THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

RESOLUTION NO. 2021 - 014

A RESOLUTION APPOINTING ONE REPLACEMENT MEMBER TO THE BOARD OF REGISTRATION

WHEREAS, the New Mexico Election Code (Chapter 1 NMSA 1978) creates the position of Board of Registration consisting of five (5) voters in each county who shall serve from July 1 of an odd-numbered year until June 30 of the next succeeding odd-numbered year. Members of the Board of Registration shall hold office until their successors are appointed and qualified; and

WHEREAS, the federal National Voter Registration Act of 1993 ("NVRA") (52 U.S.C. Sections 20501 to 20511) was enacted in part to require states to permit eligible persons to register to vote in federal elections when applying for an initial or renewed driver's license; and

WHEREAS, the NVRA was also enacted to enhance voter participation in elections, to increase the number of registered voters, to ensure that states maintained accurate voter rolls, and to protect the integrity of elections; and

WHEREAS, the Election Code establishes the duties of a county's Board of Registration, which include but are not limited to:

a. reviewing the list of eligible voters following a general election in satisfaction of the NVRA;

b. directing the county clerk, in satisfaction of the NVRA to cancel the registration of any voter who has been sent notice in conformance with Section 1-4-28(E) of the Election Code, where the voter has failed to respond to the notice and has not voted, or has confirmed a change of residence to a place outside of the county; and

c. carrying out other list maintenance provisions of the NVRA and the Election Code; and

WHEREAS, in the event that a position on the board of registration becomes vacant for any reasons described in Section 10-3-1 NMSA 1978, the Board of County Commissioners ("BCC") shall appoint a replacement who shall qualify pursuant to Subsection B of NMSA 1978, Section 1-4-34; and

WHEREAS, NMSA 1978, Section 1-4-34(B), states that "members of the board of registration shall not during their service be county employees, elected officials or candidates for public office, and not more than two members of the board of registration shall be members of the same political party at the time of their appointment"; and

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WHEREAS, Helen Milenski, Libertarian, was appointed by the BCC on June 11, 2019, and no longer meets the qualifications set forth in NMSA 1978, Section 1-4-34(B) because she was a candidate for public office on the 2020 General Election ballot, leaving one vacancy on the Board of Registration; and

WHEREAS, the Santa Fe County Clerk has solicited a replacement from the Libertarian Party of Santa Fe County to fill the vacancy who meets the qualifications outlined in Section 1-4-34(B); and

WHEREAS, members of the Board of Registration shall qualify by taking and filing in the Office of the County Clerk the oath required of county officials.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners that

1. David Scott, registered as a Libertarian voter, is hereby appointed to serve on the Board of Registration until the completion of the term which is June 30, 2021:

2. The member appointed to the Board of Registration shall carry out the duties required of them by the National Voter Registration Act and the Election Code.

3. The member appointed to the Board of Registration shall serve from February 9, 2021, until June 30, 2021, but each member shall hold their office until their successors are appointed and qualified.

4. In the event that a position on the board of registration becomes vacant for any of the reasons described in Section 10-3-1 NMSA 1978, the board of county commissioners shall appoint a replacement who shall qualify pursuant to Section 1-4-34 (B) and serve until the expiration of the original term.

PASSED, APPROVED, AND ADOPTED THIS 9th DAY OF FEBRUARY, 2021.

BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

By: Anna Hamilton for
Henry P. Roybal, Chair

ATTEST:

Katharine E. Clark
Santa Fe County Clerk

COUNTY CLERK SANTA FE COUNTY NEW MEXICO KATHARINE E. CLARK

Date: 02/10/2021

SFC CLERK RECORDED 02/11/2021

Approved as to form:

Cristella Valdez for
Gregory S. Shaffer
Santa Fe County Attorney

COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC RESOLUTIONS
PAGES: 20

I Hereby Certify That This Instrument Was Filed for
Record On The 11TH Day Of February, 2021 at 03:27:52 PM
And Was Duly Recorded as Instrument # 1943321
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Katharine E. Clark
Deputy Estrella Martinez County Clerk, Santa Fe, NM

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Katharine E. Clark
County Clerk
(505) 986-6280

Robert M. Adams
Chief Deputy, Bureau of Elections
(505) 986-6260

MEMORANDUM

DATE: January 25, 2021
TO: Board of County Commissioners
VIA: Katherine Miller, County Manager
FROM: Katharine Clark, County Clerk
CC: Robert Adams, Chief Deputy County Clerk for Bureau of Elections
Theresa Atencio, Elections Administration Supervisor
RE: **Resolution No. 2021-_____, A Resolution Appointing One Replacement Member to the Board of Registration**

ISSUE: On June 11, 2019, the Board of County Commissioners (BCC) appointed five voters who shall constitute the Board of Registration for the County. These members shall serve until June 30 of the next succeeding odd-numbered year (NMSA 1978, § 1-4-37 B.)

