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FISCAL IMPACT REPORT

ORIGINAL DATE 2/23/09

SPONSOR Feldman LAST UPDATED _____ HB _____

SHORT TITLE Campaign Finance Changes SB 613

ANALYST Wilson

APPROPRIATION (dollars in thousands)

	Appropriation		Recurring or Non-Rec	Fund Affected
	FY10	FY12		
PRC	(\$78.0)*	(\$52.0)*	Recurring	Public Election Fund
Judicial	(\$78.0)*	Unknown	Recurring	Public Election Fund
Expenditure Offset	Unknown See Below	Unknown See Below	Recurring	Public Election Fund

(Parenthesis () Indicate Expenditure Decreases)

* Because uncontested elections are rare for PRC Districts and because the frequency of elections for justices and judges is unknown, it can be inferred that overall recurring savings from reducing the amount of public funds to be distributed to such candidates in uncontested general elections is insignificant.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY09	FY10	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		Unknown See Below	Unknown See Below		Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 99, HB 151, HB 244, HB 252, HB 253, HB 272, HB 495, HB 535, HB 550, HB 553, HB 614, HB 686, HB 808, HB 850, HB 891, SB 49, SB 94, SB 116, SB 128, SB 139, SB 140, SB 163, SB 258, SB 262, SB 263, SB 269, SB 296, SB 346, SB 451, SB 521, SB 535, SB 555, SB 557, SB 606, SB 611, SB 646, SB 652, SB 676 & SB 693

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General’s Office (AGO)

Department of Finance & Administration (DFA)

Public Regulation Commission (PRC)

Secretary of State (SOS)

SUMMARY

Synopsis of Bill

Senate Bill 613 amends the Voter Action Act as follows:

- Clarifies that a candidate may file a declaration of intent to participate in public financing either prior to or during the qualifying period;
- Provides that a candidate is not eligible if the person has accepted any qualifying contributions before filing a declaration of intent or accepted any other contributions totaling \$500 or more, or made expenditures totaling \$500 or more between the beginning of the qualifying period and filing a declaration of intent;
- Requires the SOS to determine whether the candidate collected and submitted the appropriate number of qualifying contributions after filing the declaration of intent;
- Prohibits a certified candidate from accepting contributions or loans from any other source except for in-kind from *a* political party.
- Restrict the aggregate value of in-kind contributions by *all* political parties to the candidate to ten percent of the value of that person’s aggregate public financing per election cycle;
- Requires the Secretary of State to publish guidelines outlining permissible campaign-related expenditures and penalties for violations of the Voter Action Act by Jan. 1, 2010;
- Lengthens the amount of time the SOS has to make distributions to certified candidates from seven to ten days following certification.
- Decreases amount of money that can be distributed in uncontested general elections from fifty percent to ten percent of the amount specified for contested general elections;
- Requires the amount of expenditures made independently of a certified candidate to influence the election on behalf of the candidate, plus the value of in-kind contributions from a political party, be deducted from any excess amount reported by an opposing candidate when calculating the matching funds to be distributed to the certified candidate; and
- Adds a definition of a political party.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary will be proportional to the enforcement of this law and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase

The bill reduces the amount of public funds to be distributed to qualified candidates in uncontested general elections from fifty percent of the amount available for contested elections to ten percent of the amount available for contested elections.

For PRC races the bill means that certified candidates in uncontested general elections will receive 2.5 cents for each voter in the district for which the candidate is running. For Supreme Court justices and judges in the Court of Appeals, candidates will receive 1.5 cents for each voter in the state.

DFA has provided the following calculations:

This change has a somewhat quantifiable overall fiscal implication assuming 1.3 million registered voters in the State.

PRC

1.3 million divided by 5 districts equals 260,000 voters per average district
260,000 voters times 12.5 cents per voter equals \$32.5 to be distributed per PRC candidate
260,000 voters times 2.5 cents per voter equals \$6.5 to be distributed per PRC candidate
Difference equals \$26.0 per candidate

A maximum of 3 commissioners is elected every two years, so total potential savings from the public election fund equals \$78.0 every other fiscal year

Judicial

1.3 million times 7.5 cents per voter equals \$97.5 per candidate
1.3 million times 1.5 cents per voter equals \$19.5 per candidate
Difference equals \$78.0 per candidate
Justices and judges only run for election once and then face retention thereafter

SB 613 also decreases the amount of public matching funds available to a qualified candidate by the amount of independent expenditures or in-kind contributions made on that candidate's behalf to influence the election. This will perhaps provide a more significant savings from the public election fund although it is also difficult to quantify.

