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FISCAL IMPACT REPORT

SPONSOR Ryan ORIGINAL DATE 1-30-09 HB
LAST UPDATED
SHORT TITLE Election Agent Registration Requirements SB 247
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)

No Responses Received From
Secretary of State (SOS)

SUMMARY

Synopsis of Bill

Senate Bill 247 amends two provisions of the Election Code to require third party voter registration agents to meet the registration requirements of the Campaign Practices and Reporting Act, NMSA 1978, §§ 1-19-1 – 1-19-37. More specifically, the bill amends § 1-19-26.1 to define third party voter registration agent organizations as “political committees” for the purposes of the Campaign Practices and Reporting Act. As a result of such definition, third party voter registration agent organizations would be required to make the disclosures required of political committees by §§ 1-19-26.1 and 1-19-31. The bill also adds a 501(C)(4) organization to the definition of a “political committee.” The bill also amends NMSA 1978, § 1-4-49 to require third party voter registration agent organizations to register with the Secretary of State under the Campaign Practices and Reporting Act.

SIGNIFICANT ISSUES

The Attorney General's Office is currently defending two lawsuits regarding the two provisions amended by this bill. In each case, the plaintiffs argue that the statute at issue places an unconstitutional burden on their protected speech rights. The changes to Section 1-19-26 (L)(4)

raise issues: (a) why not a 501(C)(3)? (b) what does “unlimited ability to lobby” mean? (c) what does “net earnings” mean? (d) what does “devoted exclusively” mean? (e) what does “social welfare” mean? The current litigation shows that the larger point may need clarification, but it is unclear whether this bill will precisely provide that clarification.

The Attorney General’s Office also adds that the amendment to § 1-4-49, however, would require third party voter registration agent organizations to make significant additional disclosures to the Secretary of State. As it currently stands, such organizations must only disclose to the Secretary of State the following information: (1) the names of the officers of the organization and the permanent address of the organization; and (2) the names, addresses, and dates of birth of each person registering voters on behalf of the organization. See NMSA 1978, § 1-4-49(A). This bill would further require these organizations to disclose the following information: (1) any “sponsoring organization” of the third party voter registration organization; (2) a statement of the purpose for which the organization was created; (3) the name, address, and relationship of any associated organization; (4) the bank used by the organization for all expenditures and contributions; (5) the name and address of any person to whom an expenditure is made by the organization or from whom a contribution is received by the organization; (6) the occupation or type of business of anyone making a contribution (or aggregate of contributions) of more than \$250 in any single election cycle; (7) the amount of any expenditure or contribution; (8) the purpose of any expenditure; and (9) the date on which any expenditure was made or contribution received.

Finally, adds the Attorney General’s Office, there are legal arguments that these requirements would add a significant burden to the reporting requirements third party voter registration agent organizations already face. If such an organization were to challenge the validity of the law, it would be incumbent upon the State to put forth an adequate justification for the burden the law places on the organization’s speech.

PERFORMANCE IMPLICATIONS

This bill will result in increased workload for both the Secretary of State and the county clerks who register and train thousands of agents.

EO/mt