



The Legislature
of the
State of New Mexico

55th Legislature, 1st Session

LAWS 2021

CHAPTER 79

SENATE BILL 304, as amended

Introduced by

SENATOR BRENDA G. McKENNA



CHAPTER 79

AN ACT

RELATING TO ELECTIONS; DIRECTING THE SECRETARY OF STATE TO COLLECT AND MAKE PUBLICLY AVAILABLE THE GEOGRAPHIC INFORMATION SYSTEM DATA FOR EACH VOTING DISTRICT IN THE STATE; ENACTING THE REDISTRICTING ACT; CREATING THE CITIZEN REDISTRICTING COMMITTEE; DIRECTING THE COMMITTEE TO DEVELOP DISTRICT PLANS FOR APPROVAL BY THE LEGISLATURE AND GOVERNOR; PROVIDING DUTIES; ESTABLISHING REQUIREMENTS FOR CREATING DISTRICT PLANS AND PUBLIC PARTICIPATION IN THE PROCESS; AMENDING THE PRECINCT BOUNDARY ADJUSTMENT ACT.

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

SECTION 1. A new section of Chapter 1, Article 3

NMSA 1978 is enacted to read:

"SECRETARY OF STATE--GEOGRAPHIC INFORMATION SYSTEM DATA.--

A. Beginning January 1, 2022, the secretary of state shall collect and make publicly available on the secretary of state's website the geographic information system data for each voting district in the state.

B. The geographic information system data shall be accessible free of charge and provided in shapefile format or any comparable open source or convertible geographic information system file format.

C. In the event of a change in voting district

1 boundaries or precinct boundary adjustments, the secretary of
2 state shall promptly update the geographic information system
3 data accordingly.

4 D. For the purposes of this section, "voting
5 district" means a political subdivision or boundary located
6 in a geographical area that is represented by an elected
7 office."

8 SECTION 2. SHORT TITLE.--Sections 2 through 10 of this
9 act may be cited as the "Redistricting Act".

10 SECTION 3. DEFINITIONS.--As used in the Redistricting
11 Act:

12 A. "committee" means the citizen redistricting
13 committee;

14 B. "community of interest" means a contiguous
15 population that shares common economic, social or cultural
16 interests;

17 C. "district plan" means an entire plan of
18 single-member districts for electing members to the United
19 States house of representatives, the state house of
20 representatives, the state senate or other state offices
21 requiring redistricting;

22 D. "lobbyist" means a person who is required to
23 register as a lobbyist pursuant to the provisions of the
24 Lobbyist Regulation Act;

25 E. "political party" means a political party that

1 has been qualified in accordance with the provisions of the
2 Election Code; and

3 F. "public official" means a person elected to an
4 office of the executive or legislative branch of the state.

5 SECTION 4. CITIZEN REDISTRICTING COMMITTEE
6 CREATED--MEMBERSHIP--TERMS.--

7 A. The "citizen redistricting committee" is
8 created.

9 B. The committee is composed of seven members,
10 appointed, with due regard to the cultural and geographic
11 diversity of the state, as follows:

12 (1) one member appointed by the speaker of
13 the house of representatives;

14 (2) one member appointed by the minority
15 floor leader of the house of representatives;

16 (3) one member appointed by the president
17 pro tempore of the senate;

18 (4) one member appointed by the minority
19 floor leader of the senate;

20 (5) two members appointed by the state
21 ethics commission, who shall not be members of the largest or
22 second largest political parties in the state; and

23 (6) one member appointed by the state ethics
24 commission, who shall be a retired justice of the New Mexico
25 supreme court or a retired judge of the New Mexico court of

1 appeals, and who shall chair the committee.

2 C. No more than three members of the committee
3 shall be members of the same political party. A member of
4 the committee shall not have changed party registration in
5 the two years preceding the member's appointment in such a
6 manner that the member's prior party registration would cause
7 one political party to have more than three members. A
8 member of the committee shall not continue to serve on the
9 committee if the member changes party registration after the
10 date of appointment in such a manner as to cause one
11 political party to have more than three members.

12 D. Members shall be appointed not later than
13 July 1, 2021, and August 1 of each year ending in the number
14 zero thereafter, and shall serve until a district plan for
15 each of New Mexico's congressional districts, the state house
16 of representatives, the state senate and other state offices
17 requiring redistricting is submitted to the legislature.

18 E. When any member of the committee dies, resigns
19 or no longer has the qualifications required for the member's
20 original appointment, the member's position on the committee
21 becomes vacant and the chair shall notify the original
22 appointing authority of the vacant position. The vacancy
23 shall be filled by appointment by the original appointing
24 authority no later than fifteen days following notification
25 of the vacancy.

