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FISCAL IMPACT REPORT

SPONSOR: Garcia, MP DATE TYPED: 2/10/03 HB 268

SHORT TITLE: Conservancy District Elections & Debts SB _____

ANALYST: Chavez

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY03	FY04	FY03	FY04		
			NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Secretary of State (SOS)
LFC Files

SUMMARY

Synopsis of Bill

House Bill 268 provides for all elections within certain conservancy districts to be by mail-in ballots and it prohibits certain conservancy districts from entering into an agreement, including a reclamation contract, issue bonds or otherwise incur any debt that will be repaid, in whole or in part, by receipts from ad valorem assessments levied by the district unless the question is first approved by the qualified electors of that district in a mail-in ballot election.

Significant Issues

House Bill 268 amends several sections of the NMSA 1978 and provides for the inclusion of new sections. The language in the new sections provide:

Section 73-14-29.1 MAILED BALLOTS—QUALIFIED ELECTOR LIST

Provides for the following on the qualified elector list:

1. The date of the mailing of the ballot to the qualified elector; and
2. The date and time the completed ballot was received from the qualified elector by the election officer or election director.

This section also provides that election material will be mailed to each qualified elector no later than thirty days prior to the date of a conservancy district election. The qualified elector list is public record and as such is open to public inspection during regular office hours.

Section 73-14-29.2 MAILED BALLOTS—MANNER OF VOTING

This section provides for the manner of voting by a qualified elector. The qualified elector shall:

1. Secretly mark the ballot;
2. Place it in the official inner envelope and securely seal the envelope;
3. Place the official inner envelope inside the official mailing envelope and securely seal the envelope; and
4. Complete the form on the reverse of the official mailing envelope, which shall include an affirmation by the elector under penalty of perjury that the facts stated in the form are true.

Section 73-14-29.3 MAILED BALLOTS—RECEIPT OF BALLOTS BY ELECTION OFFICER OR ELECTION DIRECTOR

Provides for the election officer or election director to:

1. Mark on each completed official mailing envelope the date and time of receipt;
2. Record this information in the qualified elector list; and
3. Safely keep the official mailing envelope unopened in a locked and sealed ballot box until it is transmitted to the election judges on election day or until it is canceled and destroyed in accordance with law.

The election officer or election director shall accept completed official mailing envelopes until 7:00 p.m. on election day. In the absence of a restraining order after expiration of the time for election contests, the election officer or election director shall destroy all late official mailing envelopes.

At 5:00 p.m. on the Monday immediately preceding the date of the election, the election officer or election director shall record the numbers of the unused ballots and shall publicly destroy all such unused ballots.

Section 73-14-29.4 HANDLING OF BALLOTS BY ELECTION JUDGES

Provides that prior to the opening of an official mailing envelope, the election judges shall determine that the required information has been completed on its reverse. If the qualified elector's signature is missing, the presiding judge shall proceed accordingly and place the official mailing envelope unopened in an envelope provided for rejected ballots.

An accredited challenger may examine the official mailing envelope and may challenge the ballot of any qualified elector because the official mailing envelope has been opened prior to being received by the election judges.

If the official mailing envelopes have been properly subscribed and the qualified electors have not been challenged:

1. The election judges shall open the official mailing envelopes and deposit the ballots in their still-sealed official inner envelopes in the locked ballot box; and
2. The election officer or election director shall enter the voter's name and residence address in the signature rosters.

Prior to 7:00 p.m. on the day of the election, the selection judges may either

1. Remove the ballots from the official inner envelopes and count and tally the results, or
2. Count and tally the ballots on an electronic voting machine

SECTION 73-14-29.5 CANVASS—RECOUNT OR RECHECK DISPOSITION

Provides that if electronic voting machines are *not* used to register the mailed ballots, the ballots shall be canvassed, recounted and disposed of in the manner provided by the Election Code for the canvassing, recounting and disposition of emergency paper ballots.

If voting machines *are* used to register the ballots, the ballots shall be canvassed and rechecked in the manner provided by the election code for the canvassing and recheck of ballots cast on a voting machine

In the event of a contest, voting machines used to register the ballots shall be recounted in the manner provided by the Election Code for the recounting of emergency paper ballots.

SECTION 73-14-29.6 VOTING WHEN NO MAILED BALLOT RECEIVED

Provides that at any time prior to 5:00 p.m. on the Monday immediately preceding the date of the election, a qualified elector who has not received a mailed ballot may execute a sworn affidavit stating that he did not receive the ballot. Upon receipt of the sworn affidavit, the election officer shall issue the qualified elector a replacement bill.

No later than forty-eight hours after the close of the election, the election officer or election director shall determine if a replacement ballot from a qualified elector was received by 7:00 p.m. on election day.

SECTION 73-18-9.2 CONTRACTING DEBT TO BE PAID THROUGH AD VALOREM ASSESSMENTS—ELECTION REQUIRED

Provides that a conservancy district created prior to 1930, situated in four or more counties and consisting of more than one hundred thousand acres, shall not enter into an agreement, including a reclamation contract, issue bonds or otherwise incur any debt that will be repaid, in whole or in part, by receipts from ad valorem assessments levied by the district unless the question is first approved by the qualified electors of that district in a mail-in ballot election conducted pursuant to the provisions of Sections 73-14-18 through 73-14-84 through 73-14-86 NMSA 1978.

In addition to the new sections, Section 73-18-24 NMSA 1978 is amended to read that Sections 73-18-1 through 73-18-24 NMSA 1978 may be cited as the “Conservancy District—Reclamation Contract Act.”

Sections 73-14-31 through 73-14-31.3 NMSA 1978 are repealed.

The effective date of the provisions of this act is July 1, 2003.

TECHNICAL ISSUES

The Secretary of State suggests that on page 14 line 5 and line 13, the word “emergency” be deleted as this will allow for optical scan ballot types, which are used for mail ballots.

FC/prr:sb