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FISCAL IMPACT REPORT

ORIGINAL DATE 1-29-09

SPONSOR Steinborn LAST UPDATED 2-13-09 HB 280/aHCPAC

SHORT TITLE Minors on Election Precinct Boards SB

ANALYST Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Secretary of State (SOS)

SUMMARY

Synopsis of HCPAC Amendment

The House Consumer and Public Affairs Committee amendment adds that minors may not serve as an election judge. It also gives county clerks discretion over appointing minors to be precinct board members.

Synopsis of Original Bill

House Bill 280 would amend NMSA Section 1-2-7 of the Election Code to allow the county clerk to appoint not more than two minors, aged sixteen or seventeen, to serve on precinct boards under the direct supervision of the presiding judge. In order to qualify to serve the minor need not be eligible to vote, but must be a citizen at the time of the election; have the approval of their parent or guardian unless emancipated; must attend a school or instruction for precinct board members; and must be appointed to the board of the precinct in which their parent or legal guardian resides, unless the clerk determines there is a shortage of precinct board members in other precincts.

The bill would also amend NMSA Section 1-2-10 of the Election Code to require a county clerk to appoint the precinct board members from a list provided by the major political parties, then from a list of qualified minors, and then those on "standby" or other lists, in that order.

SIGNIFICANT ISSUES

According to the Attorney General's Office, current law allows "voters" who are "qualified electors" to serve on precinct boards. NMSA Sections 1-1-5; 1-2-7A(1). In order to be a qualified elector, a person must be qualified to vote. Although Article VII Section 1 of the New Mexico Constitution requires that a person be over the age of twenty-one years in order to qualify to vote, this section has been superceded by Twenty Sixth Amendment to the United States Constitution, which prohibits a state from denying the right to vote to any person aged eighteen or older. This bill would allow minors aged sixteen and seventeen to serve as precinct board members even though they do not have the right to vote under other state law. They would be appointed after those persons whose names are submitted to the county clerk on a list from the major political parties, but before those on a "standby list" applying to be appointed to serve as "standby" precinct board members. See NMSA Section 1-2-9.

Furthermore, because this bill authorizes the appointment of minors to precinct boards *after* those on lists submitted by the major political parties are appointed, it is conceivable that some precincts may never have minors appointed to their precinct boards. See NMSA Section 1-2-12 for the number of precinct board members depending upon the number of voting machines etc.

NMSA subsection 1-2-7D of the bill provides that a county clerk *may* appoint not more than two minors to precinct boards. However, the amendments to NMSA section 1-2-10 appear to *require* the appointment of minors after the appointment of those on lists presented by the major political parties.

Other states allow minors to serve on in various capacities as election officials. For example, Kentucky allows minors who are seventeen, but will be eighteen on or before the date of the election (K.R.S. Section 117.045) to serve as election officers. California allows an election official to appoint minors who are at least sixteen to serve under the direct supervision of precinct board members "*In order to provide for a greater awareness of the elections process, the rights and responsibilities of voters, and the importance of participating in the electoral process, as well as to provide additional members of precinct boards...*" California Election Code, Section 12302(b).

See <http://www.eac.gov/files/BPPollWorker/Compendium.pdf> for a compendium of state laws relating to minor students participating in elections.

OTHER SUBSTANTIVE ISSUES

This would bill would allow young people to get involved in the election process, in some counties only 5 percent of poll workers are under 40-years old.

EO/mt