State law specifies qualifications for each member of the Board of Registration. Among these qualifications, running as a candidate for public office disqualifies a member from serving. (NMSA 1978, § 1-4-34 B.)

Helen Milenski, the Board of Registration member from the Libertarian party, appeared on the ballot in the 2020 General Election. This disqualifies Ms. Milenski from serving out the remainder of her term.

In the event that a position on the board of registration becomes vacant for any reason, the BCC shall appoint a replacement that will serve until the expiration of the original term. (NMSA 1978, § 1-4-34 C.).

The appointees currently serving on the Board of Registration consist of two Republican members and two Democrat members. The Libertarian Party is the third recognized major political party in New Mexico.

County Clerk Clark has solicited recommendations from the Libertarian Party of Santa Fe County in order to fill this vacancy. The Libertarian Party of Santa Fe County has recommended that David Scott be appointed to serve until June 30, 2021. Mr. Scott qualifies to serve on the Board of Registration.

BACKGROUND:

What the Board of Registration does. The purpose of the Board of Registration is to carry out the list maintenance provisions of the Election Code and The National Voter Registration Act of 1993. That is, to delete any voter who has not appeared to vote in at least one statewide or local election in approximately four years after being designated as "inactive". A voter is initially designated as "inactive" based on a mailing to confirm the voter's address.

New Mexico conducts its list maintenance procedures through the Office of the Secretary of State, which contracts with a National Change of Address (NCOA) program vendor. The entire state voter file is run against the Postal Service's records. Any registered voter whose name appears on the Postal Service records is sent a confirmation card.

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The confirmation card ensures that the postal records are correct. If the voter has moved, they are flagged on the county file as "inactive". Only after a voter has been inactive from the date of the confirmation notice until after the second general election, not appeared to vote in any election (including school, municipal and special elections) and failed to reregister during that period of time, are they deleted from the file. If a voter reregisters to vote at a new address, or appears to vote in any election, they are restored to active status.

Voters are never deleted from the voter registration files solely for non-voting. The intent of Congress when it passed the National Voter Registration Act was that, once registered, a voter stays registered for life, unless they move to another county or state, have not been released from the obligations imposed by the court as a result of a felony conviction or have been declared incompetent by a court. Also, voters who are scheduled for deletion from the file are noticed sixty days prior to deletion, so they may be restored to active status if there is an error, or if they need to update their registration.

How Board of Registration members are appointed; limits on the number of members that may be of the same political party. The County Clerk's Office solicited recommendations from the Libertarian Party of Santa Fe County who meet the qualifications listed below and are willing to serve.

- "members of the board of registration shall not during their service be county employees, elected officials or candidates for public office, and not more than two members of the board of registration shall be members of the same political party at the time of their appointment; provided that:
- "a member of the board of registration shall not have changed party registration in the two years next preceding the member's appointment in such a manner that the member's prior party registration would make the member ineligible to serve on the board of registration"; and
- "a member of the board of registration shall not continue to serve on the board of registration if the member changes party registration after the date of appointment in such a manner to make the member ineligible to serve on the board of registration."

NMSA 1978, § 1-4-34(B).

REQUESTED ACTION: Santa Fe County Clerk Katharine Clark respectfully requests that the BCC appoint David Scott, Libertarian, to fill the vacancy caused by the disqualification of Helen Milenski, Libertarian.

Exhibits:
Exhibit A - State Statutes Concerning Board of Registration
Exhibit B - Proposed Resolution Appointing One Member of the Board of Registration to Fill the Term Which Expires June 30, 2021.

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Exhibit A

State Statutes
Concerning Board of Registration

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1-4-28. Cancellation of registration; change of residence; notice.

A. The secretary of state, county clerks and boards of registration, in compliance with the federal National Voter Registration Act of 1993, shall remove from the official list of eligible voters the names of voters who are ineligible to vote due to change of residence.

