

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

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

SPONSOR Duran **ORIGINAL DATE** 2/26/07
LAST UPDATED 3/13/07 **HB** _____
SHORT TITLE Absentee Ballots in Lieu of Polling Places **SB** 603/aSFL#1
ANALYST Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB 470

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Secretary of State (SOS)

SUMMARY

Synopsis of SFL#1 Amendment

Senate Floor Amendment #1 to Senate Bill 603 inserts new language requiring county clerks to notify voters that if they do not want to receive an absentee ballot they should notify the county clerk before the county clerk is scheduled to mail out absentee ballots.

Also inserted into the same section is language that requires county clerks to have a sufficient supply of ballots from a mail ballot election precinct so that if voters lose or do not receive the absentee ballot before election day the voter can still vote absentee on election day at the county clerks office in lieu of voting on the missing ballot.

Synopsis of Original Bill

Senate Bill 603 permits a board of county commissioners to designate a precinct as a mail ballot election precinct if, upon a written request of the county clerk, it finds that the precinct has less

than fifty voters and the nearest polling place for an adjoining precinct is more than thirty miles driving distance from the polling place designated for the precinct in question.

FISCAL IMPLICATIONS

The Secretary of State reported that this bill will save money because the cost of a polling place and poll workers will be saved in the small rural precincts.

SIGNIFICANT ISSUES

The Attorney General's Office presents the following issues below.

The federal Help America Vote Act requires that states adopt a voting system that "shall be accessible for individuals with disabilities, including non-visual accessibility for the blind and visually impaired." PL 107-252, Section 301(a)(3). This means a "voting system equipped for individuals with disabilities at each polling place." PL 107-252, Section 301(a)(3). The county that houses the City of Seattle has a mail in ballot system, but to comply with HAVA they have set up 10 or more regional voting centers for "in person" voting with disability accessible machines. Therefore, this bill should include a provision for these centers.

In Seattle, voters who distrust the mail may deposit their ballots in drop-off boxes the clerk installs at various locations. There may be New Mexicans who distrust the mail, particularly in rural unpopulated areas, and therefore, this bill should likely include a provision for drop-off boxes.

Under current New Mexico law, a voter can drop his absentee ballot on election day at his correct precinct. A voter under this bill would not have this right.

Under current New Mexico law, a voter who does not receive his absentee ballot in the mail can go to his precinct and request a ballot (a/k/a in lieu of ballot process). A voter under this bill would not have this right. A voter under this bill would have to go to another precinct and will likely have to vote a provisional ballot process.

It is unclear whether the county commission can change a precinct to a mail ballot precinct at any time or only at November on the year prior to an election year.

If a voter in a mail ballot precinct sends in an application for an absentee ballot, the clerk needs to be aware enough not to send two ballots (one based on the request and one automatically under this bill).

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Duplicates HB 470.

TECHNICAL ISSUES

As noted by the AGO, this bill should include a provision for drop-off boxes, a voter under this bill would have to go to another precinct and will likely have to vote a provisional ballot process and county clerks will need to develop a process to ensure that two ballots are sent to the same

person.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The AGO notes that the bill, if not amended, may be vulnerable to legal challenge from disability advocates and the federal Department of Justice.

POSSIBLE QUESTIONS

Can a county commission change a precinct to a mail ballot precinct at any time?

EO/csd