

LESC bill analyses are available on the New Mexico Legislature website (www.nmlegis.gov). Bill analyses are prepared by LESC staff for standing education committees of the New Mexico Legislature. LESC does not assume any responsibility for the accuracy of these reports if they are used for other purposes.

LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 1st Session, 2017

| | | | |
|------------------------|----------------------------------|----------------------------|--------------------------|
| Bill Number | <u>CS/HB174/aHFI#1/ aSRC</u> | Sponsor | <u>HLELC</u> |
| Tracking Number | <u>.206806.2</u> | Committee Referrals | <u>HLELC/HJC;SEC/SJC</u> |
| Short Title | <u>Local Election Act</u> | | |
| Analyst | <u>Force</u> | Original Date | <u>2/27/17</u> |
| | | Last Updated | <u>3/15/17</u> |

BILL SUMMARY

Synopsis of SRC Amendment

The Senate Rules Committee amendment to the House Local Government, Elections, Land Grants, and Cultural Affairs Committee substitute for HB 174 (CS/HB174/aHFI#1/aSRC) adds provisions allowing municipalities to opt out of certain portions of the Local Election Act and provisions for the recall of officers of commission-manager-run municipalities.

Synopsis of House Floor Amendment #1

House Floor amendment #1 to the House Local Government, Elections, Land Grants, and Cultural Affairs Committee substitute for HB174 (CS/HB174/HLELCS/aHFL#1) allows write-in candidates for local elections. It adds a new section of the Local Election Act for write-in candidates, permitting them only if they possess the necessary qualifications to run for that office, and if they file a declaration of intent to be a write-in candidate. The new section also notes limits canvassing and counting write-in votes, and disallows a write-in candidate to have an election certified in their favor unless they receive at least votes equaling 20 percent of the total number of ballots on the election of their office, or 200 votes.

Synopsis of Original Bill

*This LESC analysis focuses only on the portion of the bill affecting elections related to public education.

The House Local Government, Elections, Land Grants & Cultural Affairs Committee Substitute for House Bill 174 (HB174/HLELCS) proposes to combine statutory provisions for various local elections under a single "Local Election Act," repealing and replacing the current School Election Law. The bill amends the Election Code to consolidate procedures for all the local elections enumerated in the bill, including: community college boards, technical and vocational institution boards, and regular and recall elections for school boards; elections for the imposition of taxes for learning centers and general obligation bonds; and elections for the imposition of

taxes under the Public School Buildings Act, the Public School Capital Improvements Act, and the Public School Lease Purchase Act, among others. Under the Local Election Act, all of the named local government elections would be consolidated into one election conducted on the same date, the first Tuesday after the first Monday in October of odd-numbered years.

The bill would shift reporting deadlines in the School District Campaign Reporting Act from the second Monday in April to 21 days before and 30 days after a school district election, and includes a temporary provision setting forth the expiration of terms for currently serving officials, so that terms in office for these officials conform to the requirements of the Local Election Act.

HB174/HLELC proposes to repeal several additional statutes neither amended nor replaced under other sections of the bill, including:

- Section 1-22-5 NMSA 1978, regarding special school district election proclamations and publications;
- Section 21-13-18.1 NMSA 1978, on regular community college elections, resolutions, and publications;
- Section 21-13-18.2 NMSA 1978, on declarations of community college board candidacy, write-in candidates, filing dates, and penalties;
- Section 21-16-21 NMSA 1978, regarding technical and vocational institution special election submissions, conduct, and voting hours; and
- Section 21-16-22 NMSA 1978, on the canvassing of votes for technical and vocational institution special elections.

The bill contains a delayed effective date of July 1, 2018.

It should be noted that charter school governing body elections are not included in the Local Election Act; while legislation has been proposed in recent sessions to bring charter school governing body elections under the Election Code, these elections are not covered under the current School Election Law, or any other part of the Election Code. Currently, charter school governance is controlled by the contract between the school and the authorizer.

FISCAL IMPACT

CS/HB174/aHFI#1/aSRC does not contain an appropriation.

The bill creates the Local Election Fund in the state treasury to reimburse counties for the cost of conducting and administering regular local elections under the Local Election Act, to pay for the Secretary of State's (SOS) administration of local elections, and to carry out all other provisions of the act. The fund includes money appropriated to it by the Legislature, as well as money annually assessed against local governments, the greater of \$150 or .025 percent of a local government's operating expenses, to be paid to SOS for deposit in the fund; municipalities that require a run-off election will be assessed an additional .010 percent of their operating expenses. Money from the fund is then appropriated to SOS to pay administrative costs associated with the act, and for reimbursement to the counties for their administrative costs. If the fund lacks sufficient funds to cover the local elections, SOS may apply for a grant from the State Board of Finance to cover the remaining costs.

According to SOS, costs arising from the administration of the act are similar to those resulting from statewide elections, including publication costs, labor costs for poll workers, printing of ballots, check-in stations, election programming, and voter system support. While noting that consolidated local elections may require fewer polling places than a statewide primary, thus incurring lower costs, SOS indicates a statewide primary is the best comparison for the purposes of determining fiscal impact under this bill. (SOS does not maintain data on the cost of conducting any of the individual special elections named in the act.) The cost of the 2014 gubernatorial primary was approximately \$3 million.

SUBSTANTIVE ISSUES

The bill would streamline the included local elections by consolidating their procedures; the elections named in the act would be conducted on the same date, with the same dates and processes for filings, campaign finance reports, submission, declarations of candidacy, etc, thus potentially reducing costs and administrative burdens associated with conducting several different elections with related procedures and timelines.

