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SENATE BILL 655

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

INTRODUCED BY

Patrick H. Lyons

AN ACT

RELATING TO SCHOOL BOARD ELECTIONS; CREATING AN OPTION TO  
DECLARE CANDIDATES ELECTED TO OFFICE WITHOUT FORMAL VOTING IN  
CERTAIN SCHOOL BOARD ELECTIONS; AMENDING CERTAIN SECTIONS OF  
THE NMSA 1978.

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

Section 1. Section 1-22-3 NMSA 1978 (being Laws 1985,  
Chapter 168, Section 5, as amended) is amended to read:

"1-22-3. SCHOOL DISTRICT ELECTIONS--QUALIFICATIONS OF  
CANDIDATES. --

A. A school district election shall be held in  
each school district to elect qualified persons to membership  
on a [~~local school~~] board. No person shall become a candidate  
for membership on a board unless his record of voter  
registration shows that he is a qualified elector of the

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1 state, physically resides in the school district in which he  
2 is a candidate and physically resided in the district on the  
3 date of the [~~school~~] board's proclamation calling a regular  
4 school district election.

5 B. A regular school district election shall be  
6 held in each school district on the first Tuesday in February  
7 of each odd-numbered year, except as provided in Subsection C  
8 of Section 1-22-12 NMSA 1978.

9 C. A school district election held at any time  
10 other than the date for the regular school district election  
11 shall be a special school district election.

12 D. Except as otherwise provided in the School  
13 Election Law, school district elections shall be called,  
14 conducted and canvassed as provided in the Election Code."

15 Section 2. Section 1-22-6 NMSA 1978 (being Laws 1985,  
16 Chapter 168, Section 8, as amended) is amended to read:

17 "1-22-6. PRECINCTS--CONSOLIDATION--POLLING PLACES.--

18 A. The same precincts that are used in a general  
19 election shall be used in a school district election, provided  
20 that:

21 (1) if a precinct lies partly within and  
22 partly outside of a school district, the part of the precinct  
23 lying within the school district constitutes a precinct for a  
24 school district election; and

25 (2) all of the area within the exterior

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1 boundaries of a school district may constitute one precinct  
2 for a school district election.

3 ~~[B. In the event that only one candidate has filed~~  
4 ~~a declaration of candidacy for each position to be filled at~~  
5 ~~an election and no declared write-in candidates have filed for~~  
6 ~~any position and there are no questions or bond issues on the~~  
7 ~~ballot, only one polling place for the election shall be~~  
8 ~~designated and it shall be in the office of the county clerk~~  
9 ~~or a designated polling place in the school district of the~~  
10 ~~county in which the school district is located.]~~

11 ~~C.]~~ B. Except as otherwise provided in the School  
12 Election Law, the county clerk shall consolidate precincts for  
13 a school district election as provided in the proclamation for  
14 that election and shall provide for a polling place within  
15 each precinct or consolidated precinct. "

16 Section 3. Section 1-22-10 NMSA 1978 (being Laws 1985,  
17 Chapter 168, Section 12, as amended) is amended to read:

18 "1-22-10. BALLOTS. --

19 A. The proper filing officer shall determine  
20 whether a candidate filing a declaration of candidacy is a  
21 registered qualified elector of the state residing within the  
22 school district. If the candidate is so qualified and no  
23 withdrawal of candidacy has been filed as provided in the  
24 School Election Law, the proper filing officer shall place the  
25 candidate's name on the ballot for the position specified in

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1 the declaration of candidacy. A declaration of candidacy  
2 shall not be amended after it has been filed with the proper  
3 filing officer.

4 B. If voting is to be held on election day,  
5 ballots for the school district election shall be prepared by  
6 the proper filing officer and printed by the thirtieth day  
7 preceding the election. The cost of printing the ballots  
8 shall be paid by the school district. The proper filing  
9 officer shall furnish printed ballots to the county clerk of  
10 each county in which the school district is situate. The  
11 printed ballot shall contain the name of each candidate and  
12 the position on the board for which he is a candidate. The  
13 ballot shall also contain all questions to be submitted to the  
14 voters of the district as certified to the proper filing  
15 officer by the board.

16 C. Paper ballots and ballot labels shall be  
17 printed in a form in substantial compliance with the  
18 provisions of Section 1-12-44 NMSA 1978 and in compliance with  
19 the provisions of the federal Voting Rights Act of 1965, as  
20 amended.

21 D. A school district election shall be a  
22 nonpartisan election, and the names of all candidates shall be  
23 listed on the ballot without party or slate designation. The  
24 order in which the names of candidates are listed on the  
25 ballot shall be determined by lot.

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1           E. Whenever two or more members of the board are  
2 to be elected for terms of the same length of time, the  
3 positions shall be numerically designated on the ballot as  
4 "position one", "position two" and such additional  
5 consecutively numbered positions as are necessary, but only  
6 one member shall be elected for each position.

7           F. Space shall be provided on each ballot for a  
8 voter to write in the name of one candidate for each position  
9 to be filled when a declaration of intent to be a write-in  
10 candidate has been filed.