1 F. The committee shall meet as necessary to carry
2 out its duties pursuant to the Redistricting Act.

3 G. Members are entitled to receive per diem and
4 mileage as provided in the Per Diem and Mileage Act and shall
5 receive no other compensation, perquisite or allowance.

6 SECTION 5. MEMBERS--QUALIFICATIONS--LIMITATIONS.--

7 A. To qualify for appointment to the committee, a
8 person shall:

9 (1) be a qualified elector of New Mexico and
10 a voter; and

11 (2) not be, or in the two years prior to
12 appointment have been, in New Mexico, any of the following:

13 (a) a public official;

14 (b) a candidate for public office;

15 (c) a lobbyist;

16 (d) an office holder in a political
17 party at the state or federal level;

18 (e) a relative in the first degree of
19 consanguinity of a member of congress, the state house of
20 representatives, the state senate or the public education
21 commission;

22 (f) an employee of congress, the
23 legislative branch of government or other state office
24 required to be redistricted by the committee; or

25 (g) an employee of the executive branch SB 304
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1 of government.

2 B. Before entering upon the duties of the office
3 of member, a member shall review the Redistricting Act and
4 take the oath of office as provided by state law.

5 SECTION 6. COMMITTEE--DUTIES.--

6 A. Beginning July 1, 2021, and every August 1 of
7 each year ending in the number zero thereafter, the committee
8 shall:

9 (1) no later than October 30, 2021, or as
10 soon thereafter as practicable, and September 1 of each year
11 ending in the number one thereafter, adopt three district
12 plans each for:

13 (a) New Mexico's congressional
14 districts;

15 (b) the state house of representatives;

16 (c) the state senate; and

17 (d) the other state offices required to
18 be redistricted;

19 (2) hold no fewer than six public meetings
20 that allow for virtual participation before publishing the
21 district plans for public comment; provided that in-person
22 meetings shall not be required if such meetings would violate
23 a public health order;

24 (3) hold no fewer than six public meetings
25 that allow for virtual participation for the purpose of

1 adopting district plans; provided that in-person meetings
2 shall not be required if such meetings would violate a public
3 health order;

4 (4) conduct all meetings pursuant to the
5 requirements of the Open Meetings Act; and

6 (5) compile, index, maintain and provide
7 public access to the committee's record for each district
8 plan it adopts.

9 B. Beginning no later than July 1, 2021, and
10 August 1 of each year ending in the number zero thereafter,
11 the committee may:

12 (1) develop and adopt procedures for public
13 hearings; and

14 (2) hire staff and enter into contracts and
15 any interagency agreements, including agreements to provide
16 for professional technical or legal services, as necessary to
17 accomplish the duties set forth in this section.

18 SECTION 7. COMMITTEE MEETINGS BEFORE PROPOSING DISTRICT
19 PLANS.--

20 A. Before the committee issues proposed district
21 plans for public comment, the committee shall hold no fewer
22 than six public meetings at which the committee shall receive
23 testimony, documents and information regarding the
24 identification of communities of interest and other
25 testimony, documents and information regarding the creation

1 of district plans. The committee shall provide the public
2 with notice not later than thirty days before these meetings
3 and the notice shall include information about how the public
4 may participate and submit testimony, documents and
5 information. The committee shall hold meetings in various
6 regions across the state, including in central New Mexico and
7 in each of the four geographic quadrants of the state, with
8 at least one meeting on tribal lands.

9 B. The committee shall compile, index, maintain
10 and provide public access to all testimony, documents and
11 information received in the meetings conducted before issuing
12 proposed district plans for public comment.

13 C. The proposed district plans that the committee
14 issues for public comment shall be based, in part, on the
15 testimony, documents and information received.

16 SECTION 8. DISTRICT PLANS--REQUIREMENTS AND
17 PROHIBITIONS.--

18 A. The committee shall develop district plans in
19 accordance with the following provisions:

20 (1) congressional districts shall be as
21 equal in population as practicable;

22 (2) state districts shall be substantially
23 equal in population; no plans for state office will be
24 considered that have a total deviation of more than ten
25 percent;

1 (3) the committee shall use the most recent
2 federal decennial census data generated by the United States
3 census bureau and may use other reliable sources of
4 demographic data as determined by majority vote of the
5 committee;

6 (4) proposed redistricting plans to be
7 considered by the legislature shall not be composed of
8 districts that split precincts;