Currently, the School Election Law requires school board elections to be held on the first Tuesday in February of odd-numbered years, yet holding these and other small municipal and special elections at different times throughout the year, as is the current practice, results in little notice to voters, and evokes low voter turnout. The consolidation of many specialized elections to be held at the same time may result in increased voter participation, the rate of which has been an issue of some concern to government officials at all levels for some time. Voting in school elections is particularly low, with participation in Albuquerque Public Schools elections as low as 2.6 percent in 2015. In 2014, a special election was held in Hobbs on the question of requiring voter identification during elections; out of the approximately 16 thousand registered voters in Hobbs, only 1,310 voted in the election, or less than 8 percent, with the measure passing with 78 percent approval. In 2015, voter turnout in Albuquerque’s municipal elections was a historically low 8.24 percent, down from 12 percent in 2011, and 20 percent in the 2013 mayoral race.

ADMINISTRATIVE IMPLICATIONS

Administrative requirements may be substantial at first, as SOS and county clerks work to consolidate paperwork and procedures for the several elections to be held simultaneously under CS/HB174/aHFI#1/aSRC. However, the bill contains a delayed effective date of July 1, 2018, and July 1, 2022, which should provide time for the necessary changes to local election procedures to be completed. After the initial work of combining these elections is complete, the consolidated election procedures should free administrative time and resources for election officials, especially at the county and municipal levels, where most of the bill’s provisions are focused.

TECHNICAL ISSUES

The bill’s title indicates that there is an appropriation included; while it does establish that appropriations are to be made to the Local Election Fund by the Legislature, no actual appropriation is enumerated in the bill.

The Administrative Office of the Courts notes that CS/HB174/aHFI#1/aSRC repeals the Municipal Election Code, which provides that a knowing violation of the code is a misdemeanor.

In the absence of this provision, Section 1-10-22 provides that a knowing violation of the Election Code is a petty misdemeanor when a specific penalty is not otherwise imposed. Thus, CS/HB174/aHF1#1/aSRC reduces the penalty for a violation of election laws during municipal elections from a misdemeanor to a petty misdemeanor.

OTHER SIGNIFICANT ISSUES

According to the National School Boards Association, school elections were originally separated from general elections during the early 20th century in order to remove politics from education, yet they suffer from low-voter turnout when separated from the more politically oriented general and primary elections. Low-turnout elections typically aren't representative of the electorate as a whole, but are dominated by white, more-affluent, and older voters. Research from the University of California, San Diego found such elections contribute to poorer outcomes for minorities, including uneven prioritization of public spending (*America's Uneven Democracy: Race, Turnout, and Representation in City Politics*, Hajnal, Cambridge University Press, 2010). According to *Political Research Quarterly*, school districts that hold their elections on the same day as presidential elections report voter turnouts of up to 18 percent higher than those that do not, while a move to the same time as midterm elections yields an increase in turnout of 8.7 percent.

RELATED BILLS

Relates to HB28/aHLELC, Driver's License Automatic Voter Registration, which would require the Secretary of State to establish a rule with the Motor Vehicle Division to provide for automatic voter registration of all people who have a driver's license or identification card.

Relates to HB40/HJCS, Municipality Officer Recall Elections, which also provides for recall elections for officers in commission-manager municipalities.

Relates to HB98/aSRC, Paper Ballot Access for Blind Voters, which would require the Secretary of State to establish procedures permitting blind or visually impaired voters to independently mark their ballots.

Relates to HB99, 16-Year-Olds Voting in School Elections, which would allow persons who will be at least 16 years old by the date of the next school election to register to vote in school elections.

Relates to HB104, Local Election Act, which accomplishes many of the same things as CS/HB174/aHF1#1, but includes fewer elections in its consolidated procedures.

Relates to HB119/aHJC, Prohibition Period for Candidate Contribution, which would make it unlawful for a state legislator or candidate, or governor or candidate, to knowingly solicit or accept contributions during a prohibited period, according to the Campaign Reporting Act.

Relates to HB206/HLELCS, Unaffiliated Voters in Primary Elections, which would permit unaffiliated voters, or voters affiliated with unqualified minor political parties, to choose to affiliate with a political party during a primary election.

Relates to HB226, Minor Party Candidate Nominating Signatures, which changes the number of nominating signatures needed for minor party and independent candidates.

Relates to HJR3/HLELCS, Independent Redistricting Commission, CA, which proposes to amend the state constitution to create a five-member Redistricting Commission to be established by August 1 of the year of each federal decennial census.

Relates to HJR4, Register All Qualified Electors to Vote, CA, which proposes to amend the state constitution to require the state to ensure all qualified electors are registered to vote.

Relates to HJR6, Top Two Candidates Open Primary Elections, CA, which proposes to amend the state constitution to permit a “voter nomination” primary election which would be open to all voters and candidates for congressional office or state executive, legislative, judicial, or county office, regardless of party affiliation.

Relates to SB163, Voter Registration Agent Registration, which would require that voter registration agents be registered voters in the state.

Relates to SB205, Unaffiliated Voters in Primary Elections, which would allow a registered voter unaffiliated with a political party to choose to affiliate with a major party during a primary election.

Relates to SB224/SRCS, Register Voters 3 Days before Elections, which would permit a voter to register to vote at early voting sites during primary and general elections.

SOURCES OF INFORMATION

- Legislative Education Study Committee Files
- Administrative Office of the Courts
- Secretary of State

RKF/rab