11           G. Voting machines shall be used for the recording  
12 of votes cast in a school district election; provided that  
13 paper ballots may be used in lieu of a voting machine for:

- 14                   (1) school districts of less than five  
15 hundred average daily membership;
- 16                   ~~[(2) school district elections in which only~~  
17 ~~one candidate has filed a declaration of candidacy for each~~  
18 ~~position to be filled at the election, no declared write-ins~~  
19 ~~have filed for any position and there are no questions or bond~~  
20 ~~issues on the ballot and notwithstanding any other provision~~  
21 ~~in this chapter]~~ or
- 22                   ~~[(3) for]~~ (2) emergency ballots in case of a  
23 malfunction of the voting machine. "

24           Section 4. Section 1-22-11 NMSA 1978 (being Laws 1985,  
25 Chapter 168, Section 13, as amended) is amended to read:

1 "1-22-11. PUBLICATION. --

2 A. Except as provided in Subsection B of this  
3 section, the proper filing officer for the district shall  
4 issue and publish the proclamation listing the name of each  
5 candidate for membership on the board, each question to be  
6 submitted to the voters of the school district and the names  
7 of the precinct board members of the school district. The  
8 publication shall be made once each week for two successive  
9 weeks, with the last publication being made within seven days  
10 but not later than two days before the date of the school  
11 district election. The names of the candidates shall be  
12 published in the same order and for the same positions as will  
13 appear on the ballot. The publication shall be in a newspaper  
14 of general circulation in the school district and shall  
15 conform to the provisions of the federal Voting Rights Act of  
16 1965, as amended. The cost of the publication shall be paid  
17 by the school district.

18 B. In the event that the county clerk declares the  
19 candidates elected to office pursuant to the provisions of  
20 Subsection C of Section 1-22-12 NMSA 1978, the proper filing  
21 officer for the district shall publish the names of the  
22 candidates declared elected in a newspaper of general  
23 circulation in the school district and, at least once each  
24 week for two consecutive weeks, notice that voting will not  
25 take place on election day. "

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1 Section 5. Section 1-22-12 NMSA 1978 (being Laws 1985,  
2 Chapter 168, Section 14, as amended) is amended to read:

3 "1-22-12. CONDUCT OF ELECTIONS-- UNCONTESTED ELECTIONS. --

4 A. Except as otherwise provided in the School  
5 Election Law, the county clerk shall administer and conduct  
6 school district elections pursuant to the provisions of the  
7 Election Code for the conduct of general elections.

8 B. Precinct board members for each polling place  
9 shall be appointed by the county clerk from among those  
10 persons who meet the qualifications set forth in Section 1-2-7  
11 NMSA 1978 and who reside within the school district. The  
12 number of members on each precinct board shall be as provided  
13 in Section 1-2-12 NMSA 1978. Vacancies on election day shall  
14 be filled as provided in Section 1-2-15 NMSA 1978.

15 C. In the event that only one candidate has filed  
16 a declaration of candidacy for each position to be filled at  
17 the election, no declared write-ins have filed for any  
18 position and there are no questions or bond issues on the  
19 ballot, the county clerk shall [~~perform the duties of the~~  
20 ~~precinct board~~] declare a candidate elected to each position  
21 without a vote and no other precinct board shall be appointed.

22 D. All costs of school district elections shall be  
23 paid by the school district. "

24 Section 6. Section 1-22-14 NMSA 1978 (being Laws 1985,  
25 Chapter 168, Section 16) is amended to read:

1 "1-22-14. VOTES REQUIRED. --

2 A. The candidate receiving a plurality of the  
3 votes cast for a designated position on the board shall be  
4 elected to that designated position or, in the event that only  
5 one candidate has filed a declaration of candidacy for each  
6 position to be filled at the election, no declared write-ins  
7 have filed for any position and there are no questions or bond  
8 issues on the ballot, the candidate shall be declared elected  
9 to the position for which he filed.

10 B. All questions submitted to the voters shall be  
11 decided by a majority of the voters voting on the question. "

12 Section 7. Section 1-22-15 NMSA 1978 (being Laws 1985,  
13 Chapter 168, Section 17, as amended by Laws 1987, Chapter 249,  
14 Section 49 and also by Laws 1987, Chapter 338, Section 3) is  
15 amended to read:

16 "1-22-15. CANVASSING BOARD--DUTIES. --

17 A. The canvassing board for the canvass of the  
18 results of a school district election shall be composed of the  
19 superintendent, the county clerk of record who is the proper  
20 filing officer and the designated magistrate or the presiding  
21 judge of the metropolitan court, as the case may be, of the  
22 county in which the administrative office of the school  
23 district is situate.

24 B. Ballots cast in each county in which the school  
25 district is situate shall be transported by the presiding

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1 judge of the precinct board upon the closing of the polls to  
2 the office of the proper filing officer. Each ballot box  
3 shall have two locks. The key to one lock on each ballot box  
4 and one copy of the signature roster shall at that time be  
5 placed in a stamped, addressed envelope provided for that  
6 purpose and shall be mailed to the designated magistrate or  
7 the presiding judge of the metropolitan court, as the case may  
8 be, of the county in which the administrative office of the  
9 school district is situate.