9 (5) plans must comport with the provisions
10 of the federal Voting Rights Act of 1965, as amended, and
11 federal constitutional standards; plans that dilute a
12 protected minority's voting strength are unacceptable; race
13 may be considered in developing redistricting plans but shall
14 not be the predominant consideration; traditional
15 race-neutral districting principles shall not be subordinated
16 to racial considerations;

17 (6) all redistricting plans shall use only
18 single-member districts;

19 (7) districts shall be drawn consistent with
20 traditional districting principles;

21 (8) districts shall be composed of
22 contiguous precincts and shall be reasonably compact;

23 (9) to the extent feasible, districts shall
24 be drawn in an attempt to preserve communities of interest
25 and shall take into consideration political and geographic

1 boundaries, including the boundaries of Indian nations,
2 tribes and pueblos; and

3 (10) in addition, and to the extent
4 feasible, the committee may seek to preserve the core of
5 existing districts.

6 B. The committee may incorporate suggested changes
7 to its proposed district plans in accordance with public
8 comments and testimony it receives, but shall not subordinate
9 the requirements of Paragraphs (1) through (9) of Subsection
10 A of this section in doing so.

11 C. When proposing or adopting district plans, the
12 committee shall not:

13 (1) use, rely upon or reference partisan
14 data, such as voting history or party registration data;
15 provided that voting history in elections may be considered
16 to ensure that the district plan complies with applicable
17 federal law; or

18 (2) consider the voting address of
19 candidates or incumbents, except to avoid the pairing of
20 incumbents unless necessary to conform to other traditional
21 districting principles.

22 SECTION 9. COMMITTEE ADOPTION OF DISTRICT PLANS.--The
23 committee shall adopt at a minimum three district plans for
24 each of New Mexico's congressional districts, the state house
25 of representatives, the state senate and other state offices

1 required to be redistricted at an open meeting. After the
2 committee adopts the district plans, the committee shall
3 provide written evaluations of each district plan that
4 address the satisfaction of the requirements set forth in the
5 Redistricting Act, the ability of racial and language
6 minorities to elect candidates of their choice, a measure of
7 partisan fairness and the preservation of communities of
8 interest.

9 SECTION 10. LEGISLATIVE SELECTION OF DISTRICT PLANS.--

10 A. The committee shall deliver its adopted
11 district plans and accompanying written evaluations and all
12 accompanying concise explanatory statements to the
13 legislature by October 30, 2021, or as soon thereafter as
14 practicable, and September 1 of each year ending in the
15 number one thereafter.

16 B. The legislature shall receive the adopted
17 district plans for consideration in the same manner as for
18 legislation recommended by interim legislative committees.

19 SECTION 11. Section 1-3-12 NMSA 1978 (being Laws 1984
20 (1st S.S.), Chapter 3, Section 4, as amended) is amended to
21 read:

22 "1-3-12. ADJUSTING PRECINCT BOUNDARIES.--

23 A. Before each federal decennial census, every
24 precinct shall comply with the requirements of Section 1-3-1
25 NMSA 1978, and if necessary its boundary shall be adjusted to

1 coincide with a feature or a boundary that is:

2 (1) shown on the standard base maps
3 developed pursuant to Subsection B of this section;

4 (2) a designated census block boundary on
5 the proposed federal PL 94-171 census block maps; or

6 (3) approved by the secretary of state and
7 the United States bureau of the census.

8 B. Prior to commencement of the federal decennial
9 census, the secretary of state shall have prepared and shall
10 furnish to each county clerk standard base maps of the
11 county. The standard base map for urban and nonurban areas
12 of the county shall, as nearly as practical, show:

13 (1) all state and federal highways;

14 (2) all numbered and named county roads that
15 have been certified to the department of transportation;

16 (3) all military installation boundaries and
17 federal and state prison boundaries;

18 (4) all major railroad lines;

19 (5) federal, state and county political
20 boundaries, municipal boundaries and school district
21 boundaries;

22 (6) Indian nation, tribe and pueblo
23 boundaries and subdivisions or chapter house boundaries;

24 (7) all streets within urban areas; and

25 (8) other major terrain features, such as

1 flowing rivers and streams, arroyos, power lines, pipelines,
2 roads, trails and ridgelines and other acceptable census
3 block boundaries.

