

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current and previously issued FIRs are available on the NM Legislative Website (www.nmlegis.gov) and may also be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 2/27/17
 LAST UPDATED 3/6/17 HB 455/HLELCS

SPONSOR HLELC

SHORT TITLE Election Code Changes SB _____

ANALYST Esquibel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

House Bill 455 conflicts with Senate Bill 224, Register Voters 3 Days Before Elections.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Secretary of State’s Office (SOS)

Office of the Attorney General (OAG)

SUMMARY

Synopsis of Bill

The House Local Government, Elections, Land Grants and Cultural Affairs Committee substitute for House Bill 455 (HB455/HLELCS) proposes to amend election code deadlines from 56 days to 63 days prior to a statewide election for the following:

1. Section 1-2-1 deadline for the Secretary of State (SOS) adopting or amending rules prior to a primary or general election;
2. Section 1-8-4 deadline to decide a candidate challenge to a minor party candidate;
3. Section 1-8-8 deadline relating to filling vacancies on the general election ballot;
4. Section 1-10-4 deadline requiring final ballot content to be submitted to the printer;
5. Section 1-15-3 deadline for the nomination of presidential electors;
6. Section 1-16-3 deadline for the SOS to certify constitutional amendments;
7. Section 1-24-2 deadline to publish the proclamation for a special election.

The bill proposes to remove the deadline of 5:00pm for books closing on the 28th day prior to an election such that registrations may come in online or electronically after 5pm.

The bill also proposes amendments to Section 1-8-31 removing the requirement for a petition signer to be a registered voter 10 days before signing a nominating petition. Additional changes remove the requirement for the candidate's address and county to appear on the petition form header and clarify the judicial division number is required for a judicial candidate. Clarification is also included that an alteration to the header of a petition will cause a petition page to be deemed invalid.

FISCAL IMPLICATIONS

The Secretary of State's Office (SOS) notes it does not expect any fiscal impact as a result of this legislation.

SIGNIFICANT ISSUES

The Attorney General's Office (OAG) indicates in recent years there has been concern regarding the validity of signatures submitted on nominating petitions. Although most candidates legitimately obtain signatures in support of their nominating petitions, there are some signatures contained in nominating petitions that have become highly suspect. Addressing alleged voter fraud in nominating petitions, the HLELC substitute for HB455 at Section 6 changes language to provide for invalidation of signatures on a petition if "with or without a showing of fraud or a reasonable opportunity for fraud" the required information atop each page of the petition is not included prior to collection of signatures. The proposed language could cause all signatures on a page to be invalidated because of a single flaw on the top of the page of collected signatures. The substitute's changes at Subsection E call for the invalidation of "any and all" signatures on a petition's page that does not include certain information at the top of the page. The OAG notes there are two issues with Section 6 Subsection E: (1) It conflicts with existing law at Sec. 1-8-31 (C) that provides for challenge to an individual signature when evidence is presented to invalidate it; and (2) It risks creating a separate problem of invalidating otherwise valid signatures because of an unrelated person's mistakes or fraud. The proposed language could result in invalidation of a legitimate voter's signature because of another person's errors, instead of counting all valid signatures.

The Secretary of State's Office (SOS) indicates the proposed changes to Section 1-8-31 will clarify for filing officers determining whether to qualifying a candidate vagueness when a candidate's address listed in the petition header does not exactly match the candidate's registration address. The candidate's address is listed on other candidacy documents and is not necessary for petition signature collection. The substitute's proposed language that the alteration of the petition header will invalidate the petition page creates a clearer guideline for what disqualifies a petition page.

PERFORMANCE IMPLICATIONS

The SOS notes the current deadline of 56 days prior to a statewide election for finalizing ballot content makes the timeline for the SOS and county clerks extremely tight to ensure all of the proofing, programming, printing, and testing are completed in time to meet the federal and state law for issuing military and overseas ballots, which is 45 days prior to an election. The bill's proposed change to 63 days prior will make ensuring all of the required activities leading up to the 45 day deadline are easier to comply with. The bill would help provide sufficient time for counties and the SOS to ensure ballot content is accurate and voting system are programmed and tested in time to meet all subsequent election deadlines.

ADMINISTRATIVE IMPLICATIONS

Under the provisions of the bill, the SOS would be required to update the nominating petition forms, the election calendar used by the SOS and county clerks, and other educational materials.

TECHNICAL ISSUES

The Secretary of State’s Office (SOS) suggests the sponsor consider amending the deadline in Section 1-16-8 to conform with other changes proposed in the bill that would move the deadline for finalizing ballot content up to 63 days prior to a statewide election.

The SOS also recommends a specific penalty provision be considered by the sponsor in the event signatures collected on a petition signature form are deemed to be fraudulent.

The Attorney General’s Office (OAG) notes in Section 1-8-8 (A), as proposed to be amended, it is not immediately clear what is to take place in a situation where a vacancy occurs after a primary election but less than seventy days before the general election.

RAE/jle/sb/al