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FISCAL IMPACT REPORT

ORIGINAL DATE 02/08/09
LAST UPDATED 02/24/09 **HB** 583/aHCPAC

SPONSOR Rodella

SHORT TITLE Small Precinct Absentee Voting **SB** _____

ANALYST Ortiz

APPROPRIATION (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB419

SOURCES OF INFORMATION

LFC Files

Responses Received From

Department of Finance and Administration (DFA)

Attorney General's Office (AGO)

SUMMARY

Synopsis of HCPAC Amendment

The House Consumer and Public Affairs Committee amendment reduces language redundancy. The amendment states that the county clerk shall keep a sufficient number of ballots from a mail ballot election so that a voter is not disenfranchised if the absentee ballot is misplaced. Prior to the amendment the above language stated lost and misplaced ballots were reasons for county clerks to have ballots on hand.

Synopsis of Original Bill

House Bill 583 enacts a new section of the Election Code to provide for the designation of an election precinct as a "mail ballot election precinct" by the Board of County Commissioners upon the request of the County Clerk if the board finds that the precinct has fewer than 50 voters and the nearest polling place for an adjoining precinct is more than 30 miles driving distance from the polling place designated for the precinct in question. The bill would require the County Clerk to notify voters in that precinct that they will be sent an absentee ballot 28 days before the election and that there will be no polling place for the precinct on election day. The voter may "opt out" of receiving an absentee ballot by returning a card to the clerk notifying the clerk that they do not want to receive an absentee ballot.

The clerk must notify voters that a voting system equipped for persons with disabilities will be available at all early voting sites before election day and in the office of the county clerk on election day in case the voter prefers to vote in person and not by mail.

The county clerk must keep a sufficient number of ballots for voters who lose or do not receive an absentee ballot before election day, so that the voter may vote on an absentee ballot in the office of the county clerk on election day in lieu of voting using the “missing” ballot.

The bill also amends current sections of the Election Code governing precinct polling places, to exempt mail ballot election precincts.

FISCAL IMPLICATIONS

If the state is expected to purchase postage paid return envelopes then, costs to the state general fund will increase. On the other hand, counties could save on costs such as paying poll workers (approximately \$100/day) or transporting voting machines to and from polling places in mail ballot precincts. Cost increases could be expected for counties in that all voters must be notified by registered mail that absentee ballots will be sent to them unless the voter indicates that he/she would not like to receive an absentee ballot.

SIGNIFICANT ISSUES

The Attorney General’s Office raises several concerns. First, the legislature has limited its use. See NMSA 1978, Section 1-23-7 “Mail ballot elections shall be used exclusively for voting in those elections specified in Section 1-23-3 and shall not be used in connection with elections at which candidates are nominated for or elected to office.” Second, the bill could be construed as only requiring the clerk to provide early and Election Day in-person voting via voting machine to persons with disabilities, and in-person voting via absentee ballot on Election Day for persons who have lost or who have not received their absentee ballots by mail, and whose ballots are therefore considered to be “missing”. In-person voting by machine on Election Day does not appear to be available to other voters who “opt-out” of mail-in voting. Not requiring that *all* voters cast their votes by mail, or failing to provide voting machines for *all* voters who do not wish to vote by mail, could result in confusion and litigation.

RELATIONSHIP

House Bill 419 would allow any New Mexico voter to be placed on a permanent absentee voter list by making a written request for such placement.

TECHNICAL ISSUES

The requirement that voters be notified that “there will be no polling place for the precinct on election day” is not technically accurate, as certain voters would in fact be allowed to vote in person at the County Clerk’s office on election day.