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FISCAL IMPACT REPORT

ORIGINAL DATE 2/26/07

SPONSOR Lopez LAST UPDATED _____ HB _____

SHORT TITLE Various Election Code Changes SB 980

ANALYST Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates HB 1156
Relates to HB1155

SOURCES OF INFORMATION

LFC Files

Responses Received From
Attorney General's Office (AGO)
Secretary of State

SUMMARY

Synopsis of Bill

Senate Bill 980 provides both substantive changes and terminology updates to several sections of the Election Code.

Section 1. New Material. The Secretary of State shall issue rules to ensure the accuracy of the vote tabulators. The rules shall include that a random selection of ballots—2% in each county for statewide or federal office OR 100 ballots or 5% (whichever is greater) cast for any other office—shall be hand counted and also run through the tabulator. The rules shall state that if the results differ (by ¼ of 1% or less in statewide or federal office OR 1% or two votes), then the remaining ballots shall be run through the tabulator. If not, the remaining ballots shall be hand counted.

Section 2. This section amends the definition of “recheck” in 1-1-6(A) to include current election terminology. This section amends the definition of “recount” in 1-1-6(B) to state that a recount is the running of the ballots through the tabulator and if a tabulator cannot read the ballot then the ballot shall be hand counted.

Section 3. This section amends the definition of “voter ID card” in 1-1-25 to exclude a voter’s copy of his registration form.

Section 4. This section amends 1-2-20 to allow an election worker “messenger” to collect absentee ballots from polling places and deliver them to the county clerk’s designated locations.

Section 5. This section amends 1-4-27.1 to delete the multi-step process where a district court or Department of Corrections notifies the Secretary of State when a voter has been convicted of a felony or when a voter has completed the detention terms and is now eligible again to vote. The Secretary of State shall issue rules on this multi-step process.

Section 6. This section amends 1-4-49B so third party registration agents now have 15 days (not 48 hours) OR 5 days (if the registration period is about to close) to turn in voter registration forms to the county clerk.

Section 7. This section amends 1-6-4.3 to delete the requirement that the Secretary of State establish a procedure to ensure absentee ballot applications can be traced to the organization that is collecting the applications. This section amends the penalty of failing to turn in absentee ballot applications within 48 hours from a felony to a petty misdemeanor.

Section 8. This section amends 1-8-33C to include current terminology. This section deletes 1-8-33D to remove a candidate’s opportunity to get on the ballot when that candidate did not receive a preprimary convention designation.

Section 9. This section amends 1-9-4.2A to include current terminology. This section amends 1-9-4.2 to state that a vote shall be counted when a ballot is: (1) marked according to instruction; (2) the candidate’s name is circled; (3) the candidate’s name has a cross or check within the voting response area; (4) voter’s intent is clearly discernable to the precinct judge, subject to review by the canvassing board.

Section 10. This section amends 1-10-2 to permit the Secretary of State to assist in supplying ballots.

Section 11. This section amends 1-12-13 to include current terminology. This section deletes the penalty for false swearing.

Section 12. This section amends 1-12-16 to include current terminology.

Section 13. This section amends 1-13-21 to include current terminology.

Section 14. This section amends 1-16-5 to delete the ballot-face requirements for state Constitutional amendments. The Secretary of State shall prescribe the ballot-face requirements.

Section 15. This section amends 1-16-6 to include current terminology.

Section 16. This section amends 1-16-9 to include current terminology.

Section 17. This section amends 1-22-4 to clarify the proclamation date for school board elections.

SIGNIFICANT ISSUES

The AGO lists the following issues.

Does Section 1 delete Section 1-14-13.1?

Section 1 appears to state that if the difference is very small, then the “remaining ballots shall be recounted using” a tabulator. Does that mean that every election has to be re-counted by tabulators?

Who has to pay for the process under Section 1?

Section 2 appears to state that recounts will be conducted on tabulators (not hand tallied) unless the ballot cannot be read.

Section 5 governs Section 1-4-27.1 but it must also harmonize with Section 31-13-1.

Section 9 appears to state that the precinct judge is allowed to look at the “voter’s intent.” What does that specifically mean? Can there be a uniform standard that will not be subject to litigation? What does “clearly discernable” mean? What is the difference between “discernable” and “clearly discernable?”

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The Secretary of State offers that the consequences will be a complex processes for Secretary of State’s office as well as costly elections and potential for litigation.

EO/csd