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## FISCAL IMPACT REPORT

**BILL NUMBER:** CS/Senate Bill 264/SRCS

Public Peace, Health, Safety & Welfare

**SHORT TITLE:** Election Rights & Troops at Elections

**SPONSOR:** Senate Rules Committee

**LAST ORIGINAL**

**UPDATE:** 2/15/2026      **DATE:** 2/14/2026      **ANALYST:** Hanika-Ortiz

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

Agency/Program	FY26	FY27	FY28	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Courts		Indeterminate but minimal	Indeterminate but minimal		Recurring	General Fund
SOS – election administration		Indeterminate but minimal	Indeterminate but minimal		Recurring	Election Fund

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

Relates to Senate Bill 261

### Sources of Information

LFC Files

Agency or Agencies Providing Analysis

Department of Public Safety

Agency or Agencies That Were Asked for Analysis but did not Respond

Secretary of State

## SUMMARY

### Synopsis of SRC Substitute for Senate Bill 264

The Senate Rules Committee (SRC) substitute for SB264 (SB264) amends and enacts new sections of the Election Code to prohibit a person “acting under color of law or otherwise” from ordering, bringing, or keeping a U.S. troop or armed person or persons to or at a polling place, or within fifty feet of an official ballot drop box, for 28 days before an election through election day, unless needed to repel armed enemies of the United States. Prohibited actions also include changing voter qualifications, conducting elections in ways contrary to state law, or interfering with a voter’s right to vote and access polls, or with others performing Election Code duties.

SB264 makes a violation of a prohibited action a fourth-degree felony and allows the New Mexico Attorney General, Secretary of State (SOS), a county clerk (for violations in their own county), or voter prevented from voting, to bring a civil action. In any civil action, the bill provides for an expedited court process if filed within the 28-day window. Courts may also impose civil penalties for each violation of \$5,000 to \$50 thousand and award relief as

appropriate. The prevailing party is also awarded reasonable attorney fees and related costs.

Under SB264, county clerks would also develop contingency plans to maximize voter participation during a declared emergency. Under those plans, county clerks would report polling places no longer functional, establish alternative sites without need for court approval, and keep voters informed in newspapers and on websites of the changes, including for mailed ballots.

The bill allows the SOS and a county clerk to ask for police help to maintain order. In addition, the bill expands the number of unlawful acts that interfere with elections by adding, for each crime, those acts committed by a person or persons, while acting in an official capacity or not.

Finally, the bill adds as a fourth-degree felony, *intentionally obstructing access to polling places*, while acting in an official capacity or not, and extends this law to 28 days before election day.

This bill would become effective 90 days after adjournment of the session. With an emergency clause, however, this bill could take effect immediately upon the governor's signature.

## FISCAL IMPLICATIONS

Federal law already bans armed troops at polling places unless needed to fight enemies of the U.S., and although the current federal administration has indicated it might send immigration or other federal officers to polling places for the November general election, it is unlikely the creation of state law prohibiting federal troops would result in any significant enforcement or prosecution actions, indicating the new crimes are unlikely to result in significant cost to the state. Similarly, the creation of civil penalties is unlikely to have a significant fiscal impact.

SOS will need to work with counties on election-related contingency plans during an emergency, and on what constitutes their share of increased costs from the heightened election surveillance.

DPS may see a temporary increased workload in the unlikely event an officer interfered with elections. DPS will need to provide updated guidance for officers stationed near polling places.

## SIGNIFICANT ISSUES

The bill defines two new terms for the Election Code: “under color of law,” which is while under the authority of the United States or New Mexico; and “peace officer,” and limits the officer's interference except when requested by election judges, the Secretary of State, or county clerks. The bill repeatedly adds “under color of law or otherwise” to a number of existing election crimes, to cover interferences that were either done in an official capacity or as a private actor.

## ADMINISTRATIVE IMPLICATIONS

The bill extends election-related disturbance protections from election day to 28 days before. DPS is concerned routine law enforcement actions, such as crowd control, responding to disturbances, traffic control, etc. could later be scrutinized as unlawful “election interference.”

As DPS explains:

“Officers may enter a polling place to observe and may assist in maintaining order, but only when requested by 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 in or around polling locations could 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 the heightened criminal and civil standards.”

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

SB264 relates to Senate Bill 261, which would restrict peace officers from carrying firearms at polling places unless requested by an election official.

## **TECHNICAL ISSUES**

DPS is also concerned the term “interfere in any manner” may not distinguish between law enforcement actions taken in good faith, and intentional misconduct to disrupt elections. For clarity purposes, “under color of law or otherwise” (apparently a well-established civil rights legal term) could read “under color of law or otherwise, including misuse of official authority.”

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