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FISCAL IMPACT REPORT

Ely/Sariñana/ 1/22/19
 Steinborn/Roybal ORIGINAL DATE 1/31/19
 Caballero/Garratt LAST UPDATED 2/14/19 HB 86/aHJC

SPONSOR

SHORT TITLE Election Day & Early Voting Registration SB

ANALYST Glenn

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Indeterminate	Indeterminate			See Fiscal Implications

Parenthesis () indicate expenditure decreases

Relates to HB 93, HB 292, HB 407, SB 52, SB 418

Conflicts with HB 93, HB 407, SB 52, SB 418

SOURCES OF INFORMATION

LFC Files

Responses Received From

Secretary of State's Office (SOS)

NM County Clerks Affiliate (CCA)

SUMMARY

Synopsis of HJC Amendments

The House Judiciary Committee amendments to House Bill 86 modify the provisions in Section 1(A) applicable to a qualified elector who registers to vote on Election Day by requiring the elector to sign an affidavit under oath that the elector has not voted in the election.

Synopsis of Original Bill

House Bill 86 adds a new section to the Election Code, which allows qualified electors to register to vote on Election Day at a polling place and at an early voting site, as defined by the bill. A "qualified elector" is a resident of New Mexico who is qualified to vote under the New Mexico and U.S. constitutions. See NMSA 1978, § 1-1-4.

For Election Day registration at a polling place, the bill requires that the polling place be at the precinct in which the qualified elector resides, and that the qualified elector complete a

certificate of registration, make an oath in a form prescribed by the secretary of state, and provide proof of residence. For registration at an early voting site, the early voting site must be in the county where the qualified elector resides and the qualified elector must provide proof of residence.

The bill provides that a qualified elector may prove residence for purpose of registration by showing a New Mexico driver's license or identification card; a document that contains a valid address together with a picture identification card; or a current valid student photo identification card from a New Mexico post-secondary educational institution together with a current student fee statement containing the student's valid address.

Where an early voting site or polling place does not have real-time access to the statewide electronic voter file, a qualified elector who registers to vote as provided in the bill will be issued a provisional ballot.

The bill does not permit voters to change party affiliation when registering at an early voting site or polling place during a primary election.

House Bill 86 makes conforming amendments to current provisions of the Election Code relating to voter registration and provisional voting, and amends Section 1-12-20 NMSA 1978 to allow a challenge to a person offering to vote for the reason that the person is not a qualified elector.

The effective date of the bill is July 1, 2019.

FISCAL IMPLICATIONS

According to the National Conference of State Legislatures (NCSL), potential costs associated with implementing Election Day registration are the purchase of additional equipment, updates of existing statewide voter registration systems to accommodate Election Day registration, and increased election staff or poll workers to process same day registrations. See Same Day Voter Registration, www.ncsl.org (last visited 1-21-19).

SOS states that it does not anticipate any fiscal impact to the state, and any costs associated with the bill are likely costs borne by the counties. Those costs would include an additional internet connected computer station and authorized representative staff with access to SERVIS at each early and Election Day voting site, as required by the bill.

CCA states that, by implementing registration at the polling places, HB 86, if enacted, will require county clerks to add a minimum of one additional staff member as well as hardware to process voters at each polling location/voting convenience center. The fiscal impact will vary in regards to the size and needs of each respective county. There are concerns regarding the ability to fund the need for additional staff as well as hardware.

SIGNIFICANT ISSUES

NCSL reports that, as of November 2018, 17 states and the District of Columbia offer Election Day registration (also known as "same day registration"). SOS states that studies indicate an increase of 5 percent on average in voter participation when individuals are allowed to register to

vote and cast a ballot at the same time. While there are many factors that contribute to this increase, SOS explains that it is prudent to attribute a portion of the rise to the convenience of being able to handle all aspects of one’s participation in democracy in one day, instead of a two-step process, with each step at least one month apart from the next.

NCSL notes that security concerns have been raised in connection with Election Day registration; however, House Bill 86 includes several of the processes employed in other states to ensure the security of Election Day and early voter registration. Those security measures include: proof of identity and residency; requiring the person desiring to register to make an oath; in-person registration; and casting of provisional ballots when the polling place or early voting site lacks real-time access to the statewide electronic voter file. In addition, New Mexico imposes criminal penalties for fraudulent voting. See, e.g., NMSA 1978, Sections 1-20-3 (registration offenses), 1-20-8 (false voting), 1-20-8.1 (fraudulent voting).

CCA states that county clerks have concerns regarding the ability of the statewide data base SERVIS to handle the volume of data entry resulting from the bill. According to CCA, the current statewide data base is not user friendly, which, in the case of same day registrants, could lead to errors on the entry end with little to no time for correction. Additionally, CCA states that clerks have concerns regarding the software security as well as server capabilities. In relation to the software, clerks also have concerns regarding statewide connectivity. CCA notes that New Mexico currently does not have the infrastructure to electronically connect all polling locations.

PERFORMANCE IMPLICATIONS

According to SOS, most early voting and Election Day polling locations currently utilize ballot on demand (BOD) systems to check in and issue a ballot to a voter. While BOD systems are not currently connected in real time with the statewide voter registration system, there is a data exchange that occurs numerous times throughout the day.

SOS is working toward implementation of additional real-time information exchanges between the systems and would require that a stable internet connection be available during voting at all polling locations, which is a challenge in many rural locations.

ADMINISTRATIVE IMPLICATIONS

SOS states that it would be required to work with the county clerks to develop procedures for uniform conduct and processing during the time in which registration and voting would be occurring simultaneously as proposed in this bill. Additionally, clerks’ staff would need to be available at early voting and Election Day locations to perform the function of voter registration, or updating the record of currently registered voters.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to:

- HB 93 Primary Election Participation by DTS Voters
- HB 292 Early Voting Voter Privacy
- HB 407 Election Law 50-Year Tune Up
- SB 52 Register to Vote Three Days Prior to Election
- SB 418 Non-Affiliated Voters in Primary Elections

Conflicts with:

SB 52, which also amends Section 1-12-8

HB 407 and SB 52, which also amend Sections 1-4-5.1, 1-4-8, and 1-12-25.4 NMSA 1978

HB 93, SB 52 and SB 418, which also amend Section 1-12-20 NMSA 1978

OTHER SUBSTANTIVE ISSUES

Section 1 of the bill as currently drafted may cause confusion regarding the conditions for registering at a polling place on Election Day vs. registering at an early voting site. Subsection A provides that a qualified elector who registers at a polling place on Election Day is required to complete a certificate of registration, make an oath, and provide proof of residency. Subsection B lists the means of proving residency “for purposes of registering at a polling place.” Subsection C provides that a qualified elector may “register to vote, upon providing proof of residence, at an early voting site....”

Because Subsection B, as currently drafted, lists the requirements for proving residency only when a person registers at a polling place, Subsection C might be interpreted to impose different or less stringent requirements for proving residency when a person registers at an early voting site. Subsection C also does not require a person who registers at an early voting site to make an oath or complete a certificate of registration. To avoid confusion or misinterpretation, the above provisions of the bill probably should be rewritten so that it is clear that the same conditions for registering, including the means of proving residency, apply to qualified electors who register at a polling place on Election Day and qualified electors who register at an early voting site.

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