

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/01/12

SPONSOR Griego, E. **LAST UPDATED** _____ **HB** _____

SHORT TITLE Public Campaign Financing **SB** 105

ANALYST Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
	-0-*		

(Parenthesis () Indicate Expenditure Decreases)

*The bill allows the SOS to use the Public Election Fund to carry out the provisions of the Voter Action Act and the Public Campaign Act.

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total			\$15,000.0*			

(Parenthesis () Indicate Expenditure Decreases)

Relates to HB 74, HB 113, HB 114, HB 207, SB 11, SB 12, SB 103, SB 116 & SB 117

*See Fiscal Implications below

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Department of Finance & Administration (DFA)

Secretary of State (SOS)

Office of the State Auditor (OSA)

State Land Office (SLO)

SUMMARY

Synopsis of Bill

Senate Bill 105 enacts the Public Campaign Act (Act). Senate Bill 105 will create a new section of the Election Code to allow candidates for Governor, Lieutenant Governor, Attorney General,

Commissioner of Public Lands, State Treasurer, State Auditor, Secretary of State and state legislators to obtain public campaign financing.

Under the provisions of this act candidates opting for public financing would have to file a Declaration of Intent, collect qualifying contributions during the qualifying period and meet requirements for certification. For the offices of Governor and Lt. Governor, an applicant candidate would have to obtain qualifying contributions from that number of voters that is equal to at least one percent of the total voters in the state. For legislators an applicant candidate would have to collect qualifying contributions from at least one percent of the total voters in their district. An applicant candidate running for any other eligible office would have to obtain qualifying contributions from that number of voters that is equal to at least one fourth percent of the total voters in the state. No payment, gift or anything of value would be allowed in place or exchange of a qualifying contribution.

A certified candidate may collect contributions from voters in the candidate's district in the amount of between \$5.00 and \$100.00.

Matching funds would be distributed in an amount equal to four times the amount collected by the certified candidate. Any unspent or unencumbered funds would be returned two weeks after the primary and general elections.

Any candidate in violation of the Public Campaign Act will be regarded as both a civil and criminal matter.

FISCAL IMPLICATIONS

The bill provides for disbursements from the Public Election Fund, however, there may not be enough recurring revenues to the fund to support the expansion of public financing for the newly-covered offices as defined in the bill.

Beginning with the 2014 Election cycle, the SOS calculated the distributions as follows:

Primary Election:

For office of Governor- \$1.50 for each voter of the candidate's party in the state;

$$573,011 \times 1.50 = \$859,516.50 \text{ (per Democratic candidate)}$$

$$375,027 \times 1.50 = \$562,540.50 \text{ (per Republican candidate)}$$

For office of Lt. Governor- \$0.25 for each voter of the candidate's party in the state;

$$573,011 \times .25 = \$143,252.75 \text{ (per Democrat candidate)}$$

$$375,027 \times .25 = \$93,756.75 \text{ (per Republican candidate)}$$

For office of Commissioner of Public Lands and Attorney General- \$0.75 for each voter of the candidate's party in the state;

$$573,011 \times .75 = \$429,758.25 \text{ (per Democrat candidate)}$$

$$375,027 \times .75 = \$281,270.25 \text{ (per Republican candidate)}$$

For the SOS, State Treasurer, State Auditor- \$0.15 for each voter of the candidate's party in the state;

$$573,011 \times .15 = \$85,951.65$$

$$375,027 \times .15 = \$56,254.05$$

For office of state legislator- \$1.50 for each voter of the candidate's party in the candidate's legislative district;

Statewide Races

$$573,011 \times 1.50 = \$859,516.50 \text{ (one Democrat candidate in each House and Senate district)}$$

$$375,027 \times 1.50 = \$562,540.50 \text{ (one Republican candidate in each House and Senate district)}$$

There is no clear estimate that can be created for the passage of this bill. Using this formula and anticipating only one candidate from each party running for each office from each party in the primary election, the potential cost for the financing of this legislation for the primary only will be a minimum of \$5,300,000 or \$4.54 per voter eligible to vote in the primary election.

Using the total number of voters and the allocations set forth for the general election, the cost will be a minimum of \$9,788,547 or \$8.30 per registered voter.

These figures do not include the amount of matching funds that could potentially be distributed.

Currently, primary and general elections are underfunded. Historically, the SOS's office has had to request additional funds in order to finance elections. The bill provides for a percentage reduction in distributions to each candidate if there are insufficient funds available.

According to the SOS, given the amounts set forth in the bill for funding the Public Election Fund, each candidate will receive a significantly smaller distribution than the amounts specified in the bill.

The SOS will most likely need to spend significant resources on candidate education with the expansion set out in HB 294.

SIGNIFICANT ISSUES

The provisions of the new section are very similar to the existing Voter Action Act, which covers only certain judicial candidates and candidates for the Public Regulation Commission.

Senate Bill 105 includes new language on certification of candidates and guidelines and restrictions for contributions to and expenditures of certified candidates. The bill also includes new material concerning candidate reporting requirements. The bill includes new language on the amount of fund distribution and stipulates a dollar cap depending on the office that the candidate is seeking.

Section 13 states that in addition to other penalties that may be applicable, a person who violates a provision of the Public Campaign Act is subject to a civil penalty of up to \$10,000 per violation. In addition to a fine, a certified candidate found in violation of that act may be required

to return to the fund all amounts distributed to the candidate from the fund. If a violation is determined to have occurred, the SOS shall impose a fine and transmit the finding to the Attorney General for criminal prosecution. If a person willfully or knowingly violates the provisions of the Public Campaign Act is guilty of a fourth degree felony and shall return to the fund all money distributed to that candidate.

ADMINISTRATIVE IMPLICATIONS

The SOS will require significant additional resources to administer the provisions in this bill. In addition, the SOS will need to upgrade software programming in order to accommodate all applicable candidates.

RELATIONSHIP

SB 105 relates to:

- HB 74, Conservancy District Absentee Ballots
- HB 113, Voter ID Requirements
- HB 114, No Corporation Influence on Elections
- HB 207, Voter Identification Requirements
- SB 11, Campaign Reporting & Definitions
- SB 12, Campaign Public Financing Changes
- SB 103, No Legislator Lobbying for One Year
- SB 116, Use of Legislative Campaign Funds
- SB 117, Elections Commission Act

ALTERNATIVES

Appropriations from the Public Election Fund have been made to the SOS Election Program's operating budget. This has been accomplished by including language in the General Appropriation Act enabling the agency to expend some of the funds in the Public Election Fund for election-related expenses in the Elections Program. This language has resulted in a reduction in the amount of General Fund appropriated to the Elections Program. The legislature might consider amending the use of the Public Election Fund to permanently allow it to be used for this purpose.

DW/amm