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FISCAL IMPACT REPORT

ORIGINAL DATE 2/19/07
 LAST UPDATED 3/14/07 HB 1155/HJCS

SPONSOR HJC

SHORT TITLE Election Code Procedure Revisions SB _____

ANALYST Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Attorney General's Office (AGO)

No Responses Received From
 Secretary of State

SUMMARY

Synopsis of Bill

The House Judiciary Committee Substitute for House Bill 1155, which includes an emergency clause, provides for precinct board training manuals; changes registration procedures and requirements; eliminates provisions for electronic transmission of absentee ballots; clarifies when the absent voter precinct polling places may be open; changes requirements for distribution of voter information; requires reporting of failed registrations for distribution of investigation or prosecution; requires appeals of county clerk decisions concerning the counting of the voter's provisional ballot; requiring third-party registration organizations to register with the state; changes the filing date for minor party candidates; changes provisions for recount and recheck costs; providing for handling of absentee ballots; providing precinct reporting procedures; provides penalties; amends, repeals and enacts sections of the election code.

SIGNIFICANT ISSUES

The Attorney General's Office highlights the following items from the bill.
 -It requires county clerks to report vote totals to the Secretary of State on election night, and

voting data by precinct within 60 days following the election without compromising the secrecy of a voter's ballot.

-It states a voter will receive a receipt of their voter registration with listed follow-up contact information. It deletes the prohibition against a third party registration agent getting a copy of the registration with the voter's social security number.

-It eliminates the use of a voter identification card as identification for a first-time mail-in voter registration.

-It states that an address with a map of latitude and longitude is permissible and the Secretary of State shall write rules regarding acceptable forms of non-physical addresses.

-It states that the county clerk will immediately hand or mail voter information to the qualified elector after receipt of a complete certificate of registration, and will try to timely notify a person who has attempted to register to vote on why he was rejected and what is required to bring the registration into compliance with the Election Code.

-It amends 1-4-49 to state that a third party registration agent must provide the organization's officer's name and address to the Secretary of State when registering with that office. If a violator is in the chain of command, then the organization will be subject to fines. The Secretary of State can refer allegations regarding registration violations to prosecutorial authorities.

-It states the Secretary of State shall issue rules to exempt certain voters from submitting identification only as required by federal law.

-It amends 1-6-5 section 9 to eliminate the current requirement that absentee ballots be "airmailed" or "electronically transmitted" to applicants and provides that those ballots be "sent" to applicants for those ballots.

-It states that either the county clerk or absent voter precinct board can accept absentee ballots from precincts on Election Day and that the absentee voter precinct hours shall be consistent with Section 1-6-23.

-It states that minor political parties shall file candidacy papers on the 21st day following the primary election.

-It states the Secretary of State shall send active registered voters voter registration information between sixty and seventy-five days before the general election and eliminates references to voter identification cards.

-It amends section 15 1-12-8.1 to allow a voter to provide a receipt from their certificate voter registration form to election workers and then be allowed to vote. The county clerk shall provide information regarding those voters to prosecutorial authorities and the Secretary of State for the purposes of investigation or prosecution.

-It allows the election judge to provide a completed absentee ballot to either the absent voter precinct board or the county clerk before midnight on Election Day.

-It allows a voter whose provisional ballot was not counted to appeal to the Secretary of State pursuant to rules adopted by that officer.

-Section 18 of the bill deletes the fixed dollar amounts on a recount and to require the deposit of "sufficient cash" or a sufficient surety bond to cover the cost of a recount for each precinct for which a recount is demanded. The State Canvassing Board shall determine the reasonable cost of the recount per precinct and recheck per voting machine no later than March 15 of even-numbered years and the Secretary of State shall post that information on her web site. This section also repeals language allowing the State Canvassing Board to condition the issuance of the summons on a receipt of a portion of or the full estimated costs of the recount or recheck to ensure sufficient security.

-It repeals section 20 1-6-10.2 regarding reporting of vote totals by the county clerk to the Secretary of State.

OTHER SUBSTANTIVE ISSUES

The AGO notes that deleted in Section 3 of the bill is the prohibition against a third party registration agent from getting a copy of the registration with the voter’s social security number and date of birth.

According to the AGO, the amendments in Section 18 of this substitute bill appear to address the holding of the New Mexico Supreme Court in *Cobb v. State Canvassing Board*, (No. 29,095) (2006). In that case, the Supreme Court held that granting the State Canvassing Board the discretion to require payment beyond the statutory amounts provided for recounts was an unconstitutional delegation of legislative authority. The amendments provided in Section 18 remove that discretion, and require the deposit of cash or a surety bond sufficient to cover the “estimated actual cost” of a recount or voting machine recheck as determined by the State Canvassing Board. However, it is still unclear whether the State Canvassing Board will need to hold a special meeting in March to set the fees. Will the public be allowed to comment?

POSSIBLE QUESTIONS

If a copy of voter’s social security number and date of birth are given to a third party registration agent, a what risk is the voter to identity theft?

How will these changes impact county clerks?

EO/nt