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FISCAL IMPACT REPORT

SPONSOR Candelaria ORIGINAL DATE 2/02/17
LAST UPDATED _____ HB _____
SHORT TITLE Allow Ballot Selfies SB 117
ANALYST Esquibel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
N/A	N/A	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Secretary of State's Office (SOS)

Attorney General's Office (NMAG)

SUMMARY

Synopsis of Bill

Senate Bill 117 (SB117) proposes the repeal of Section 1-12-57 of the election code, which states:

Paper ballots; procedure after marking.

After marking and preparing a paper ballot in a polling place or alternate voting location, the voter:

- A. shall not show it to any person in such a way as to reveal its contents; and
- B. shall feed the paper ballot into the electronic vote tabulator.

The provisions of the bill would remove any restriction from a voter taking photographs of ballots or otherwise revealing the contents of their ballot to others.

FISCAL IMPLICATIONS

The bill does not include an appropriation.

The Secretary of State indicates it expects no fiscal impact related to this legislation.

SIGNIFICANT ISSUES

The Secretary of State's Office (SOS) writes that repealing all language in Section 1-12-57 removes language that requires the voter to feed their own ballot into the electronic vote tabulator in order to protect the privacy of the ballot from poll officials and others in the polling location.

The Attorney General's Office writes Section 1-12-57 does not specifically restrict ballot selfies on its face. This section of the election code was enacted to prevent vote buying, intimidation and coercion. [See NMSA 1978, § 1-1-1.1 (It is the purpose of the election code to secure the secrecy of the ballot, the purity of the election and to guard against the abuse of the elective franchise).] To repeal all of Section 1-12-57 may leave the state with limited or no recourse to punish voter coercion, bribery and intimidation, and motivate those wanting to interfere with elections.

TECHNICAL ISSUES

The Secretary of State's Office (SOS) suggests the sponsor may wish to consider alternate language in the election code explicitly allowing for "ballot selfies," or a similar term (e.g., ballot photograph), and may also consider prohibiting someone, such as an employer or spouse, from requiring a voter to show their ballot.

OTHER SUBSTANTIVE ISSUES

The Attorney General's Office (NMAG) queries whether a voter has a constitutional right under the First Amendment to take and/or share a ballot selfie.

RAE/sb