4 C. The board of county commissioners, upon receipt
5 of the standard base maps from the secretary of state and
6 upon the recommendation of the county clerk, shall:

7 (1) adjust all precinct boundaries to
8 coincide with numbered or named street boundaries or suitable
9 visible terrain features shown on the standard base map;
10 provided that the precincts shall be composed of contiguous
11 and compact areas, and state, county, municipal, school
12 district and other special district or political boundary
13 lines shall serve as precinct boundaries whenever possible;
14 and

15 (2) upon the completion of the precinct
16 boundary adjustments as required in this section, indicate on
17 the standard base maps the boundaries for both urban and
18 nonurban precincts and, together with a written description
19 of the precincts, shall send an electronic copy to the
20 secretary of state for approval."

21 SECTION 12. Section 1-3-13 NMSA 1978 (being Laws 1983,
22 Chapter 223, Section 4, as amended) is amended to read:

23 "1-3-13. ADJUSTING PRECINCT BOUNDARIES--TIME LINES FOR
24 LEGISLATIVE AND LOCAL PUBLIC BODY REDISTRICTING--RELEASE OF
25 NOMINATING PETITIONS.--

1 A. Prior to commencement of the federal decennial
2 census, the secretary of state shall review all county
3 precinct maps submitted pursuant to Section 1-3-12 NMSA 1978
4 for compliance with the provisions of the Precinct Boundary
5 Adjustment Act and Section 1-3-1 NMSA 1978. Those county
6 precinct maps determined not to be in compliance with the
7 precinct boundary criteria set forth in Subsection A of
8 Section 1-13-12 NMSA 1978 or Section 1-3-1 NMSA 1978 shall be
9 rejected and returned to the appropriate county clerk with a
10 written statement setting forth those instances in which the
11 map does not comply. The county clerk and the board of
12 county commissioners shall make the required adjustments
13 within thirty days after receiving notice of noncompliance.

14 B. Following receipt of the results of a federal
15 decennial census, the secretary of state shall again follow
16 the procedures outlined in Subsection A of this section to
17 allow the counties to make any necessary adjustments. For
18 any county that does not make the required adjustments within
19 thirty days after receiving notice of noncompliance following
20 receipt of the results of a federal decennial census, the
21 secretary of state shall send a second notice of
22 noncompliance, and no later than ninety days following
23 receipt of the results of the federal decennial census, if
24 any precinct boundary adjustments are necessary to meet the
25 legal requirements of redistricting, pursuant to

1 Sections 1-3-1 and 1-3-12 NMSA 1978, the secretary of state
2 shall adjust the boundaries of the precincts only to the
3 extent necessary to achieve compliance with the requirements
4 of those sections and notify the county of those boundary
5 adjustments.

6 C. The precincts shown upon the standard base maps
7 submitted pursuant to the provisions of this section and as
8 revised and approved by the secretary of state pursuant to
9 the Precinct Boundary Adjustment Act shall become the
10 official precincts of each county for redistricting.

11 D. Following completion of the procedures outlined
12 in Subsection B of this section and in the same calendar year
13 in which the state receives the results of a federal
14 decennial census:

15 (1) the legislature shall redistrict federal
16 congressional districts, each house of the legislature and
17 any other state districts requiring redistricting; and

18 (2) each local public body subject to
19 districting and whose governing body members are not elected
20 at the regular local election shall create or redraw
21 districts for the local public body.

22 E. In the calendar year following the receipt of
23 the results of a federal decennial census, each local public
24 body subject to districting and whose governing body members
25 are elected at the regular local election shall create or

1 redraw districts for the local public body.

2 F. A local public body shall establish districts
3 in which the number of persons in each district, as shown in
4 the most recent federal decennial census, is as nearly equal
5 in population as practical, but within five percent of the
6 mean. A local public body subject to districting shall not
7 split a precinct into two or more districts for any elected
8 office unless necessary to comply with federal law or to
9 preserve communities of interest. Each local public body
10 subject to districting shall create or redraw districts
11 pursuant to the time lines of this section.

12 G. During years in which districts are redrawn
13 pursuant to the provisions of this section, nominating
14 petitions shall not be made available for relevant offices
15 until completion of the procedures specified in Subsection D
16 or E of this section, as applicable.

17 H. As used in this section:

18 (1) "local public body subject to
19 districting" means any political subdivision of the state
20 with elected governing body members who:

21 (a) must reside in designated areas of
22 the political subdivision to qualify for election; or

23 (b) are elected by a geographically
24 defined subset of voters within the boundaries of the
25 political subdivision; and

(2) "mean" means the total number of persons residing within a political subdivision of the state divided by the number of districts from which governing body members are elected."

SECTION 13. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2021._____

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Howie C. Morales, President
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Approved by me this 6th day of April, 2021

Michelle Lujan Grisham
Governor Michelle Lujan Grisham
State of New Mexico