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FISCAL IMPACT REPORT

ORIGINAL DATE 02/02/12

SPONSOR Smith LAST UPDATED _____ HB 207

SHORT TITLE Voter Identification Requirements SB _____

ANALYST Hanika-Ortiz

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$250.0				Recurring	General Fund
Total	\$250.0				Recurring	Local Governments

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Office of the Secretary of State (SOS)
 Office of the Attorney General (AGO)
 Public Regulation Commission (PRC)
 Administrative Office of the Courts (AOC)
 Taxation and Revenue Department (TRD)

SUMMARY

House Bill 207 (HB 207) proposes changes to the Election Code and the Municipal Election Code related to voter identification requirements.

Section 1-1-24 is amended and:

Requires that an individual voting in person be required to present a 1) physical form of identification that includes a name *which reasonably matches the name on the voter's certificate of registration* and photograph *which resembles the person offering to vote* that has been issued by a government, tribe, Indian nation, pueblo or educational institution (no photo required for members of tribes, Indian nations, or pueblos) and a signed form which includes the voter's date of birth and social security number, which must match the voter's certificate of registration. There is no requirement for addresses to match or expiration dates to exist or be in the future.

Requires that voter identification for an individual voting by mail include a signed form that includes a 1) drivers license number or identification card number issued by the Motor Vehicle Department (MVD), birth date and social security number, which must match the voter's

certification of registration. There is no requirement for addresses to match or expiration dates to exist or be in the future.

Adds a definition of “federally required identification” to provide for other forms of identification allowed under Section 303(b)(1) of the federal Help America Vote Act of 2002 typically for first time registrants who vote by mail.

Deletes the option for a voter to provide as “required voter identification” their registration name, address and year of birth either verbally or by written statement.

Section 1-4-11 requires “federally required identification” for individuals registering as voters who have not previously voted in a New Mexico election.

Section 1-4-12 changes the term for a voter “identification card” to voter “information document”, which is consistent with the remainder of the Election Code, and adds the date of birth as voter information not considered public records.

Section 1-5-31 provides county clerks access to the MVD driver’s license database and requires SOS to adopt rules governing its use.

Section 1-6-4 eliminates identification as previous defined for absentee ballots.

Section 1-6-5 requires a new voter to submit with an absentee ballot “federally required identification”, if person not on file.

Section 1-6-8 deletes the signed statement requirement in an absentee ballot and securely includes the “required voter identification” on the envelope.

Section 1-6-14 allows an absentee ballot to be challenged by a lawfully appointed challenger if the “required voter identification” or “federally required identification” is not provided.

Section 1-6-16.2 is amended to provide the “required voter identification” be submitted with an emergency alternative ballot, as opposed to requiring county clerks to compare signatures on a written request.

Section 1-12-7.1 clarifies signature rosters, lists of voters to be displayed, and checklists of voters at polling places, in order to accommodate voting convenience centers.

Section 1-12-8 replaces the term “physical form of the required voter” with “federally required identification” as it pertains to provisional voting.

Section 1-12.0.1 requires the SOS to display voting information and rights to provisional ballots in each polling place.

Section 1-12-13 permits voter assistance in filling out the forms required to vote.

Section 1-12-29 adds failure to provide the “required voter identification” or “federally required identification” to the reasons for which a precinct board member or party may challenge.

Section 1-12-25.2 allows voters whose ballots were rejected due to a lack of proper identification the opportunity to produce the “required voter identification” or “federally required identification” at a hearing.

Section 1-12-25.3 adds the voter's social security number to the information included on the envelope of a provisional ballot and allows the provisional ballot be counted if the voter provides the date of birth and social security number, which match the voter's registration.

Section 1-12-25.4 allows a provisional ballot to be counted if the voter provides the “required voter identification” or “federally required identification” no later than 5:00 p.m. on the second day following the election.

The bill adds a new section of the Election Code requiring the SOS to conduct a public service campaign before each statewide election in 2012. Between 75 and 60 days before the November general election, the SOS will also be required to send a notice of the voter identification requirements to all registered voters who are not marked NVRA or inactive in the voter file.

The bill enacts a new section of the Election Code to apply the voter identification requirements to the Municipal Election Code. The bill further amends the Municipal Election Code accordingly.

Section 66-8-111.1 provides that the written notice of revocation and right to a hearing shall be considered a temporary driver's license.

Section 1-12-4.1 is repealed relating to the suspension of physical forms of voter identification requirements other than those mandated by federal law if the amount of time voters are spending in line exceeds forty-five minutes.

The bill provides an emergency clause.

FISCAL IMPLICATIONS

The bill requires the SOS to conduct a public service campaign before each election in 2012 and to conduct a mailing to active voters before the November general election regarding the voter identification requirements. In absence of an appropriation, this analysis assumes the cost to the SOS and county clerks to be a conservative \$500,000 for information technology updates, printing, mailings and outreach activities. However, these activities will serve the additional purpose of aiding in the clean-up of the voter file to remove ineligible voters. It is assumed the county clerks will shoulder the expense alongside the SOS to implement the amendments in the bill.

The SOS reports that the current VREMS system is set up to accept driver's license numbers, but there may be additional costs associated with implementing the interface. Coordination of the MVD database and voter file will assist both the SOS and county clerks with verification of information and reduction in errors in the voter file. Again, it is assumed the county clerks will shoulder these expenses with the SOS.

The MVD currently provides the SOS the ability to verify voter information. If there is a

requirement for the county clerks to verify a social security number through the MVD, the Taxation and Revenue Department believe the county clerks should pay for associated costs.

The AOC states that 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. Efforts to quantify a specific fiscal impact are underway, and that information is not available at this time.

SIGNIFICANT ISSUES

The SOS notes that the bill was developed by a bi-partisan subcommittee of the New Mexico County Clerks' Affiliate.

The AGO is concerned about whether the MVD database should be used to verify vote-by-mail ballots, given the recent reports on inaccuracies in the database.

The AGO states that whether an in-person voter must show picture identification but a by-mail voter does not have to show picture identification, may make the bill vulnerable to legal challenges on the grounds of disparate treatment of voters. In addition, whether a person who does not have a New Mexico driver's license or United States Passport must obtain picture identification from the MVD, also makes the bill vulnerable to legal challenges on the grounds of disparate treatment of voters.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HB 113 and HB 27

OTHER SUBSTANTIVE ISSUES

The National Council of State Legislatures reports that the United States Department of Justice (DOJ) has denied South Carolina's request for pre-clearance of its voter identification law. The D.O.J. found the law discriminatory because the state's minority voters are 20 percent more likely than white voters to lack a photo I.D. that meets the standard for voting.

Thirty-one states require voters to show identification before voting at the polls. In 15 of these, the identification must include a photo of the voter; in the remaining 16, non-photo forms of identification are acceptable.

AHO/amm