B. The secretary of state shall conduct a general program that identifies voters who may no longer reside at their address of registration. This program shall use information supplied by the United States postal service national change of address service. This program may also include, among other practices, identification of voters whose official election-related mail is returned and periodic mailings to voters to verify continued residency at their address of registration, provided such practices are uniform, nondiscriminatory and in compliance with the federal Voting Rights Act of 1965.

C. Between ninety and one hundred twenty days before the next general election, the secretary of state shall send to each voter who it appears has changed address from the voter's precinct of registration a notice, sent by forwardable mail, that shall include a postage prepaid and pre-addressed return card. The notice shall state that:

(1) if the voter did not change residency, the voter should return the card no later than twenty-eight days before the next general election;

(2) if the voter does not return the card, the voter may be provided an opportunity to update the voter's registration address before the voter casts a baliot in any election during the period beginning on the date of the notice and ending on the day after the second general election that occurs after the date of the notice;

(3) if the voter does not vote in any election during the period beginning on the date of that notice and ending on the day after the second general election that occurs after the date of the notice, the voter's registration may be canceled; and

(4) if the voter has changed residence within the same county, the voter should complete the place on the return card for the voter to indicate the address of the new residence and a request to have the voter's registration moved to that address in the same county.

D. If the voter returned the card indicating a new address and the address is:

(1) in the same county, the county clerk shall correct the official list of eligible voters in accordance with the change of residence information obtained on the return card; or

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(2) in another county, the county clerk shall forward the return card to the appropriate county clerk, who shall process the change of residence as a new registration in the county.

E. No later than the fifteenth day of March following a general election, the board of registration shall review the list of eligible voters. The board of registration shall direct the county clerk to cancel the registration of any voter who has been sent notice in conformance with this section and who:

(1) has failed to respond to the notice sent in conformance with this section and has not voted or appeared to vote in any election during the period beginning on the date of the notice and ending on the day after the second general election that occurs after the date of the notice; or

(2) has confirmed in writing that the voter has changed residence to a place outside the state.

History: 1953 Comp., § 3-4-26, enacted by Laws 1975, ch. 255, § 46; 1979, ch. 48, § 1; 1985, ch. 197, § 1; 1993, ch. 314, § 24; 1993, ch. 316, § 24; 1995, ch. 198, § 11; 2008, ch. 58, § 2; 2011, ch. 137, § 36; 2019, ch. 212, § 54.

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ANNOTATIONS

Cross references. — For the federal National Voter Registration Act of 1993, *see* 42 U.S.C. § 1973gg et seq.

For the federal Voting Rights Act of 1965, *see* 42 U.S.C. § 1973 et seq.

For determination of voter's death, *see* 1-4-25 NMSA 1978.

For determination of voter's insanity, *see* 1-4-26 NMSA 1978.

The 2019 amendment, effective April 3, 2019, revised the provisions related to voter eligibility following a change of residence; in Subsection C, deleted Paragraph C(5), which provided guidance to voters who want to remain eligible to vote following a change of residence outside of the county; in Subsection D, added the introductory clause and new paragraph designation "(1)", in Paragraph D(1), added "in the same county", after "information obtained on the", deleted "prepaid and pre-addressed", after "return card", deleted "to a new address in the same county, and such names shall not be removed from the list of eligible voters for reason of change of residence", and added new Paragraph D(2); and in Subsection E, after "place outside the", deleted "county" and added "state".

The 2011 amendment, effective July 1, 2011, required the secretary of state to identify voters who no longer reside at their registration address and to give such voters notice between ninety and one hundred twenty days before an election directing the voter to provide the voter's current address and informing the voter of the consequences of not providing the information; required county clerks to correct the list of voters in accordance with the information provided in the responses to the notice; and required the cancellation of the registration of any voter who has not

responded to the notice or voted during the period from the date of the notice to the day after the second election since the date of the notice or who has changed residence to a place outside the county.

The 2008 amendment, effective February 29, 2008, deleted former Subsections A through E that provided for the cancellation of voters who failed to vote and added new Subsections A and B.

The 1995 amendment, effective April 6, 1995, in Subsection A, substituted "statewide or local election" for "general election or one primary election", and inserted "after being placed on an inactive voter list"; substituted "four-year period, establishing an inactive voter list and providing notice of inactive status to voters on the inactive voter list" for "two general elections" in Subsection B; rewrote Subsection E; and deleted Subsection F prohibiting stamping the certificate "cancelled" until the end of the 60-day period.

