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## FISCAL IMPACT REPORT

SPONSOR Hamilton ORIGINAL DATE 02/09/11  
LAST UPDATED \_\_\_\_\_ HB 308  
SHORT TITLE Voter Identification Requirements SB \_\_\_\_\_  
ANALYST Aledo

### APPROPRIATION (dollars in thousands)

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>		*Unknown	*Unknown	*Unknown	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

\*See Fiscal Implications

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Attorney General's Office (AGO)

Secretary of State (SOS)

Association of County Clerks (ACC)

#### No Responses Received From

Taxation and Revenue Department (TRD)

### SUMMARY

#### Synopsis of Bill

House Bill 308 changes voter identification requirements. The bill eliminates the following forms of identification: utility bills, bank statements, government checks, and student identification cards. Verbal and written statement would also no longer be acceptable as forms of identification. Acceptable forms of identification would be required to include the following a photo of the voter, issued by the state or the United States, with an unexpired expiration date or an identification without a photo if issued by an Indian nation, tribe or pueblo, which includes the person's tribal enrollment number. The name on the document must conform to the name of the person's certificate of registration.

The bill also provides procedures for challenging a voter's identification.

HB 308 provides fee exceptions for voters who will reach the age of 18 prior to the next general election, voters of seventy-five years or more, and persons unable to pay for the card and sign a statement declaring indigency.

### **FISCAL IMPLICATIONS**

Although the Department of Taxation and Revenue did not respond, there will be costs to the agency as it expected to provide, free of charge, photo ID cards.

There are also additional costs for voter education and precinct board training to avoid voter confusion and to ensure legitimate voters are not turned away at the polls.

In Missouri and Wisconsin similar legislative voter identification initiatives have been proposed and accompanying fiscal impact analysis indicate significant associated costs.

### **SIGNIFICANT ISSUES**

The Attorney General's Office and the Association of County Clerks have concerns regarding the use of the verb "conform" in Section 1(A) (1). According to the AGO, the term "conform" is vulnerable to legal challenge on grounds it is vague and subject to subjective interpretation by election workers and election lawyers.

The AGO also notes that the bill is vulnerable to legal challenge on grounds of disparate treatment of voters because an in-person voter must show picture identification, but a by-mail voter does not have show picture identification. Similarly, the bill is vulnerable to legal challenge on grounds of disparate treatment of voters because a non-Native American voter must show picture identification but a Native American voter does not have show picture identification.

The Secretary of State's office notes that a provision allowing a voter to state his or her year of birth is substantially the same as existing law. The voter will still be allowed to vote based on a verbal statement of the year of birth if no physical identification is presented. Writing "not affirmed" on the register is the procedure that is used when a vote is unsuccessfully challenged under 1-12-22 NMSA 1978.

According to the ACC, the bill conflicts in two places with the federal Help America Vote Act (HAVA) requirements. First, HAVA requires all voters who offer to vote in the county in which they believe they are registered to receive a ballot. This bill creates an automatic interposition of an election challenge, without amending the challenge statute to provide for resolution through a provisional ballot. Second, the registration requirement in HB 308 for first time registrants in the state who register by mail violates the standards in HAVA.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

HB 308 is a duplication of SB 363.

### **OTHER SUBSTANTIVE ISSUES**

The Association of County Clerks unanimously opposes HB 308.