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FISCAL IMPACT REPORT



SPONSOR: Cervantes DATE TYPED: 02/12/02 HB 422/aHVEC

SHORT TITLE: Use of Incorrect Ballot Remedy SB _____

ANALYST: Woodlee

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY02	FY03	FY02	FY03		
NFI	NFI	NFI	NFI	NFI	NFI

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

Secretary of State

SUMMARY

Synopsis of HVEC Amendment

The House Voters and Elections Committee amendment to House Bill 422 is a technical correction to the provided procedures, where returned ballots are to be opened, as well as counted and tallied by the County Clerk.

Synopsis of Original Bill

House Bill 422 adds a new section to the Election Code to provide a remedy for the use of incorrect ballots.

Significant Issues

The bill defines incorrect ballot as “an election ballot that fails to list the correct candidate for an office. Further, the bill provides that if an incorrect ballot is discovered after voters have used the incorrect ballot to cast votes, the precinct board must:

1. Lock and seal the voting machine which the incorrect ballot appears;

2. Preserve the record of the voters who voted using the incorrect ballot by marking the vote number shown on the public counter of the voting machine;
3. Attach a note to the voter list and the signature roster giving the number of the last voter who voted using the incorrect ballot; and
4. If necessary, use emergency paper ballots.

The precinct board must notify the County Clerk and the Secretary of State of the incorrect ballot within one hour after the polls close.

The votes for the incorrect candidates will not be tallied and written notice of the number of voters who voted using the incorrect ballot shall be sent to the Secretary of State and the County Clerk after the signature roster is properly certified.

If a candidate contests the election results and the court finds that the number of voters who relied on incorrect ballots is great enough to affect the outcome of the election, the court may order the County Clerk to send ballots to those voters who voted using an incorrect ballot. Those new ballots shall:

- List the names of the candidates and office for the race in question;
- Be in a form substantially similar to absentee ballots;
- Indicate the number of voters that are eligible to vote in the court-ordered vote;
- Give the reason the voter is being asked to vote;
- Indicate that the voter must return the ballot within fourteen days of receiving it;
- Be mailed to the voter by certified mail, return receipt requested; and
- Be mailed with a prepaid return envelope addressed to the County Clerk.

Returned ballots shall be counted and tallied by the County Clerk in the presence of the district court judge and the results added to the candidates' respective vote totals. Ballots not received by the County Clerk within eighteen days of the County Clerk's mailing shall not be counted.

FISCAL IMPLICATIONS

There is no appropriation or significant fiscal implication associated with this bill.

MW/njw