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FISCAL IMPACT REPORT

SPONSOR SRC ORIGINAL DATE 03/01/21
LAST UPDATED _____ HB _____
SHORT TITLE Solicitation of Some Campaign Contributions SB 359/ec/SRCS
ANALYST Nichols

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Secretary of State (SOS)

State Ethics Commission

SUMMARY

Synopsis of Bill

The Senate Rules Committee substitute for Senate Bill 359 would enact new material in statute requiring a person serving in an office covered by the Campaign Reporting Act to file a report with the Secretary of State (SOS) for every ten-day period of the prohibited campaign fundraising period, as defined in the act, disclosing contributions received or pledged during the period. Reports must be filed with SOS within two days of the end of the ten-day period.

The bill contains an emergency clause and would become effective immediately upon signature by the governor.

FISCAL IMPLICATIONS

None anticipated.

SIGNIFICANT ISSUES

SB359/SRCS would apply to a person who is both a candidate for federal office and a state legislator, attorney general, secretary of state, state treasurer, commissioner of public lands, or

state auditor. These individuals would be required to submit between five and 12 reports during the prohibited fundraising period.

The Campaign Reporting Act prohibits elected officials, including legislators, from knowingly soliciting contributions during a prohibited period beginning January 1 prior to any regular session of the Legislature or, in the case of a special session, after the proclamation has been issued, and ending upon adjournment of the session. The act also prohibits the governor from knowingly soliciting contributions during a prohibited period beginning January 1 prior to any regular session of the Legislature or, in the case of a special session, after the proclamation has been issued, and ending 20 days after adjournment of the session.

SB359/SRCS would require elected officials who are also candidates for federal office to report on campaign contributions during the prohibited period. However, the State Ethics Commission notes that to the extent that SB359/SRCS applies to fundraising activities for federal office, it could be subject to preemption by federal election laws, as state laws that place a limitation on fundraising for federal campaigns are unenforceable. The Ethics Commission points to a reading of the Federal Election Campaign Act by the United States Court of Appeals for the Eighth Circuit recognizing that “the statute [...] preempts laws governing ‘the behavior of candidates—including, for example, the filing of reports disclosing the names and occupations of campaign contributors’.” It is therefore unclear if a requirement for state officials running for federal office to file campaign contribution reports would be enforceable.

SB359/SRCS proposes to enact new material, but does not specify where in statute the new material would be enacted. It is not clear whether the new material would become part of the Campaign Reporting Act, and therefore whether the penalty and enforcement provisions of the Act would apply.

ADMINISTRATIVE IMPLICATIONS

SOS would need to adopt some new administrative rules and procedures to define the processes required by the bill and enforce the new provisions.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

As noted above, SB359/SRCS could conflict with federal law.

TECHNICAL ISSUES

As noted above, SB359/SRCS proposes to enact new material, but does not specify where in statute the new material would be enacted.

AN/al/sb