The 1993 amendment, effective June 18, 1993, substituted "certificate" for "affidavit" throughout the section; in Subsection A, substituted "in at least one" for "at the last", and "or one" for "and", inserted "in a four-year period", and deleted "affidavits of" preceding the first occurrence of "registration"; in Subsection B, inserted "least once in" and "two", and made a minor stylistic change; and, in Paragraph (E)(2), inserted "two" and "least one of", and made a minor stylistic change.

Compiler's notes. — Since the following opinions were rendered, the 1979 amendment has substituted "last general election" for "last two general elections" in Subsections A and B and substituted "the last general election" for "either one or both of the last two general elections" in Subsection E(2).

Legislative intent. — The legislature intended that whenever a person fails to vote in two general elections that such person's registration should be canceled. The legislature provided that an additional check should be made if the election affidavit would cause the board of registration to doubt that it was properly marked, and if the pollbook showed that the party had "voted in one of such elections, the registration was not to be canceled." 1957-58 Op. Att'y Gen. No. 57-281 (opinion rendered under former law).

Voter may retain registration upon giving legitimate reason for failure to vote. — A person who failed to vote at the last two preceding general elections may upon giving a legitimate reason retain his original registration without cancellation, since such person could re-register immediately after the cancellation. 1943-44 Op. Att'y Gen. No. 44-4550 (opinion rendered under former law).

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1-4-29. Board of registration; county clerk; failure to cancel; duty of the secretary of state.

A. If the board of registration or the county clerk of any county does not cancel registration certificates as required by law, the secretary of state shall investigate the registration records, election returns and other pertinent records of that county and file a petition with the district court for the cancellation of the certificates of those persons as the investigation determines should have been canceled by the board of registration or the county clerk.

B. In such a proceeding, the court shall determine the cost of the investigation, and if it finds that the board of registration or the county clerk did not cancel certificates of registration in the manner provided by law, shall enter judgment against the county for the cost of the investigation.

History: 1953 Comp., § 3-4-27, enacted by Laws 1975, ch. 255, § 47; 1979, ch. 24, § 3; 1993, ch. 314, § 25; 1993, ch. 316, § 25.

ANNOTATIONS

Repeals and reenactments. — Laws 1975, ch. 255, § 47, repealed former 3-4-27, 1953 Comp., relating to cancellation of registration, failure to vote and notice, and enacted a new 3-4-27, 1953 Comp.

1993 amendments. — Identical amendments to this section were enacted by Laws 1993, ch. 314, § 25 and Laws 1993, ch. 316, § 25, both effective June 18, 1993, which substituted "certificates" for "affidavits" throughout the section. The section was set out as amended by Laws 1993, ch. 316, § 25. *See* 12-1-8 NMSA 1978.

Compiler's notes. — The following opinions were rendered prior to the 1979 amendment of 1-4-29 NMSA 1978. Cancellation now is grounded upon failure to vote in the last general election rather than the last two general elections.

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Cancellation for failure to vote not discretionary. — Cancellation of registration for failure to vote in the previous two general elections is not discretionary but an absolute duty. 1961-62 Op. Att'y Gen. No. 61-135 (opinion rendered under former law).

Where person has registered twice and failed to vote. — Where a person has registered twice, the first registration being subject to cancellation because the person has not voted in the last two general elections under this registration, the older registration should be cancelled. Once the older registration is cancelled, the newer one is valid. 1961-62 Op. Att'y Gen. No. 61-135 (opinion rendered under former law).

1-4-30. Cancellation of registration; voter's request.

A. The county clerk shall cancel a certificate of registration upon the request of a voter only for the following reasons:

(1) when the voter changes the voter's registered residence address to another county within the state;

(2) when the voter moves to another state; and

(3) upon the written request of the voter.

B. A written request by a voter to cancel the voter's registration shall be in writing and subscribed before a registration officer or a person authorized to administer oaths or on a form prescribed by the secretary of state.

C. The voter's certificate of registration shall be deemed canceled upon receipt by the county clerk of the request when the request is for the reasons specified in Subsection A of this section.

History: 1953 Comp., § 3-4-28, enacted by Laws 1969, ch. 240, § 86; 1975, ch. 255, § 48; 1993, ch. 314, § 26; 1993, ch. 316, § 26; 2011, ch. 137, § 37.

