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FISCAL IMPACT REPORT

ORIGINAL DATE 02/13/13
 SPONSOR Smith LAST UPDATED 02/27/13 HB 444/aHVEC
 SHORT TITLE Third-Party Voter Registration Agents SB _____
 ANALYST Cerny

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 218, SB 222, HB 157

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the District Attorneys (AODA)
 Secretary of State (SOS)
 Attorney General's Office (AGO)

Other Responses

New Mexico Vote Matters (NMVM)

SUMMARY

Synopsis of HVEC Amendment

The House Voters & Elections Committee amendment to House Bill 444 (HB 444) incorporates the two amendments suggested by analysis so that under HB 444 a person sixteen years of age or older will be able to serve as a voter registration agent (VRA). If a minor, such an individual would be required to have the approval of the parent or legal guardian, unless the minor is emancipated.

Certificates issued to VRAs upon completion of training will now be valid for two years from date issued and will only be issued when the registration officer conducting the training has been given a current telephone number and electronic mail address (if available).

Synopsis of Original Bill

House Bill 444 amends the Election Code and sets out requirements for the training, certification and compensation of persons who help to register voters.

HB 444 provides for third party registration agents that are affiliated with an organization as well as third party voter registration agents (VRAs) who are unaffiliated. It requires that all third party VRAs be qualified electors in New Mexico. Under HB 444, both affiliated and unaffiliated VRAs would need to register with the Secretary of State (SOS).

The bill requires registration officers to conduct training of third-party and unaffiliated VRAs. It directs the SOS to develop guidelines under which the registration officers shall conduct the trainings. It prohibits third-party and unaffiliated VRAs from assisting in the registration of voters until they complete the training program and receive a certificate allowing the agent to assist voters in the state to register. The certificate shall be valid until the end of the election cycle in which it was issued. Upon expiration of the certificate, the individual shall be recertified through a new training session. Third-party and unaffiliated VRAs shall carry the certificate with them at all times when they are engaged in voter registration activities and shall produce the certificate for inspection upon request.

The bill also provides that a third-party VRA shall not be paid based on the number of voter registrations the agent acquires. An organization employing third-party VRAs may not pay an agent based on the number of voter registrations that the agent successfully facilitates; or present an agent with a quota of voter registrations to facilitate as a condition of payment or employment; or engage in another practice that causes a third-party VRA's compensation from or employment status with the organization to be dependent on the number of voter registrations the agent collects.

HB 444 creates definitions of third party registration agents and unaffiliated registration agents.

FISCAL IMPLICATIONS

The AODA and SOS state no fiscal impact on their agencies.

SIGNIFICANT ISSUES

In 1-1-16.1 of the Election Code, registration agent “means a state or federal employee who provides voter registration at a state agency, or a tribal registration agent office, or *any other individual who assists another person in completion of a voter registration application.*” It does not require that the VRA be a resident of the State of New Mexico or of any stated age.

SB 444 would require that third-party and unaffiliated VRAs be qualified electors, meaning that individuals from out-of-state, or minors, would be unable to register voters. A comparable statute in Florida exempts from registration agent requirements a person's spouse, child or parent. In addition it has different requirements for public libraries, public assistance offices, centers for independent living and offices that serve persons with disabilities (reference: <http://election.dos.state.fl.us/voter-registration/third-party.shtml>.)

The New Mexico Vote Matters (NMVM) in their analysis states that they support all but one of the provisions in HB 444, including requiring VRA trainings, 2 year limits on VRA certifications, and the prohibition of VRA's being paid per registration form.

However, the NMVM believes that “requiring VRA's to be qualified electors is too restrictive and may seriously hamper voter registration efforts and civic engagement in the state.

