

<b>LFC Requester:</b>	<b>LFC Analyst Anne Hanika-Ortiz</b>
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## AGENCY BILL ANALYSIS – 2026 SESSION

**WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO**  
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### SECTION I: GENERAL INFORMATION

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

**Date Prepared:** 13FEB26 *Check all that apply:*  
**Bill Number:** SB264S Original  Correction   
 Amendment  Substitute

**Sponsor:** Sen. Katy M. Duhigg, Sen. Heather Berghmans, Sen. Cindy Nava, Sen. Angel M. Charley, Sen. Joseph Cervantes **Agency Name and Code Number:** 790 – Department of Public Safety  
**Short Title:** PUBLIC PEACE, HEALTH, SAFETY WELFARE ELECTION RI **Person Writing:** Matthew Broom, Deputy Chief  
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### SECTION II: FISCAL IMPACT

#### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY26	FY27		
NFI	NFI	N/A	N/A

(Parenthesis ( ) indicate expenditure decreases)

#### REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY26	FY27	FY28		
NFI	NFI	NFI	N/A	N/A

(Parenthesis ( ) indicate revenue decreases)

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

	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>	NFI	NFI	NFI	N/A	N/A	N/A

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

#### **BILL SUMMARY**

Senate Rules Committee substitute for Senate Bill 264 (SB-264) adds new provisions to the Election Code to prohibit interference with elections, including ordering, bringing, or keeping certain armed persons in the civil, military, or naval service of the United States at a location used as a polling place (including parking areas) or within fifty feet of a monitored secured container beginning twenty-eight days before an election through election day, unless necessary to repel armed enemies of the United States; imposing restrictions on voters or elections contrary to the laws of New Mexico; or interfering with election officials, election workers, election board members, challengers, watchers, or voters, all “under color of law.” Imposes penalties. Authorizes civil remedies. Provides procedures for emergencies impacting election operations.

#### **FISCAL IMPLICATIONS**

Undetermined, however, if a fiscal impact was to occur to the Department of Public Safety (DPS), it would likely be concentrated around election cycles or periods of increased public tension. Additional impacts could include increased training and policy guidance needs, legal consultation, and administrative review workload resulting from allegations of election interference during the expanded pre-election period.

#### **SIGNIFICANT ISSUES**

The bill applies the concept of “under color of law” broadly, meaning while acting or purporting to act in an official capacity. This significantly raises the stakes for officers working at or near polling locations and may increase exposure for actions taken during the performance of official duties.

The bill also creates a new election interference offense with a fourth-degree felony penalty and authorizes civil enforcement, including injunctive relief and civil penalties. Because the language is broad, routine law enforcement actions, such as crowd control, responding to disturbances, traffic control, or managing access to a site, could later be scrutinized as unlawful “interference.” This creates heightened personal criminal exposure for officers performing their duties and may discourage timely intervention in situations requiring immediate public safety decisions.

#### **PERFORMANCE IMPLICATIONS**

The bill limits when and how peace officers may act at polling locations. Officers may enter a polling place to observe and may assist in maintaining order, but only when requested by designated election officials. Officers are prohibited from interfering in the conduct of the election in any manner, except as permitted when requested.

Because the language is broad, routine law enforcement actions taken in or around polling locations could later be scrutinized as unlawful “interference.” This may create uncertainty in rapidly evolving situations where officers must make immediate decisions to preserve safety, potentially resulting in hesitation or delayed response.

Additionally, the bill extends certain election-related protections to begin twenty-eight days before election day and applies them to locations used as polling places (including parking areas) and within fifty feet of a monitored secured container. This significantly expands the timeframe and locations in which officer conduct could fall under heightened criminal and civil standards.

#### **ADMINISTRATIVE IMPLICATIONS**

From a law enforcement agency perspective, SB-264 carries several administrative implications. Because the bill creates felony-level exposure for actions taken “under color of law,” and authorizes civil actions, any

allegation that an officer interfered with an election could trigger internal affairs investigations, administrative review processes, and coordination with prosecutorial authorities. Even complaints that do not result in criminal charges may require formal documentation, supervisory review, and legal consultation, increasing workload during election periods. The bill's expedited civil action timelines close to an election may further compress agency response time for coordination with counsel and documentation.

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

No conflict, duplication, companionship, or relationship to DPS.

### **TECHNICAL ISSUES**

SB-264 presents several technical issues related to clarity, scope, and statutory interpretation.

Examples of this are found in such terms used as "interfere in any manner" with the conduct of an election and "under color of law." Reference "interfere in any manner," the statute does not clearly define what that constitutes versus lawful enforcement activity taken to protect life, prevent crime, or maintain public order. The absence of clear standards may create interpretive challenges for agencies, prosecutors, and courts.

The same occurs in terms of the definition and application of "under color of law." The bill defines the term broadly; it does not clearly distinguish between law enforcement actions taken in good faith during the ordinary course of duty and intentional misconduct designed to disrupt election operations. This may create confusion regarding liability thresholds, expose officers to subjective interpretation of their conduct, and increase the likelihood of complaints.

### **OTHER SUBSTANTIVE ISSUES**

The bill authorizes civil lawsuits for alleged violations and allows courts to impose civil penalties and award attorney fees to prevailing plaintiffs. Courts may also grant injunctive relief and other appropriate remedies. A key legal concern is the chilling effect that SB264 will have on officers with both criminal and civil exposure. In responding to calls for service at or near polling sites, officers will be required to rapidly balance public safety with policy compliance, potentially resulting in delayed responses to active threats or emergency response obligations. The risk of litigation will likely increase in such circumstances, particularly during contentious or high-profile elections.

If a law enforcement officer is alleged to have interfered with an election, the department may incur defense costs and potential liability exposure. While such cases may be infrequent, contentious or high-profile elections could increase the likelihood of litigation.

### **ALTERNATIVES**

No alternatives implications to DPS.

### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status Quo will remain the same.

### **AMENDMENTS**

No amendments at this time.