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FISCAL IMPACT REPORT

SPONSOR García, M.H. DATE TYPED 2/24/05 HB 686

SHORT TITLE Provisional Ballot Processing Requirements SB _____

ANALYST Medina

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	NFI				

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 25, HB 29

SOURCES OF INFORMATION

LFC Files

Responses Received From
Secretary of State

SUMMARY

Synopsis of Bill

House Bill 686 amends the Election Code as it relates to absentee voting to require that the already required sworn affidavit indicating that the person has applied for but not received an absentee ballot be printed on the outer envelope of a provisional paper ballot. Upon receipt of the sworn affidavit, the county clerk shall issue the voter a provisional ballot, rather than a replacement absentee ballot as the current statutes state. The bill includes the same provision for the emergency procedure for voting by and counting of absentee ballots, replacing the issuance of an emergency paper ballot with the issuance of a provisional paper ballot.

This bill further amends the statutory section on absentee ballots to require that the county clerk, upon determining that a voter did in fact apply for an absentee ballot and that an absentee ballot was received by the clerk from the voter by 7:00 p.m. on Election Day, indicate on the transmittal envelope the recommendation to count the ballot or not, and why, and then sent the unopened transmittal envelopes to the absent voter precinct board to be tallied for the appropriate precinct.

Section 1-12-25.3 NMSA 1978, which relates to provisional ballots is amended to require amount the information printed on the outer envelope of a provisional ballot include the line number the voter signed on the signature roster and notice that intentionally making a false statement is punishable as a fourth degree felony.

Section 1-12-25.4 NMSA 1978, which relates to the disposition of provisional paper ballots, is amended to include the absent voter precinct board to the county canvassing board's review of eligibility of provisional ballots. Furthermore, this section is amended to require that upon completing the assessment of provisional ballots, the county clerk is to convene the absent voter precinct boards to review the county clerk's determinations, count and tally votes from the valid ballots and report the results to the county clerk; provided that at least twenty-four hours have elapsed since the absent voter precinct board last met to count and tally votes. The bill mandates that by a majority vote of the precinct board members, and in accordance with the provisions of Subsections B through G of this section, a determination of the county clerk on how a provisional ballot will be treated may be changed.

Finally, Section 1-12-28 NMSA 1978, which relates to election certificate, the bill requires additional responsibilities to the precinct boards. The bill mandates that the precinct boards also certify the following:

- number of paper ballots destroyed and their ballot numbers;
- number and ballot numbers of spoiled ballots;
- total emergency ballots voted;
- total provisional ballots voted and subtotals for provisional ballots voted on due to registration questions and for absentee ballot replacements;
- total votes cast;
- number of voters who signed the signature roster; and
- an explanation if the total votes cast does not equal the total number of voters who signed the signature roster.

Significant Issues

This bill proposes significant changes to the processing of ballots that entail increasing the use of provisional paper ballots. The bill proposes additional controls in the processing of provisional paper ballots to further ensure the integrity of the election system.

ADMINISTRATIVE IMPLICATIONS

Under the provisions of this bill, county clerks would be required to train precinct judges, poll workers, absent voter precinct boards in the new voting and reporting procedures.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

House Bill 25 and House Bill 29 both relate to provisional ballots. House Bill 25 amends the Election Code to include a provision requiring the Secretary of State to promulgate rules to ensure the uniform counting of provisional ballots. House Bill 29 mandates that only provisional ballots cast in the precinct in which the voter is registered be counted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL?

The existing procedures regarding the counting and processing of late absentee ballots would prevail and the proposed controls for the processing of provisional paper ballots would not be mandated.

DXM/lg