It should be noted that the public election fund is a non-reverting fund that receives \$300,000 annually from PRC fees and insurance tax premiums and \$1,200,000 annually from distributions pursuant to the Uniform Unclaimed Property Act.

SIGNIFICANT ISSUES

The SOS reports that legislature approved the Voter Action Act, originally in 2003 and established public funding and financing for candidates running for the PRC. During the 2007 Legislative Special Session the Voter Action Act was amended. The provisions of this amended act expanded public funding of elections to the judicial branch of government. In judicial races the funding will be available only for contested primaries and general elections for the Court of Appeals and Justice of the Supreme Court. As such, judicial retention elections are not eligible for this fund.

AOC provided the following:

The bill provides for an appeal of a certification decision or a decision regarding the distribution of matching funds to the SOS. Following a ruling on the appeal by the SOS costs may be assessed if the SOS or court finds that an appeal was made frivolously or to result in delay or hardship.

The bill provides a fourth degree felony penalty for the willful or knowing violation of the provisions of the Voter Action Act or rules of the SOS knowingly made false statement in a report.

The bill further provides that a candidate choosing to obtain financing is required to file with the SOS a declaration of intent to participate as an applicant candidate for a stated covered office. A covered office means any office of the judicial department subject to statewide elections and the office of a PRC Commissioner.

Regarding judicial offices the bill will only impact individual campaigns for statewide judicial elective offices. For example, the amount of public funds distributed during the primary and general election cycles will impact those judicial candidates who have an uncontested race for office by decreasing the amount of money available from fifty percent of the 15 cents paid for each voter in the state to ten percent.

SB 613 requires the SOS to publish penalties for violations of the Voter Action Act by January 1, 2010. Section 1-19A-17 NMSA 1978 provides both civil and criminal penalties for violations of the Act.

ADMINISTRATIVE IMPLICATIONS

The SOS notes that the provisions of this bill will streamline the processing of the requirements of the Voter Action Act.

RELATIONSHIP

SB 613 relates to the following ethics bills:

- HB 99, Prohibit Former Legislators as Lobbyists
- HB 151, State Ethics Commission Act
- HB 244, Prohibit Contractor Contribution Solicitation
- HB 252, Political Contributions to Candidates
- HB 253, Quarterly Filing of Certain Campaign Reports
- HB 272, Quarterly Campaign Report Filing
- HB 495, Political Candidate & Committee Donations
- HB 535, Lobbyist Identification Badges
- HB 550, Local School Board Governmental Conduct
- HB 553, Disclosure of Lobbyist Expenses
- HB 614, State Ethics Commission Act
- HB 686, AG Prosecution of State Officer Crimes
- HB 808, Tax-Exempt Election Contributions & Reporting
- HB 891, Election Communication Contribution Reporting

HB 850, Governmental Conduct Act for All Employees
SB 49, Governmental Conduct Act For Public Officers
SB 94, Prohibit Former Legislators as Lobbyists
SB 116, Limit Contributions to Candidates & PACs
SB 128, Require Biannual Campaign Reports
SB 139, State Ethics Commission Act
SB 140, State Ethics Commission Act
SB 163, Prohibit Former Legislators as Lobbyists
SB 258, Contribution from State Contractors
SB 262, Political Contributions to Candidates
SB 263, Contractor Disclosure of Contributions
SB 269, State Bipartisan Ethics Commission Act
SB 296, State Contractor Contribution Disclosure
SB 346, Political Contributions to Candidates
SB 451, Contributions to PERA Board Candidates
SB 521, Campaign Contributions in Certain Elections
SB 535, Election Definition of Political Committee
SB 555, Public Employee & Officer Conduct
SB 557, State Ethics Commissions Act
SB 606, Expand Definition of Lobbyist
SB 611, Investment Contractor Contributions
SB 646, Judicial Candidate Campaign Contributions
SB 652, Campaign Reporting Private Cause of Action
SB 676, School Board Candidate Contributions
SB 693, Prohibit Certain Contributions to Candidates

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