

## **BALLOT QUESTIONS—NEXT WEEK’S RULE-MAKING HEARINGS and the SERIOUS CHANGES BEING PROPOSED**

[NOTE: This is the 2<sup>nd</sup> of 3 posts we are publishing today about very serious, very consequential changes being proposed by the New Mexico Secretary of State]

Article #11

### **Ballot Questions—Part 2**

#### **Local Ballot Questions**

The big change we see occurring regarding local ballot questions is that in Albuquerque, city ballot questions would now be allowed to be presented as “condensed text,” rather than the full text of any ordinance or charter amendment.

In 2016, District Court Judge Alan Malott ruled that the Albuquerque city charter required the FULL text of ordinances to be included on the ballot. (We assume he made that ruling for the simple reason that that is what the charter actually says is required.)

That ruling came in a lawsuit regarding a proposed city ordinance that would have required private employers to provide paid sick leave to their employees.

The advocacy groups who wanted the new sick law to go into effect did NOT want the full text of a very lengthy, complicated, and controversial sick leave proposal to appear on the ballot.

So despite the wording of the city charter, the advocates pushed for there to be only a “summary” of the proposal. However, the proposed summary did not include all of the controversial new mandates that would have been imposed on businesses in Albuquerque.

The District Court Judge repeatedly denied those efforts to substitute the summary for the full text.\*

When the full text of the ordinance subsequently appeared on the ballot, those “details” led to its defeat by Albuquerque voters.

#### **THE PROPOSED NEW RULE**

The Secretary’s new rule comes in the wake of House Bill 407, which, as discussed in previous articles made sweeping changes to the Election Code.

Section 1- 16-7(A) of the Election Code, Titled, “Ballot questions; form”, now provides:

A. The secretary of state shall by rule prescribe uniform guidelines for a state or local ballot question to appear on the ballot.

Section 1-16-3(B) provides that:

Whenever a local government ballot question is to be submitted to the voters of a local government on a general election or regular local election ballot, not less than seventy days before the election at which THE BALLOT QUESTION IS PROPOSED TO BE SUBMITTED TO THE VOTERS, the local government shall file a resolution proposing THE BALLOT QUESTION with the county

clerk of each county containing any precinct in which votes may be cast for or against the local government ballot question. Not less than sixty-seven days before the election, each COUNTY CLERK SHALL CERTIFY THE LOCAL GOVERNMENT BALLOT QUESTION TO THE SECRETARY OF STATE.

Section 1-22-10(E) of the Local Election Act provides:

The ballot SHALL ALSO CONTAIN ALL BALLOT QUESTIONS THAT ARE TO BE SUBMITTED TO THE VOTERS AS CERTIFIED BY A LOCAL GOVERNING BODY TO THE COUNTY CLERK in each county in which the local government is situate and shall conform to the requirements for ballot questions on the regular local election ballot as provided in Chapter 1, Article 16 NMSA 1978.

#### THE IMPORTANT THING TO NOTE

The statute does not include any reference to a “condensed text” ballot question or a “full” ballot question. Under the statute, however, the local governing body is required to submit THE ballot question that is to be submitted to the voters.

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\*See Healthy Workforce ABQ v City of Albuquerque D 202 CV 2016 5539 (2nd Judicial District).

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COMING NEXT: Part 3