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FISCAL IMPACT REPORT

ORIGINAL DATE 2/8/07

SPONSOR Rodella LAST UPDATED 3/12/07 HB 470/aSRC

SHORT TITLE Absentee Ballots in Lieu of Polling Places SB _____

ANALYST Ortiz

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Non-Rec | Fund Affected |
|---------------|------|-------------------------|------------------|
| FY07 | FY08 | | |
| | NFI | | |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
Secretary of State
Association of County Clerks

SUMMARY

Synopsis of SRC#1 Amendment

Senate Rule Committee amendment inserts new language to the new section, absentee voting in lieu of polling place. The new language requires county clerks to notify voters that if they do not want to receive an absentee ballot, the voter should notify the county clerk before absentee ballots are mailed out.

Also inserted into the same section is language that requires county clerks to have a sufficient supply of ballots from a mail ballot election precinct so that if voters lose or do not receive the absentee ballot before election day the voter can still vote absentee on election day at the county clerks office in lieu of voting on the missing ballot.

Synopsis of Bill

House Bill 470 permits a board of county commissioners to designate a precinct as a mail ballot election precinct if, upon a written request of the county clerk, it finds that the precinct has less than fifty voters and the nearest polling place for an adjoining precinct is more than thirty miles driving distance from the polling place designated for the precinct in question.

FISCAL IMPLICATIONS

The Secretary of State reported that this bill will save money because the cost of a polling place and poll workers will be saved in the small rural precincts.

SIGNIFICANT ISSUES

The Attorney General's Office presents the following issues below.

The federal Help America Vote Act requires that states adopt a voting system that "shall be accessible for individuals with disabilities, including non-visual accessibility for the blind and visually impaired." PL 107-252, Section 301(a)(3). This means a "voting system equipped for individuals with disabilities at each polling place." PL 107-252, Section 301(a)(3). The county that houses the City of Seattle has a mail in ballot system, but to comply with HAVA they have set up 10 or more regional voting centers for "in person" voting with disability accessible machines. Therefore, this bill should include a provision for these centers.

In Seattle, voters who distrust the mail may deposit their ballots in drop-off boxes the clerk installs at various locations. There may be New Mexicans who distrust the mail, particularly in rural unpopulated areas, and therefore, this bill should likely include a provision for drop-off boxes.

Under current New Mexico law, a voter can drop his absentee ballot on election day at his correct precinct. A voter under this bill would not have this right.

Under current New Mexico law, a voter who does not receive his absentee ballot in the mail can go to his precinct and request a ballot (a/k/a in lieu of ballot process). A voter under this bill would not have this right. A voter under this bill would have to go to another precinct and will likely have to vote a provisional ballot process.

It is unclear whether the county commission can change a precinct to a mail ballot precinct at any time or only at November on the year prior to an election year.

If a voter in a mail ballot precinct sends in an application for an absentee ballot, the clerk needs to be aware enough not to send two ballots (one based on the request and one automatically under this bill).

PERFORMANCE IMPLICATIONS

The Association of County Clerks supports passage of this bill. It would reduce fiscal impact on county clerks in that the county clerk could designate an area that is 30 miles from a polling place absentee ballot.

TECHNICAL ISSUES

As noted by the AGO, this bill should include a provision for drop-off boxes, a voter under this bill would have to go to another precinct and will likely have to vote a provisional ballot process and county clerks will need to develop a process to ensure that two ballots are sent to the same person.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The AGO notes that the bill, if not amended, may be vulnerable to legal challenge from disability advocates and the federal Department of Justice.

The Association of County Clerks explains that county clerks would have to solicit a private residence to be used as a polling precinct in a remote area as well as find volunteers to staff the precinct.

POSSIBLE QUESTIONS

Can a county commission change a precinct to a mail ballot precinct at any time?

EO/mt