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FISCAL IMPACT REPORT

ORIGINAL DATE 1-23-09
 SPONSOR Duran LAST UPDATED 3-18-09 HB _____
 SHORT TITLE Primary Election Ballot Procedures SB 3/aHVEC
 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 HVEC Amendment

The House Voters and Elections Committee amendment to Senate Bill 3 specifies that candidates running for office listed in Section 1-8-13C NMSA 1978, which includes district judge, district attorney, state board of education, public regulation commission or magistrate, shall have their names placed on the primary election ballot by filing declarations of candidacy and nominating petitions.

Synopsis of Original Bill

Senate Bill 3 amends Section 1-8-21 NMSA 1978 to add that Candidates for county office would have their names placed on the primary election ballot by filing their petitions and paying filing fees. Candidates for any other office would have their names placed on the primary election ballot by filing declarations of candidacy and nominating petitions. Previously, the law appeared to require such candidates to file nominating petition signatures. This amendment deletes that requirement. It also removes, from another section of the Election Code, gender-specific pronouns.

SIGNIFICANT ISSUES

According to the Attorney General’s Office, this bill is proposed in response to *Sederwall v. Herrera*, a 2008 election lawsuit filed by an independent candidate for sheriff in Lincoln County seeking access to the general election ballot. In ordering Mr. Sederwall’s name to be placed on the ballot, the Supreme Court implicitly recognized that Mr. Sederwall’s opponent, running as a Republican, had failed to comply with the election code by failing to file nominating petition signatures.

PERFORMANCE IMPLICATIONS

The County Clerks would accept candidate filings and filing fees when candidates file for office.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

A review by the Attorney General’s Office of the pertinent provisions in the Election Code provides strong evidence that the legislature never intended major party candidates seeking county office to file nominating petition signatures before being placed on their party’s primary ballot but the language in the current law does not clearly carry out that intent. If this bill is not enacted, the tension between the provision amended by this bill and the other pertinent provisions of the Election Code will remain.

EO/mt