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ANNOTATIONS

The 2011 amendment, effective July 1, 2011, permitted county clerks to cancel a voter's registration upon the written request of the voter.

The 1993 amendment, effective June 18, 1993, substituted "a certificate" for "an affidavit" in Subsection A; deleted "affidavit of" preceding the first occurrence of "registration" and made a minor stylistic change in Subsection B; deleted "affidavit of" preceding both occurrences of "registration" in Subsection C; and, in Subsection D, substituted "certificate" for "affidavit" and corrected a misspelling of "canceled".

1-4-31. Repealed.

History: 1953 Comp., § 3-4-29, enacted by Laws 1969, ch. 240, § 87; 1975, ch. 255, § 49; 1979, ch. 24, § 4; 1993, ch. 314, § 27; 1993, ch. 316, § 27; repealed by Laws 2011, ch. 137, § 110.

ANNOTATIONS

Repeals. — Laws 2011, ch. 137, § 110 repealed 1-4-31 NMSA 1978, as enacted by Laws 1969, ch. 240, § 87, relating to cancellation of registration, effective July 1, 2011. For provisions of former section, *see* the 2010 NMSA 1978 on *NMOneSource.com.*

1-4-32. Cancellation of registration; duties of county clerk; retention of records.

A. When a registration is canceled, the county clerk shall remove, endorse and file the original certificate of registration according to procedures prescribed by the secretary of state.

B. Canceled original certificates of registration along with any written application of the voter for cancellation or other pertinent orders or certificates shall be retained for six years and then may be destroyed; provided that such records may be destroyed prior to the expiration of the six-year period with the approval of the state records administrator and upon their being properly microfilmed and stored.

History: 1953 Comp., § 3-4-30, enacted by Laws 1969, ch. 240, § 88; 1975, ch. 255, § 50; 1979, ch. 24, § 5; 1987, ch. 249, § 12; 1993, ch. 314, § 28; 1993, ch. 316, § 28.

ANNOTATIONS

1993 amendments. — Identical amendments to this section were enacted by Laws 1993, ch. 314, § 28 and Laws 1993, ch. 316, § 28, both effective June 18, 1993, and both approved April 8, 1993, which deleted "an affidavit of" and made a related stylistic change in Subsection A, and substituted "certificate" for "affidavit" in Subsection A and "certificates" for "affidavits" near the beginning of Subsection B. The section was set out as amended by Laws 1993, ch. 316, § 28. *See* 12-1-8 NMSA 1978.

1-4-33. Repealed.

History: 1953 Comp., § 3-4-31, enacted by Laws 1969, ch. 240, § 89; 1975, ch. 255, § 51; repealed by Laws 2019, ch. 212, § 284.

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ANNOTATIONS

Repeals. — Laws 2019, ch. 212, § 284 repealed 1-4-33 NMSA 1978, as enacted by Laws 1969, ch. 240, § 89, relating to board of registration, county chairman's list, effective April 3, 2019. For provisions of former section, *see* the 2018 NMSA 1978 on *NMOneSource.com*.

1-4-34. Board of registration; board of county commissioners; appointment.

A. The board of county commissioners shall, at its first regular scheduled meeting in June of each odd-numbered year, appoint five voters who shall constitute the board of registration for the county; provided that a class B county as defined in Section 4-44-1 NMSA 1978 shall appoint three voters who shall constitute the board of registration for the county.

B. Members of the board of registration shall not during their service be county employees, elected officials or candidates for public office, and not more than two members of the board of registration shall be members of the same political party at the time of their appointment; provided that:

(1) a member of the board of registration shall not have changed party registration in the two years next preceding the member's appointment in such a manner that the member's prior party registration would make the member ineligible to serve on the board of registration; and

(2) a member of the board of registration shall not continue to serve on the board of registration if the member changes party registration after the date of appointment in such a manner to make the member ineligible to serve on the board of registration.

C. In the event that a position on the board of registration becomes vacant for any of the reasons described in Section 10-3-1 NMSA 1978, the board of county commissioners shall appoint a replacement who shall qualify pursuant to Subsection B of this section and serve until the expiration of the original term.

History: 1953 Comp., § 3-4-32, enacted by Laws 1969, ch. 240, § 90; 1975, ch. 255, § 52; 1981, ch. 136, § 1; 1995, ch. 124, § 5; 2019, ch. 212, § 55.

