SECTION 7. Section 1-10-4 NMSA 1978 (being Laws 1977,

.207844.1

1 Chapter 222, Section 27, as amended) is amended to read:

2 "1-10-4. BALLOTS--PREPARATION.--

3 A. Not less than [~~fifty-six~~] sixty-three days  
4 before the primary election, each proper filing officer shall  
5 group all candidates for each party by themselves and prepare  
6 in writing a separate ballot for each party and certify the  
7 candidates for each ballot position to the printer.

8 B. Not less than [~~fifty-six~~] sixty-three days  
9 before the general election, each proper filing officer shall  
10 prepare in writing the ballot containing the name of each  
11 candidate that has been certified and filed as the nominee of a  
12 party and any constitutional amendments, questions or other  
13 propositions that are to be voted on and certify all such  
14 information to the ballot printer. A copy of each  
15 certification shall be kept on file in the office of the  
16 secretary of state.

17 C. Upon request of the county chair of a political  
18 party participating in the election, the county clerk shall  
19 furnish proof sheets or a copy of the proof sheets of the  
20 ballot as soon as they become available."

21 SECTION 8. Section 1-15-3 NMSA 1978 (being Laws 1969,  
22 Chapter 240, Section 353, as amended) is amended to read:

23 "1-15-3. PRESIDENTIAL ELECTORS--NOMINATION.--

24 A. Any qualified political party in New Mexico  
25 desiring to have candidates for president and vice president on

1 the general election ballot in a presidential election year  
 2 shall, at a state party convention held in the year of such  
 3 election, choose from the voters of [~~such~~] the party the number  
 4 of presidential electors required by law and no more.

5 B. The presidential electors shall be nominated by  
 6 the state convention according to the rules of that party on  
 7 file with the secretary of state.

8 C. Upon the nomination of presidential electors,  
 9 the [~~chairman~~] chair and secretary of the convention shall  
 10 certify the names and addresses of [~~such~~] the nominees not less  
 11 than [~~fifty-six~~] sixty-three days prior to the election to the  
 12 secretary of state. The secretary of state shall record the  
 13 nominees' names in [~~his~~] the secretary's office as the  
 14 presidential elector nominees of that party."

15 SECTION 9. Section 1-15A-7 NMSA 1978 (being Laws 1977,  
 16 Chapter 230, Section 6, as amended by Laws 1980, Chapter 13,  
 17 Section 2 and also by Laws 1980, Chapter 43, Section 2) is  
 18 amended to read:

19 "1-15A-7. NOTIFICATION TO CANDIDATES.--The secretary of  
 20 state shall contact each person who has been nominated by the  
 21 committee or by petition and notify [~~him~~] the person in writing  
 22 by certified mail, with return receipt requested, that [~~his~~]  
 23 the person's name will be printed as a candidate on the New  
 24 Mexico presidential primary ballot unless [~~he~~] the person  
 25 requests in writing otherwise at least [~~fifty~~] sixty-three days

.207844.1

1 prior to the election."

2 SECTION 10. Section 1-16-3 NMSA 1978 (being Laws 1969,  
3 Chapter 240, Section 376, as amended) is amended to read:

4 "1-16-3. STATE CONSTITUTIONAL AMENDMENTS--  
5 CERTIFICATION.--Whenever a proposed constitutional amendment or  
6 other question is to be submitted to the voters of the entire  
7 state, the secretary of state, not less than [~~fifty-six~~] sixty-  
8 three days before the election at which it is to be submitted,  
9 shall certify the proposed constitutional amendment or question  
10 to the county clerk of each county."

11 SECTION 11. Section 1-24-2 NMSA 1978 (being Laws 1989,  
12 Chapter 295, Section 2, as amended) is amended to read:

13 "1-24-2. SPECIAL ELECTION PROCEDURES--PROCLAMATION--  
14 PUBLICATION.--

15 A. Whenever a local government special election is  
16 to be called or is required by law, the governing body shall by  
17 resolution issue a public proclamation calling the election.  
18 The proclamation shall forthwith be filed with the county  
19 clerk. The proclamation shall specify:

20 (1) the date on which the special election  
21 will be held;

22 (2) the purpose for which the special election  
23 is called;

24 (3) if officers are to be elected or positions  
25 on the governing body are to be filled, the date on which

.207844.1

1 declarations of candidacy are to be filed;

2 (4) if a question is to be voted upon, the  
3 text of that question;

4 (5) the precincts in each county in which the  
5 election is to be held and the location of each polling place  
6 in the precinct;

7 (6) the hours that each polling place will be  
8 open; and

9 (7) the date and time of closing the  
10 registration books by the county clerk as required by law.

11 B. After filing with the county clerk the  
12 proclamation issued pursuant to Subsection A of this section,  
13 and not less than [~~fifty-six~~] sixty-three days before the date  
14 of the election, the governing body shall publish the  
15 proclamation once each week for two consecutive weeks in a  
16 newspaper of general circulation within the boundaries of the  
17 local government or special district. The proclamation shall  
18 conform to the requirements of the federal Voting Rights Act of  
19 1965, as amended.

20 C. Whenever a statewide special election is to be  
21 called or is required by law, the governor shall by resolution  
22 issue a public proclamation calling the election. Whenever an  
23 election to fill a vacancy in the office of United States  
24 representative is to be called or is required by law, the  
25 governor shall by resolution issue a public proclamation

.207844.1

1 calling the election pursuant to the requirements of Section  
2 1-15-18.1 NMSA 1978. The proclamation shall forthwith be filed  
3 with the secretary of state. The proclamation shall specify:

4 (1) the date on which the special election  
5 will be held;

6 (2) the purpose for which the special election  
7 is called;

8 (3) if a vacancy in the office of United  
9 States representative is to be filled, the date on which  
10 declarations of candidacy are to be filed;

11 (4) if a question is to be voted upon, the  
12 text of that question; and

13 (5) the date and time of closing the  
14 registration books by the county clerk as required by law.

15 D. After the proclamation issued pursuant to  
16 Subsection C of this section is filed with the secretary of  
17 state, the secretary of state shall within five days certify  
18 the proclamation to each county clerk in the state. Not less  
19 than ~~[fifty-six]~~ sixty-three days before the date of the  
20 election, the county clerk shall publish the proclamation once  
21 each week for two consecutive weeks in a newspaper of general  
22 circulation, which shall include the precincts in the county in  
23 which the election is to be held and the location of each  
24 polling place in the precinct and the hours that each polling  
25 place will be open. For an election called pursuant to

.207844.1

1 Subsection F of Section 1-15-18.1 NMSA 1978, the proclamation  
2 shall be published consistent with this subsection not less  
3 than thirty-six days before the date of the election. The  
4 proclamation shall conform to the requirements of the federal  
5 Voting Rights Act of 1965, as amended."

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

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

