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## FISCAL IMPACT REPORT

ORIGINAL DATE 2-11-09

SPONSOR Arnold-Jones LAST UPDATED \_\_\_\_\_ HB 640

SHORT TITLE Allow Voters to Write Candidates In SB \_\_\_\_\_

ANALYST Ortiz

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

### SUMMARY

#### Synopsis of Bill

House Bill 640 removes all requirements imposed on write-in candidates and allows any voter to write-in the name of a person they wish to vote for in a primary or special election if the name does not appear on the ballot. It also states that the write-in name shall be counted and canvassed if the name as written shows two initials and last name, or first name, middle initial or name and last name, or first and last name. It also states that misspellings of any of the above combinations shall be counted if a majority of the members of the precinct board can identify the write-in candidate.

### SIGNIFICANT ISSUES

According to the Attorney General's Office, a significant issue regarding HB640 involves removing the requirements of write-in candidates. A specific requirement is that write-in candidates in primary elections be only for specific offices and offices voted upon by all voters of the state. Removing this requirement would lead to a greatly enlarged ballot if write-in lines were provided for every office. HB640 also removes the requirement that the write-in candidate be affiliated with a party and that the write-in candidate be qualified to be a candidate in the primary election. Removing this requirement may open up issues with laws that require a candidate be affiliated with a state recognized major or minor party. Also, to allow unqualified candidates to run for an office they legally could not fill serves no legitimate purpose. Lastly, HB640 removes the necessity that the write-in candidate file a declaration of intent to be a write-in candidate. Without this declaration of intent, the write-in candidate is not considered a

candidate for all purposes and provisions relating to the Election Code, including the obligation to report pursuant to the Campaign Reporting Act. This may raise equal protection arguments to not make mandatory campaign contribution reporting on write-in candidates, when all other candidates must report these contributions.

Another significant issue raised by HB640, requires that a write-in vote be counted even if the name is misspelled, if the name can be identified by a majority of the precinct board and creates discretion in the process.

### **ADMINISTRATIVE IMPLICATIONS**

According to the Secretary of State, the election canvassing process will be more time consuming due to the number of hand tallies that would need to be separately counted in each county. Moreover, it may delay election returns.

EO/mt