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FISCAL IMPACT REPORT

ORIGINAL DATE 02/11/09

SPONSOR Martinez, W. K. LAST UPDATED _____ HB 651

SHORT TITLE Felon Voting Rights Immediately After Prison SB _____

ANALYST Ortiz

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
 Administrative Office of the Courts (AOC)
 Secretary of State (SOS)
 Corrections Department (NMCD)
 Public Defender Department (PDD)

SUMMARY

Synopsis of Bill

House Bill 651 provides that felons shall be eligible to register to vote except while imprisoned in a correctional facility. The bill provides that Corrections Department, sentencing commission and administrative office of the courts shall provide the data necessary for the Secretary of State to maintain a current voter eligibility system that includes such felons. The bill also provides that a person who appears personally before an appropriate registrar is presumed eligible to register to vote under this law. The bill also provides that a person convicted of a felony offence shall not be permitted to hold an office of public trust without a pardon or certificate restoring full rights of citizenship.

SIGNIFICANT ISSUES

According to the Attorney General's Office, the bill does not explicitly state that registration for non-incarcerated felons is subject to the same proof of identity restrictions that apply to all voters. Such rule seems implicit, however the section on presumption of eligibility could mislead voters with regard to what is required for registration.

The AGO also states that the provision that allows a former felon to hold an office of public trust upon pardon or restoration of citizenship from the governor may raise equal protection challenges from former felons who have completed their sentences and had a court dismiss their original charge.

PERFORMANCE IMPLICATIONS

Existing statute, which has been in effect for the last two years, requires the Secretary of State to promulgate rules however, this has not occurred. This bill does not provide much detail on which agency is responsible for which tasks. There are policy arguments that the problem with the law is not the law but the administration of law.

OTHER SUBSTANTIVE ISSUES

The bill gives felony-convicted probationers and parolees living in their communities the immediate right to vote. Under the current law, only those individuals who have completed their probation or parole terms become eligible to vote. The Corrections Department believes that restoration of this right may help these individuals feel more connected to their communities, and thus less likely to re-offend while on probation or parole. It could ultimately help reduce the Department's prison population and probation/parole caseloads.

ALTERNATIVES

Suggested by the AGO is a joint memorial where the AOC, Department of Corrections and relevant election officials have to study why some citizens who commit misdemeanors are marked as felons and why some ex-felons show up to vote and their names are not on the roster and thus receive provisional ballots that may not be counted. The three agencies should have to report to an appropriate legislative oversight committee.

EO/mt