ANNOTATIONS

Cross references. — For voter defined, *see* 1-1-5 NMSA 1978.

For boards of registration, not more than two members to be of same party, *see* N.M. Const., art. VII, § 1.

The 2019 amendment, effective April 3, 2019, revised the duties of the board of county commissioners, and revised the requirements for members of the board of

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registration; in Subsection A, after "meeting in", deleted "February" and added "June", after "appoint", deleted "three" and added "five", and after "registration for the county;", added "provided that a class B county as defined in Section 4-44-1 NMSA 1978 shall appoint three voters who shall constitute the board of registration for the county"; in Subsection B, after the subsection designation, deleted "No" and added "Members of the board of registration shall not during their service be county employees, elected officials or candidates for public office, and not", after "more than two", deleted "of the three persons appointed to" and added "members of", and after "time of their appointment; deleted "provided that if a major party has no registered, qualified elector who is able to fill the position, a registered, qualified elector from another major party may be chosen by the county clerk" and added the remainder of the subsection; and deleted former Subsections C and D and added a new Subsection C.

The 1995 amendment, effective January 1, 1996, rewrote Subsection B which read: "Two of the three persons appointed to the board of registration shall be members of each of the major political parties respectively at the time of their appointment."

Am. Jur. 2d, A.L.R. and C.J.S. references. — 25 Am. Jur. 2d Elections §§ 183, 188.

29 C.J.S. Elections § 42.

1-4-35. Board of registration; secretary.

The county clerk or the county clerk's authorized deputy shall be secretary to the board of registration.

History: 1953 Comp., § 3-4-33, enacted by Laws 1969, ch. 240, § 91; 2019, ch. 212, § 56.

ANNOTATIONS

The 2019 amendment, effective April 3, 2019, removed the provision prohibiting additional compensation for the secretary to the board of registration; after "secretary to the board of registration", deleted "and shall serve without additional compensation".

1-4-36. Board of registration; compensation.

Each member of the board of registration shall be paid per diem and mileage as provided in the Per Diem and Mileage Act [Chapter 10, Article 8 NMSA 1978] for nonsalaried public officers. Such compensation shall be included as an item in the regular county budget.

History: 1953 Comp., § 3-4-34, enacted by Laws 1969, ch. 240, § 92; 1973, ch. 4, § 2; 1975, ch. 255, § 53.

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ANNOTATIONS

Am. Jur. 2d, A.L.R. and C.J.S. references. — 29 C.J.S. Elections § 44.

1-4-37. Board of registration; term; qualification.

A. The term of office of members of the board of registration is from July 1 of an odd-numbered year until June 30 of the next succeeding odd-numbered year. Members of the board of registration shall hold office until their successors are appointed and qualified.

B. Members of the board of registration shall qualify by taking and filing in the office of the county clerk the oath required of county officials.

History: 1953 Comp., § 3-4-35, enacted by Laws 1969, ch. 240, § 93; 2019, ch. 212, § 57.

ANNOTATIONS

Cross references. — For county officers' oaths, *see* N.M. Const., art. XX, § 1 and 10-1-13 NMSA 1978.

The 2019 amendment, effective April 3, 2019, provided the term of office for members of the board of registration; and in Subsection A, added the first sentence.

One contemplating becoming candidate may serve on board. — Even though a justice of the peace (now magistrate) contemplates becoming a candidate in the ensuing election, he may serve as a member of the board of registration and he would not be disqualified from doing so. 1945-46 Op. Att'y Gen. No. 46-4849 (opinion rendered under former law).

Am. Jur. 2d, A.L.R. and C.J.S. references. — 25 Am. Jur. 2d Elections § 90.

29 C.J.S. Elections § 42.

1-4-38. Board of registration; meetings.

A. All meetings of the board of registration shall be open meetings held in accordance with the Open Meetings Act [Chapter 10, Article 15 NMSA 1978].

B. All reports and other records of the board of registration shall be open to public inspection pursuant to the Inspection of Public Records Act [Chapter 14, Article 2 NMSA 1978].

C. A person's month and day of birth, and any part of a person's driver's license number or other identifier assigned by the motor vehicle division of the taxation and

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revenue department, state or federal tax identification number or social security number shall not be disclosed in any meeting or in any record of the board of registration made available to the public. This subsection does not preclude disclosure of a person's unique identifier as defined in Section 1-1-23 NMSA 1978.

