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FISCAL IMPACT REPORT

SPONSOR: Lujan DATE TYPED: 03/12/01 HB 93/aHVEC/aHJC/aHAFC
 SHORT TITLE: Public Campaign Finance Option Act SB _____
 ANALYST: Woodlee

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY01	FY02	FY01	FY02		
			\$ 187.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Senate Bill 39

REVENUE

Estimated Revenue		Subsequent Years Impact	Recurring or Non-Rec	Fund Affected
FY01	FY02			
	\$ 790.0	\$ 815.0	Recurring	New Public Election Fund
	\$ (790.0)	\$ (815.0) Narrative	Recurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

SOURCES OF INFORMATION

LFC Files
 Secretary of State
 Attorney General's Office

SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee amendment to House Bill 93 provides technical word changes for contested general election fund distributions and for Secretary of State administrative duties.

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Also, the amendment strikes the appropriation of \$150.0 to the Secretary of State for the administration of the act and strikes the appropriation of \$1,900.0 to the public election fund.

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 93 changes the provision that the Secretary of State must certify compliant candidates from no later than three days after final submittal of qualifying contributions and certification as a candidate to no later than ten days.

The amendment clarifies that all money distributed to certified candidates must be used for that certified candidate's campaign-related purposes.

The amendment also adds a new subsection that provides that any candidate that refuses or fails to return money to the fund as required by the statute will not have their name printed on the ballot, or will not be issued a certificate of nomination or election until the money is returned.

Finally, the amendment changes the provision from the Secretary of State must "publish guidelines" to shall "issue rules" outlining permissible campaign-related expenditures.

Synopsis of HVEC Amendment

The House Voters and Elections Committee amendment changes the qualifying contribution amount to one-half of one percent of total registered voters in a district or one-fourth of one percent of total registered voters in the state, for statewide offices. In addition, it allows for incumbents elected prior to 2004 to use existing funds for seed money. The amendment adds additional years to when certain aspects of the program will become effective. The amendment specifies that the \$150.0 appropriation is for two full-time equivalent positions in the Secretary of State's office.

Synopsis of Original Bill

House Bill 93 provides for voluntary public campaign financing for the election for Governor, Lieutenant Governor, Secretary of State, Attorney General, State Auditor, State Treasurer, Commissioner of Public Lands, State Senators, State Representatives and the Commissioners of the Public Regulation Commission. The bill also creates the "Public Election Fund" in the state treasury and appropriates \$150.0 for administration of the fund and \$1,900.0 to the fund for public financing of campaigns.

Significant Issues

The bill amends the Election Code by entering a new section cited as the "Public Campaign Finance Option Act." The bill provides for the following aspects of public financing of political campaigns:

- c A candidate choosing to obtain public financing shall file a declaration to the Secretary of State;
- c A candidate will not be eligible if they have accepted contributions totaling \$500.00 or more or made expenditures totaling \$500.00 or more;
- c Candidates receive funding based on qualifying contributions of \$5.00 from 1 percent of the total number of registered voters within their district or state, depending on the office;
- c An applicant may collect seed money from individual donors or PAC's in an amount no more than \$100.00 per donor or committee up to sixty days prior to the qualifying period;
- c An applicant may not spend any seed money after being a certified candidate;

C An incumbent elected prior to 2002 may transfer his/her campaign funds for use as seed money;

C Seed money contributions and expenditures are limited as follows:

\$25,000 for a candidate for Governor;

\$10,000 for a candidate for Lt. Governor, Secretary of State, State Auditor, State Treasurer or Commission of Public Lands;

\$15,000 for a candidate for Attorney General;

\$2,500 for a candidate for Public Regulation Commission;

\$2,000 for a candidate for State Senator; and

\$1,000 for a candidate for State Representative.

C A candidate may receive contributions from a political party, provided that they do not exceed the equivalent of 10 percent of the value of the candidate's public campaign financing;

C All funds must be used for certified campaign purposes; and

C The Secretary of State will publish guidelines and procedures for filing and qualifying for public campaign financing;

The bill also provides how and what amount of contributions will be made to the Public Election Fund, including an optional tax checkoff on individual's income tax payment. The bill charges the Secretary of State with administration of the program, creates an appeals process, and provides for penalties for violation of the Public Campaign Finance Option Act.

FISCAL IMPLICATIONS

The bill creates the Public Election Fund and appropriates \$150.0 from the general fund to the public election fund for the administrative duties of the Secretary of State in relation to public campaign financing. In addition, \$1,900.0 is appropriated from the general fund to the public election fund for the disbursement to certified candidates. Any unexpended or unencumbered balance remaining at the end of the fiscal year shall not revert to the general fund.

The Secretary of State estimates the cost impact to that agency is \$187.0. The Secretary of State, therefore, indicates a need for an additional \$37.0 for administrative costs.

There will be a slight reduction of general fund revenue from individual or married income tax payers who choose to deduct from net income the amount of contributions made to the public election fund. For individuals, the limit is \$250.00, and for married filers, the limit is \$500.00.

Continuing Appropriations

This bill creates a new fund and provides for continuing appropriations. The LFC objects to including continuing appropriation language in the statutory provisions for newly created funds. Earmarking reduces the ability of the legislature to establish spending priorities.

ADMINISTRATIVE IMPLICATIONS

The Secretary of State indicates the administrative impact would be great and a Public Campaign Finance Division would have to be created. With the administration appropriation, the agency should be able to absorb any administrative implications.

TECHNICAL ISSUES

The Secretary of State and Attorney General indicate the following items for technical clean-up:

1. Clarify language in Section 2, subsection E, “election cycle definition.”
2. Section 6, Subsection B indicates the requirement for the Secretary of State to certify applicants no later than three days after submittal of applications. With a large number of candidates, the agency may not be able to meet the three day deadline.
3. Clarify language in Section 14 for the necessary percentages of votes cast for various races.
4. Section 11 and Section 13 both impose duties on the Secretary of State’s office to be performed on January 1, 2002, which may not be able to be done on the same day.
5. Section 17 provides for a \$10.0 penalty per violation. The term “per violation” should be defined more clearly because one act may result in more than one statutory violation.

MW/njw:ar