

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the Legislature. LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

## FISCAL IMPACT REPORT

**LAST UPDATED** \_\_\_\_\_

**SPONSOR** Lujan/Lente/Diamond **ORIGINAL DATE** 2/16/23

**BILL**

**SHORT TITLE** Election Board Compensation & Changes **NUMBER** House Bill 318

**ANALYST** Daly

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT\*

(dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	\$0.0	\$1,380.0	\$1,380.0	\$2,760.0	Recurring	General Fund (statewide election)
	\$0.0	\$0.0	\$1,380.0	\$1,380.0	Recurring	General Fund (local election)
<b>Total</b>			\$2,760.0	\$4,140.0	Recurring	General Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent version of this legislation.

Relates to SB180

### Sources of Information

LFC Files

#### Responses Received From

Commission of Public Records (CPR)

New Mexico Attorney General (NMAG)

Secretary of State (SOS)

## SUMMARY

### Synopsis of House Bill 318

House Bill 318 amends the Election Code to:

- Increase the cap amount election board members can earn on election day from \$200 to \$400 and provide alternative methods of payment;
- Allow county clerks to begin processing voter registration from 35 days after election day to the Monday after the approval of the county canvass report;
- Require applications for absentee ballots be received 14 days prior to election day, require that if a ballot is sent to a different address, a notice be sent to the voter's registration address, and require notice and an opportunity to cure if a ballot is rejected; and
- Increase the retention of paper ballots and other voting-related papers for elections not containing a federal candidate from 45 days to 60 days; clarify destruction procedures

and permit an interested person to be present at the destruction; direct the state records administrator to store these records during the retention period upon request by the county clerk which costs of storage are to be paid from the state election fund; and authorize that administrator to destroy those records after expiration of the retention period pursuant to the administrator's procedures governing destruction of public records.

HB318 also repeals current law and enacts a new section providing that records related to voting are exempt from public inspection except as provided in the Election Code until 60 days following a canvass, contest, or recount. After that time, during any retention period and prior to destruction, inspection is only allowed pursuant to good cause shown and upon order by the district court. A person, whether or not an officer, official or custodian, who willfully violates the secrecy of the ballot or who steals, destroys, conceals, mutilates or alters any record or paper required to be retained by this section is guilty of a misdemeanor for each such record or paper. It exempts digitized forms of paper ballots and records related to voting from retention and defines "records related to voting" to mean "any voter application, voter registration or act by a voter or election board requisite to voting in an election."

This bill does not contain an effective date and, as a result, would go into effect June 16, 2023, (90 days after the Legislature adjourns) if signed into law.

## **FISCAL IMPLICATIONS**

SOS expects a fiscal impact associated with the following provisions of the bill:

Pay Increase for Election Board -- Current language in the election code provides that election workers be paid based upon the federal minimum wage with a cap of \$200 on election day. There is currently no specification for messengers to be paid under the election code. Proposed language significantly increases the pay rate for election workers and messengers by doubling the existing wage cap to \$400. The idea of increasing pay rates is to provide for a proper incentive to serve on an election board at a time when there are reported challenges in recruiting and retaining election workers in certain parts of the state. A problem that is also reported at a national level. During the 2020 general election, the SOS reimbursed counties for \$1.38M for election board members. We estimate that poll worker costs could nearly double if the proposed language is enacted with an estimated cost of paying election board to about \$2.7M per statewide election.

SOS reports it has anticipated this additional cost within the content of its annual budget request.

## **SIGNIFICANT ISSUES**

In its analysis, SOS recognizes the need to increase the election day cap for election board members as an important step towards recruiting election board members, but advises that language allowing for direct payment from its office is not workable in terms of resources or process. It advises it already has a reimbursement/granting process in place to satisfy its statutory obligations regarding the funding of elections.

CPR expresses concern that the provisions in Section 4 requiring county clerks permit any interested person to be present during a clerk's destruction of voting-related records may be read to apply to CPR as well. It advises that it does not have the ability to destroy records on-site.

Rather, it currently contracts with a private company in Albuquerque for the destruction of records, and any such destruction takes place at that location. The language of Section 4(C), however, appears to allow CPR to follow its own procedures for destruction of public records following a retention period during which CPR has voting-related records in its custody.

## **RELATIONSHIP**

Section 1 of HB318 authorizes an increase in pay for election board members from \$200 to \$400 for an election day. SB180 makes a similar change in Section 12.

MD/al/ne