10 C. Within three days after the date of the school  
11 district election, the canvassing board shall meet in the  
12 office of the proper filing officer and shall:

13 (1) canvass the returns in the same manner as  
14 county election returns are canvassed;

15 (2) determine the total number of persons in  
16 the school district voting in the election; and

17 (3) issue a certificate of canvass of the  
18 results of the election and send one copy of the certified  
19 results:

- 20 (a) to the board;
- 21 (b) to the secretary of state; and
- 22 (c) to the proper filing officer to be  
23 filed in his office.

24 D. Within three days after the candidate has been  
25 declared elected pursuant to the provisions of Subsection C of

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1 Section 1-22-12 NMSA 1978, the canvassing board shall meet in  
2 the office of the proper filing officer and shall issue a  
3 certificate of the results of the election and send one copy  
4 of the certified results to the board, to the secretary of  
5 state and to the proper filing officer to be filed in his  
6 office.

7           ~~[D-]~~ E. The canvassing board shall issue a  
8 certificate of election to each candidate which it determines  
9 to be elected.

10           ~~[E-]~~ F. The county clerk of record shall cause the  
11 results of the election to be published once in a newspaper of  
12 general circulation in the school district. "

13           Section 8. Section 1-22-19 NMSA 1978 (being Laws 1985,  
14 Chapter 168, Section 21, as amended) is amended to read:

15           "1-22-19. ABSENTEE VOTING. --

16           A. Any registered qualified elector of the school  
17 district who cannot be present at his precinct polling place  
18 on the day of the school district election because of illness,  
19 injury or disability; who will be absent from his school  
20 district of residence because his duties, occupation, business  
21 or vacation requires him to be elsewhere; or who cannot attend  
22 his precinct polling place because of the tenets of his  
23 religion may vote by absentee ballot for all candidates and on  
24 all questions appearing on the ballot at the election as if he  
25 were able to cast his ballot in person at the precinct polling

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1 place.

2 B. If voting is to occur, the provisions of the  
3 Absent Voter Act of the Election Code shall apply to absentee  
4 voting in school district elections, provided that absentee  
5 ballots may be marked in person during the regular hours and  
6 days of business at the county clerk's office from 8:00 a.m.  
7 on the twenty-fifth day preceding the election until 5:00 p.m.  
8 on the Friday immediately prior to the date of the election.  
9 Absentee ballots shall be printed at least thirty days prior  
10 to the date of the election.

11 C. A regular precinct board may be designated to  
12 serve as the absent voter precinct board. Members of the  
13 absent voter precinct board shall receive the same  
14 compensation as other precinct board members, but in no case  
15 shall a precinct board member who also serves as a member of  
16 the absent voter precinct board be entitled to extra  
17 compensation for serving on the absent voter precinct board."

18 Section 9. EFFECTIVE DATE. --The provisions of this act  
19 shall become effective upon certification by the secretary of  
20 state that the constitution of New Mexico has been amended as  
21 proposed by a joint resolution of the first session of the  
22 forty-fourth legislature entitled "A JOINT RESOLUTION  
23 PROPOSING AN AMENDMENT TO ARTICLE 7 OF THE CONSTITUTION OF NEW  
24 MEXICO TO ALLOW AN EXCEPTION TO THE REQUIREMENTS THAT ALL  
25 ELECTIONS SHALL BE BY BALLOT AND THAT A CANDIDATE MUST RECEIVE

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1 THE HIGHEST NUMBER OF VOTES FOR AN OFFICE TO BE ELECTED TO  
2 THAT OFFICE. "

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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4  
5 March 2, 1999

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7 Mr. President:

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9 Your RULES COMMITTEE, to whom has been referred

10  
11 SENATE BILL 655

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13 has had it under consideration and reports same with  
14 recommendation that it DO PASS, and thence referred to the  
15 JUDICIARY COMMITTEE.

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18 Respectfully submitted,

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

2 Adopted \_\_\_\_\_

3 (Chief Clerk)

(Chief Clerk)

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6 Date \_\_\_\_\_

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9 The roll call vote was 6 For 1 Against

10 Yes: 6

11 No: Altamirano

12 Excused: Kysar

13 Absent: None

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16 S0655RU1

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1 FORTY-FOURTH LEGISLATURE

2 FIRST SESSION, 1999

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5  
6 March 13, 1999

7  
8 Mr. President:

9  
10 Your JUDICIARY COMMITTEE, to whom has been referred

11  
12 SENATE BILL 655

13  
14 has had it under consideration and reports same with  
15 recommendation that it DO PASS.

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17  
18 Respectfully submitted,

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23 \_\_\_\_\_  
24 Michael S. Sanchez, Chairman

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

1 Adopted \_\_\_\_\_

2 (Chief Clerk)

(Chief Clerk)

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6 Date \_\_\_\_\_

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9 The roll call vote was 7 For 0 Against

10 Yes: 7

11 No: None

12 Excused: Tsosie

13 Absent: None

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