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FISCAL IMPACT REPORT

02/14/13
ORIGINAL DATE 02/15/13
LAST UPDATED 03/05/13 **HB** _____

SPONSOR SRC

SHORT TITLE Nominating Petition Filing & Resolution Times **SB** CS/485/SRC

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

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the Attorney General (AGO)
 Secretary of State (SOS)

SUMMARY

Synopsis of Bill

Senate Rules Committee Substitute for Senate Bill 485 amends the section of the Election Code pertaining to Primary Elections. It does so by changing the dates for holding state conventions of major political parties filing declarations of candidacy, and for preprimary candidate filings, so as to allow time for judicial resolution of nominating petition and other candidacy challenges.

SB 485 would require that state conventions of major political parties to designate candidates for statewide office or the office of United States representative be held no later than the second Sunday in March. Candidates would still need to be certified no later than 5:00 pm on the first Tuesday succeeding the state convention.

Candidates seeking preprimary convention designation for statewide office or U.S. representative would file on the first Tuesday in February instead of the second. All other candidates would file on the second Tuesday in March, rather than the third Tuesday.

FISCAL IMPLICATIONS

SB 485 carries no fiscal impact.

SIGNIFICANT ISSUES

The primary effect of this SB 485 is to move the date for filing declarations of candidacy up, one week earlier, for candidates in the primary election. Candidates seeking preprimary convention designation for statewide office or U.S. representative would file on the first Tuesday in February instead of the second. All other candidates would file on the second Tuesday in March, rather than the third Tuesday. It also moves the last date for political parties to hold preprimary nominating conventions up by one week, from the third Tuesday in March to the second Tuesday.

There are several situations in the Election Code that can give rise to litigation with regard to candidates. A person's qualifications to be a candidate or a person's signatures on a nominating petition may be challenged. Also, a candidate may bring a court action if the filing office (county clerk or SOS) notifies the candidate that he or she is not qualified to appear on the ballot.

This bill allows an extra week for ballot access litigation to be resolved so that ballots can be finalized, proofread and prepared to send to military and overseas voters in a timely manner.

The SOS details the reasons why this bill is necessary. In their analysis, the SOS states that under federal law, specifically the Uniformed Overseas Civilian Absentee Voting Act (UOCAVA), military and overseas voters begin receiving their ballots 45 days before the election. New Mexico is currently under a federal consent decree because that deadline was missed in some counties in 2010.

In 2012, the N.M. Supreme Court issued an injunction that prevented certain ballots from being sent out in time because a court action was still pending. In order to meet the federal UOCAVA deadline, it is important that county clerks and the SOS be able to finalize the ballot by the 56th day before the election. That allows the SOS ten days to finalize, proofread and prepare ballots to be sent to military and overseas voters in a timely manner.

AGO analysis states that “the Committee Substitute to Senate Bill 485 removes the previously proposed language that would restrict jurisdiction to fifty-six days before the primary election. Allowing a court challenge after the fifty-sixth day before the primary election could interfere with federal and state statutes that require compliance with ballot preparation timelines.”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The state may continue to experience delays in ballot preparation as a result of litigation.

CAC/blm