D. Members of the board of registration are entitled to receive per diem and mileage as provided in the Per Diem and Mileage Act [10-8-1 through 10-8-8 NMSA 1978], to be paid out of the election funds appropriated to the county clerk from the county general fund.

History: 1953 Comp., § 3-4-36, enacted by Laws 1969, ch. 240, § 94; 1975, ch. 255, § 54; 2019, ch. 212, § 58.

ANNOTATIONS

The 2019 amendment, effective April 3, 2019, completely rewrote the section; after the section heading, deleted "The board of registration shall meet at the office of the county clerk"; and added new Subsections A through D.

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Exhibit B

Proposed Resolution Appointing One Member of the Board of Registration to Fill the Term Which Expires June 30, 2021.

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THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY

RESOLUTION NO. 2021 - _____

A RESOLUTION APPOINTING ONE REPLACEMENT MEMBER TO THE BOARD OF REGISTRATION

WHEREAS, the New Mexico Election Code (Chapter 1 NMSA 1978) creates the position of Board of Registration consisting of five (5) voters in each county who shall serve from July 1 of an odd-numbered year until June 30 of the next succeeding odd-numbered year. Members of the Board of Registration shall hold office until their successors are appointed and qualified; and

WHEREAS, the federal National Voter Registration Act of 1993 ("NVRA") (52 U.S.C. Sections 20501 to 20511) was enacted in part to require states to permit eligible persons to register to vote in federal elections when applying for an initial or renewed driver's license; and

WHEREAS, the NVRA was also enacted to enhance voter participation in elections, to increase the number of registered voters, to ensure that states maintained accurate voter rolls, and to protect the integrity of elections; and

WHEREAS, the Election Code establishes the duties of a county's Board of Registration, which include but are not limited to:

a. reviewing the list of eligible voters following a general election in satisfaction of the NVRA;

b. directing the county clerk, in satisfaction of the NVRA to cancel the registration of any voter who has been sent notice in conformance with Section 1-4-28(E) of the Election Code, where the voter has failed to respond to the notice and has not voted, or has confirmed a change of residence to a place outside of the county; and

c. carrying out other list maintenance provisions of the NVRA and the Election Code; and

WHEREAS, in the event that a position on the board of registration becomes vacant for any reasons described in Section 10-3-1 NMSA 1978, the Board of County Commissioners ("BCC") shall appoint a replacement who shall qualify pursuant to Subsection B of NMSA 1978, Section 1-4-34; and

WHEREAS, NMSA 1978, Section 1-4-34(B), states that "members of the board of registration shall not during their service be county employees, elected officials or candidates for public office, and not more than two members of the board of registration shall be members of the same political party at the time of their appointment"; and

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WHEREAS, Helen Milenski, Libertarian, was appointed by the BCC on June 11, 2019, and no longer meets the qualifications set forth in NMSA 1978, Section 1-4-34(B) because she was a candidate for public office on the 2020 General Election ballot, leaving one vacancy on the Board of Registration; and

WHEREAS, the Santa Fe County Clerk has solicited a replacement from the Libertarian Party of Santa Fe County to fill the vacancy who meets the qualifications outlined in Section 1-4-34(B); and

WHEREAS, members of the Board of Registration shall qualify by taking and filing in the Office of the County Clerk the oath required of county officials.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners that

1. David Scott, registered as a Libertarian voter, is hereby appointed to serve on the Board of Registration until the completion of the term which is June 30, 2021:

2. The member appointed to the Board of Registration shall carry out the duties required of them by the National Voter Registration Act and the Election Code.

3. The member appointed to the Board of Registration shall serve from February ___, 2021, until June 30, 2021, but each member shall hold their office until their successors are appointed and qualified.

4. In the event that a position on the board of registration becomes vacant for any of the reasons described in Section 10-3-1 NMSA 1978, the board of county commissioners shall appoint a replacement who shall qualify pursuant to Section 1-4-34 (B) and serve until the expiration of the original term.

PASSED, APPROVED, AND ADOPTED THIS _____DAY OF FEBRUARY, 2021.

BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

By: _____
Henry P. Roybal, Chair

ATTEST:

_____ Date: _____
Katharine E. Clark
Santa Fe County Clerk

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Approved as to form:

Cristina Valdez for
Gregory S. Shaffer
Santa Fe County Attorney

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