

appropriate county clerk, but would not procure them and would not distribute them to municipal clerks.

The effective date of the bill is now delayed for Section 16, relating to the electronic free-access system for qualified electors, and this portion would go into effect on January 1, 2018.

Synopsis of Original Bill

Senate Bill 195 is an act that brings New Mexico into compliance with amendments to the federal Uniformed and Overseas Citizens Absentee Voting Act, 52 U.S.C. Sections 20301-20311.

SB 195 includes definitions and creates the Uniform Military and Overseas Voters Act, a new section of the Election Code, Section 1-1-1 through 1-1-25 NMSA 1978. The bill would cover military service members, overseas voters, and emergency response providers.

SB 195 explains the role of the Secretary of State with regard to absentee ballots, as well as explains methods of registering to vote, applying for the military-overseas ballot, and discusses how federal write-in absentee ballots are used.

SB 195 lays out the procedure for what happens when a military-overseas ballot is received, how voter's electronic-mail addresses are to be used, and explains a prohibition on non-substantive requirements (including minor misspellings when the voter's intent is clear, failure to use a specific envelope, or notarization). The bill creates equitable relief for courts of competent jurisdiction to ensure compliance with the Uniform Military and Overseas Voters Act.

SB 195 amends the existing duties of county and municipal clerks with regard to absentee ballots, including the right to vote, absentee ballot applications (with procedures for processing and issuing the ballot), and creating an absentee ballot register. Finally, SB195 amends language regarding the handling of absentee ballots by absent voter precinct boards.

The bill provides that the procedures apply to all elections conducted under the Election Code or the Municipal Election Code. A federal qualified elector (FQE) may vote for all candidates and all questions on a ballot just as if voting in person. The form of the military overseas ballot must be the same as the regular ballots except as required by the Act.

SB 195 provides the SOS shall make information available to FQEs regarding voter registration and casting ballot; also that the SOS shall establish an electronic transmission system through which a FQE may apply for and receive voter registration materials, military overseas ballots and other information pursuant to the Act. The SOS shall ensure the electronic system is capable of accepting the federal postcard application (FPCA), any approved electronic voter registration application, or another other approved electronic FQE ballot application sent to a municipal or county clerk.

Additionally, the bill provides that the SOS will develop an electronic free access system for confirmation by voters of receipt of the application and voter ballot and that the SOS shall coordinate with other states to develop standardized absentee voting materials for military overseas ballots.

FISCAL IMPLICATIONS

The bill provides that the SOS will procure ballot envelopes and instruction materials for both county and municipal clerks for voters under the Act.

SOS analysis states: “The SOS does not currently procure balloting materials for municipal clerks. It is difficult to estimate the quantities of balloting materials that would be required by New Mexico’s 105 municipalities so the additional fiscal impact to the SOS is unknown.”

The SOS has also developed the Integrated Reporting and Integrity System (IRIS) to provide a statewide election management tool to the SOS and county clerks. That system currently provides for candidate filing, ballot definition creation, export of ballot files to vendors, receipt, aggregation and publication of election results, and canvassing of the election. The SOS has been recommended for \$750,000 in funding to develop the next phase of IRIS, which would include voter registration. In developing IRIS, the SOS seeks to streamline elections administration and reduce complexity by integrating multiple processes into IRIS.

SOS analysis states:

If there were a delayed implementation of this provision, the proposed system requirements outlined by the bill could be incorporated into the build of the next phase of IRIS so it would be integrated with the new system. This would reduce implementation cost compared to the alternative of procuring another separate system but would also fall in line with the current goal of reducing the complexity and number of the election systems for county clerks.

SIGNIFICANT ISSUES

SB 195 provides that the SOS will establish an electronic system through which FQE voters can send and receive balloting materials, as well as track their ballots. The SOS currently utilizes an electronic system for ballot delivery to overseas voters which was procured using a federal grant from the Federal Voting Assistance Program. According to SOS analysis, this system doesn’t currently allow for the capabilities prescribed in the bill, including accepting electronic applications, nor does it allow the voter to determine the status of the application and the status of the ballot using phone, email, or internet as prescribed by the bill.

Effective date of the bill is July 1, 2015. The SOS does not anticipate having the voter registration system fully replaced by IRIS until after the 2016 general election. If there were a delayed implementation of this bill, the proposed system requirements outlined by the bill could be incorporated into the next phase of IRIS so it would be integrated with the new system.

The bill separates the provisions governing FQE voters from the provisions governing absentee voting by in-state voters. Currently those provisions are contained in the same paragraphs in Article 6 of the Election Code, making the provisions difficult for election administrators to sort out. The separate provisions, as proposed in this bill, would be easier for election administrators to interpret and apply.

Under current law, FQE voters may submit an FPCA until the Friday before the election, and receive a ballot electronically, which can be returned electronically until 7:00 p.m. on Election Day. Under this bill, FQE voters would have to submit their voter registration application no

later than 28 days prior to the election in order to be eligible to vote.

OTHER SUBSTANTIVE ISSUES

AGO analysis points out in Section 14, SB 195 expands absentee ballot protections to emergency response providers; although this does not conflict with the Federal act, it does expand the application of absentee provisions.

The UMOVA was completed by the Uniform Law Commission in 2010 and is approved by the American Bar Association. It has been enacted by 14 states and has been introduced in South Carolina and New Mexico (by virtue of SB 195) this year.

CAC/je/bb