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FISCAL IMPACT REPORT

ORIGINAL DATE 2-26-09

SPONSOR HVEC LAST UPDATED _____ HB 91HVECS

SHORT TITLE Early Voting on Tribal Lands SB _____

ANALYST Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non- Reek	Fund Affected
Total		Unknown	Unknown	Unknown	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO) – only agency responding to both original and substitute bill.

Secretary of State (SOS)*

Indian Affairs Department (IAD)*

*Responded to original bill, however, comments remain relevant.

SUMMARY

Synopsis of Bill

The House Voters and Elections Committee substitute for House Bill 91 removes the requirement that early voting sites be provided on Indian nation, tribal or Pueblo lands if said land is more than fifteen miles from a county clerk's office. The substitute leaves intact the bill that provides for early voting and alternate voting locations on Indian Nation, tribal or Pueblo lands to be provided when requested if the land is more than seven miles from a county clerk's office.

FISCAL IMPLICATIONS

Adding more early voting sites could increase the cost to the general fund because more early voting ballots would need to be ordered. For the 2008 general election the Secretary of State's methodology for ordering general election ballots looked at voter turnout over the past six years. It then took the greatest percent that voted absentee, early and on Election Day and added buffer to determine the number of ballots it would need for the current number of registered voters for each of the three voting options. It proposes ordering 28 percent of ballots for absentee voting, 30 percent for early voting and 75 percent for Election Day.

It is important to point out the challenges early voting represents. The first being multiple early voting sites which allows a voter from any precinct in the county to vote at the early site. This means that each of the 74 early voting sites must have on-hand a ballot for a voter from any precinct within their county. Based on the methodology discussed above, a county with 100,000 registered voters would take 30 percent of that total to determine the number of early ballots needed, in this example 30,000. The county then multiplies 30,000 by its early sites, for example 4 early sites, to determine the number needed, in this example 120,000 ballots. This example shows how ballots exceed registered voters and this could be acceptable if ballots leftover from early voting were used on Election Day but some county clerks have explained that the tight timeframe between early voting sites closing and Election Day voting does not give them enough time to inventory its stock of ballot to use on Election Day.

Bernalillo County is the exception to this general method. The county proposed, and Secretary of State agreed, to order early ballots for 30 percent of the voters registered at precincts within a three mile radius of each early voting site and 10 percent for registered voters beyond the three mile radius. There is a potential \$500 to \$700 thousand savings in Bernalillo.

Moreover, is a concern raised that the database used to maintain registered voters has been neglected and the total number of registered voters may be erroneous. Maintaining an up-to-date eligible voter list involves sending voter registration notifications to inactive registered voters and any returned mail from the same address for two consecutive years provides the justification for purging, or cleaning, the voter registration list. As of October 2008 this mailing had not been performed.

According to the Secretary of State, 2008 general election cost were \$5.2 million, it ordered 2.6 million ballots and 1.8 million were unused.

SIGNIFICANT ISSUES

The Indian Affairs Department explains that the new distance requirement would offer Native American communities increased opportunity to participate in the political process and elect candidates of their choice when exterior boundaries of tribal lands may be more than seven miles from an office of the county clerk, rather than fifteen. The amendment applies to early voting and alternate voting procedures when requested by and Indian nation, tribe or pueblo.

It further adds that in the case of the Pueblo of Acoma located within Cibola County, the northwestern-most exterior boundary is approximately 8 miles from the applicable county clerk office. Under existing state statute, the Pueblo of Acoma may request an alternate voting site to be located within its tribal boundaries. However, under state regulations a county clerk is only

“strongly encouraged to provide an alternate site.” § 1.10.30.9 NMAC. The amendment would require the provision of an alternate site when such a request is made. This would facilitate the requirement for equal-basis voting under applicable laws for the Pueblo of Acoma, and any similarly situated Indian nation, tribe or pueblo in New Mexico.

County clerks have previously expressed concern about mobile alternative locations and how to schedule where to place them. County clerks would be impacted in filling the respective precinct boards if more Native American communities request alternate early voting locations in their respective areas.

ADMINISTRATIVE IMPLICATIONS

This bill may require the provision of more alternate voting sites on Indian, tribal or Pueblo lands than was necessary with the 15 mile rule.

OTHER SUBSTANTIVE ISSUES

There is concern that the database used to maintain registered voters has been neglected. For example, voter registration notifications are mailed to inactive registered voters and any returned mail from the same address for two consecutive years provides the justification for purging, or cleaning, the voter registration list. As of October 2008 this mailing had not been performed. If voter lists are not well maintained, it is likely that the number of registered voters is erroneous.

ALTERNATIVES

All mail-in elections would address the fundamental right to vote on an equal basis. Mail balloting has several advantages over traditional polling. First, it is cost effective. Second, it has resulted in increased participation among voters. Third, it is easier for election officials to conduct. Fourth, it allows for a more accurate picture of eligible voters, by keeping voting lists up-to-date. Fifth, it gives voters a longer opportunity to study the ballot and find answers to their questions.

For example, between 1995 and 1997 in Oregon, counties saved over \$1 million on three vote-by-mail special elections. If, during that same period, primary and general elections had been conducted by mail, Oregon counties could have saved an additional \$3 million.

Another option is to consider legislation to close early voting sites sooner so that county clerks can inventory its stock of remaining early voting ballots and use them on Election Day.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The consequence of not enacting this bill will be that early alternate voting sites will be required only when requested for Indian, tribal or Pueblo lands that are more than 15 miles from a county clerk’s office. This may result in less access to voting for individuals who have difficulty leaving such lands to vote.