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FISCAL IMPACT REPORT

SPONSOR HVEC ORIGINAL DATE 02/01/13
 LAST UPDATED 03/07/13 HB CS/232/aHJC

SHORT TITLE School District Campaign Reporting Act SB _____

ANALYST Cerny

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY13	FY14	FY15		
Minimal	Minimal	Minimal	Recurring	General Fund to benefit School Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to SB 15, SB 16, HB 68, HB 93, SB 88, SB 336, SB 356, and especially SB 90

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

Secretary of State (SOS)

Attorney General's Office (AGO)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment to the House Voters and Elections Committee substitute for House Bill 232 proposes to add two new sections to the Election Code that would provide for civil and criminal penalties for violations of the School District Campaign Reporting Act (SDRAC).

Civil Penalties: Section 8 would require the SOS, if the SOS reasonably believes that a person committed, or is about to commit, a violation of the SDRAC, the matter must be referred to the AGO or a district attorney (DA) for enforcement.

If the violation involves an unlawful solicitation or making or accepting an unlawful contribution, then the actions for relief may be: a permanent or temporary injunction, a restraining order or any other appropriate order, including a civil penalty of \$250 for each

violation, not to exceed \$5000, and forfeiture of any campaign contribution received as a result of the unlawful act. Each unlawful solicitation and each unlawful contribution made or accepted are separate violations of the SDRAC

If the violation involves a violation other than those specified above, then the relief may include a permanent or temporary injunction, a restraining order or any other appropriate order, including a civil penalty of \$50 for each violation, not to exceed \$5000.

Criminal Enforcement: Section 9 provides that any person who knowingly and willfully violates any provision of the SDCRA is guilty of a misdemeanor and will be punished by a fine of not more than \$1000 or by imprisonment for not more than one year, or both. It further states that the SDCRA may be enforced in either the county where the candidate resides or where the violation occurred.

Synopsis of Original Bill

The House Voters and Elections Committee substitute for House Bill 232 (HB 232) creates a School District Campaign Reporting Act (SDCRA), separate from the statewide Campaign Reporting Act (CRA).

HB 232 enacts a new section of the Election Code to require a reporting obligation for school board candidates for districts with an enrollment of over 12,000 and board candidates for community colleges operating pursuant to the provisions of Chapter 21, Article 13 or Article 16 NMSA 1978.

Candidates with contributions and/or expenditures of \$500 or more would be required to file a single campaign report on the second Monday in April every year. It includes penalties for failing to meet that obligation. Finally, it includes some limitations on the use to which candidates may put the contributions.

The effective date of the bill is July 1, 2013.

The substitute bill makes the SDCRA more consistent with the existing CRA, enabling the SOS to use existing software and systems for the new reports. The bill proposes two new sections, reflecting the language from the Election Code's Campaign Reporting Act, addressing anonymous contributions, special event fundraisers and compliance. HB 232 also defines the "reporting individual" as the candidate or treasurer of a campaign committee.

FISCAL IMPLICATIONS

The SOS states that fiscal implications associated with the original version of this bill have been resolved in this version by requiring one annual report, and matching the report language in the CRA. Therefore, there is no fiscal impact on the SOS.

Provisions contained in HB 232 require that all penalties collected be deposited into the general fund. However, the Public Education Department analysis suggests that the amount generated is likely to be minimal.

SIGNIFICANT ISSUES

The newly proposed Section 5, pages 7-8 mirrors NMSA 1978, subsections 1-19-34.4(B)-(D) of the CRA. However, the new language defines a special event as a fundraiser where the cost of fundraising tickets is \$25 or less, whereas in the CRA the amount is \$15 or less.

No significant issues for the SOS.

PERFORMANCE IMPLICATIONS

The bill provides for a \$50.00 per day penalty for late filing of reports. The committee substitute allows the SOS to waive the penalties for good cause shown, which is important since issues with web browsers and internet connections in the past have caused statewide campaign filers to file late reports, through no fault of the filer.

OTHER SUBSTANTIVE ISSUES

HB 232 creates its own definitions for this proposed new section of the Election Code.

TECHNICAL

In the HJC amendment, the last three words of 1. Section 8B reads “Campaign Reporting Act.” They should refer to the “School District Campaign Reporting Act.”

CAC/blm:svb