- This provision will not allow people under the age of 18 to be VRA's. Youth were an integral part of the NMVM's voter registration program. Many of our VRA's were high school students under the age of 18 who would not fall under the “qualified elector” definition. Giving youth and other community members the opportunity to be VRA's is an educational and empowering experience. Our organization witnessed first-hand how the opportunity to provide registration services to fellow New Mexicans led to increased civic participation, as well as knowledge of our electoral system, by our VRA's. It is also important to note that 16 and 17 year olds can be hired as poll workers in New Mexico. Restricting the opportunity to be VRA's to those who are “qualified electors” would be inconsistent with existing parts of the current election code that allow youth to participate in the election system.
- The “qualified elector” definition also has a residency requirement that the NMVM believes is restrictive. Voter registration drives and political campaigns often hire out-of-state students to register eligible voters for short-term campaigns. The “qualified elector” requirement would restrict such out-of-state campaign workers from assisting New Mexicans with registering to vote.
- New Mexico has a high rate of unregistered eligible voters (an estimated 200,000 out of approximately 1,399,000 eligible voters in New Mexico were not registered as of 2010). The NMVM supports the current VRA policy, which allows as many of our community members as possible to become certified VRA's and assist in voter registration efforts.”

The NMVM's full analysis of the bill may be found in Attachment 1.

HB 444 stipulates that VRAs may not be compensated based on the number of voters they register. The Attorney General's Office (AGO) analysis states: “There is concern with House Bill 444 dictating the terms of employment and compensation for independent third-party registration agents.”

Confidentiality of voter data is another significant issue. The voter registration form in New Mexico includes both the full social security number and the full date of birth of the registrant. The SOS reports that it “has received calls in the past regarding voter registration forms that were not turned in to county clerks by third party registration agents. Voters have expressed concerns that their personal information is being collected, but there are no significant controls over third party registration agents.”

According to the SOS, New Mexico is just one of 7 states that uses the full social security number. At a time when many states are enacting protections for the identities of their citizens, redacting social security numbers and other sensitive identifiers from state records, perhaps it is time to ask whether full social security numbers are necessary for voter registration in New Mexico and whether it is in the best interests of our citizens to have them collected and used in this way.

Federal law recognizes the need for confidentiality of voter's social security numbers as well. The Help America Vote Act of 2002 in section 303: "Requires applicants for voter registration for an election for Federal office to provide his/her driver's license number, if one has been issued, or, if none has been, the last 4 digits of his/her Social Security number. If the applicant does not have a valid driver's license or SSN, the State will assign a number, which will identify the applicant for voter registration purposes."

Analysis by the SOS states that there are over 10,000 third party VRAs in the SOS database at this time. HB 444 would require all existing third party VRAs to recertify as there is no provision to "grandfather in" existing VRAs who have already been registered with the SOS. This could prove to be a hardship for various organizations that have voter registration as part of their mission and for county clerks who would be required to conduct the trainings.

The SOS analysis notes that there is currently no provision to recertify or cancel the certificate of any third part VRA, except for violation of the statute through a civil action. Under HB 444, the SOS and county clerks would be able to recertify VRAs and certifications would remain valid only for the election cycle in which it was issued. At that time, VRAs would be required to be retrained and recertified.

A last significant issue related to HB 444 is that voters may be disenfranchised if the voter registration forms are not properly completed and turned in to the appropriate county clerk.

TECHNICAL ISSUES

Section 1-4-49 (H) sets out the parameters for paying VRAs. The language appears to be repetitive and the section should be examined more closely.

Page 3, line 2 of HB 444 states that "Registration officers shall conduct training of third-party and unaffiliated registration agents." This appears to conflict with 1-1-16 of the Election Code which defines registration officers as the SOS, county clerks or their authorized deputies, members of boards of registration or state employees performing registration duties. In the context of this bill, it should only be the SOS and county clerks and their deputies. Training of VRAs would not be done by state agency employees or board of registration members.

AMENDMENTS

The NMVM recommends striking paragraph (A) from the bill, stating "The 'qualified elector' language in this section is restrictive and will affect voter registration campaigns and civic engagement efforts negatively if youth are precluded from becoming engaged. At the very least, 'qualified elector' should be replaced with language that allows for a broad-based definition of a VRA."

The NMVM also recommends changing the language that reads, "the certificate shall be valid until the end of the election cycle in which it was issued," to language that subscribes a set number of years instead. The NMVM states that "Election cycle" is a confusing way to measure a length of time. Furthermore, voter registration occurs throughout the year. It makes more sense to start the clock on a VRA's certification on the day he or she receives it, and not tie the certification to election cycles."