LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION

April 29, 2021

TO: Honorable Briscoe Cain, Chair, House Committee on Elections

FROM: Jerry McGinty, Director, Legislative Budget Board

IN RE: **SB7** by Hughes (Relating to elections, including election integrity and security; creating criminal offenses; providing civil penalties.), **As Engrossed**

Estimated Two-year Net Impact to General Revenue Related Funds for SB7, As Engrossed : a negative impact of ($34,299,740) through the biennium ending August 31, 2023. The fiscal impact to the state related to the creation of civil penalties cannot be estimated at this time.

The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the provisions of the bill. The Secretary of State is required to implement a provision of this Act only if the legislature appropriates money specifically for that purpose. If the legislature does not appropriate money specifically for that purpose, the Secretary of State may, but is not required to, implement a provision of this Act using other appropriations available for that purpose.

General Revenue-Related Funds, Five- Year Impact:

Fiscal Year	Probable Net Positive/(Negative) Impact to *General Revenue Related Funds*
2022	($34,299,740)
2023	$0
2024	$0
2025	$0
2026	$0

All Funds, Five-Year Impact:

Fiscal Year	Probable (Cost) from *General Revenue Fund* 1
2022	($34,299,740)
2023	$0
2024	$0
2025	$0
2026	$0

Fiscal Analysis

This bill would amend the Election Code to require a voter registrar to provide notice of unlawful voting or registration to the Office of the Attorney General (OAG) and the Secretary of State (SOS), in addition to the

county or district attorney. The bill would require the SOS to monitor compliance and impose civil penalties for violations.

The bill would modify certain existing regulations related to mail ballots and would require the SOS to develop and implement a system allowing for tracking of the mail ballot system.

The bill would impose certain limits on polling place procedures and prohibit the use of direct recording electronic machines unless the system contains an auditable voting system. The bill would allow certain entities to seek reimbursement of the costs of retrofitting or replacing non-auditable voting systems.

The bill would prohibit a commissioners court from accepting certain donations of over $1,000 for use in administering elections without the written consent of the SOS.

The bill would provide for civil penalties and additional criminal offenses for certain election violations.

The bill would add a new felony offense for knowingly providing vote harvesting services, as defined in the bill, in exchange for compensation or other benefit.

Methodology

According to the SOS, the provisions of the bill that would require the agency to develop a mail ballot tracking system would require moderate programming modifications to the statewide voter registration system. In addition, according to the SOS, the provisions of the bill that would provide a reimbursement of 100 percent to certain counties that purchased non-auditable voting system equipment would have a significant fiscal impact to the state.

The SOS assumes that 47 counties that have purchased direct-recording electronic voting systems would be subject to reimbursement under the provisions of the bill. In counties using these systems, 9,492 voting machines would have to be retrofitted at a total cost of $21,635,000. Another 628 machines would have to be replaced at a total cost of $2,584,100. The total cost for replacement or retrofitting of these machines would be $24,219,100.

In addition to upgrading or replacing voting machines, counties would also be able to seek reimbursement for tabulation machines compliant with the upgraded systems. At least one scanning device would be required for each polling place. The SOS assumes that there would be one polling place for each of 1,425 precincts. In addition, scanners would also be required for an estimated 220 early voting locations. At a list cost of approximately $6,100 per scanner, the SOS estimates these reimbursements would result in an additional potential reimbursement to counties of $10,028,400.

According to the Veterans Commission, no significant fiscal impact to the agency is anticipated.

According to the OAG, the bill could result in an increase in cases; however, the agency assumes that any legal work resulting from the passage of this bill could be reasonably absorbed with current resources.

According to the Office of Court Administration, although the bill would add a new felony-level offense related to vote harvesting practices, any additional case volume driven by the bill should be absorbed by existing resources and no significant fiscal impact is anticipated.

According to the Comptroller of Public Accounts, the fiscal impact on the state cannot be estimated.

This analysis assumes implementing the provisions of the bill addressing felony sanctions for criminal offenses would not result in a significant impact on state correctional agencies.

Technology

According to the SOS, it would require 320 hours to implement the mail ballot requirements of the bill. The agency assumes a contractor cost of $132 per hour for this service and a total cost of $42,240. The agency also

assumes additional IT costs related to increased volume of services would be approximately $10,000.

Local Government Impact

According to the SOS, in addition to reimbursable equipment costs, counties would also have to secure additional software updates, perform acceptance testing of new equipment, and receive training from the vendor on the new equipment. The agency estimates the average cost to the counties for the additional training would be approximately $4,000 for a week of on-site training.

According to Hidalgo County, the cost for upgrading its existing voting system to meet the requirements of the bill would be $4.0 million for 1,419 conversions and 250 scanning machines. Of this amount, $48,515 would either not be eligible for reimbursement or would represent an ongoing operational expense.

According to Brazos County, the cost for upgrading its existing voting system to meet the requirements of the bill would be $1.7 million for 480 conversions and 60 scanning machines. Of this amount, $15,728 would either not be eligible for reimbursement or would represent an ongoing operational expense.

According to Randall County, it would cost the county $750,000 to retrofit the current system to a system that could provide a paper audit trail. The county also adds that the current system was purchased in 2017.

According to Brazoria County, the cost to retrofit the current system would be $2.6 million.

According to El Paso County, the county anticipates the fiscal impact of the bill would be between $400,000 to $600,000 per election.

According to Chambers County, the county anticipates the fiscal impact of the bill would be approximately $1.1 million.

According to Fort Bend County, the cost to the county would range from $246,000 to $350,000 per year.

A Class A misdemeanor is punishable by a fine of not more than $4,000, confinement in jail for a term not to exceed one year, or both. Costs associated with enforcement, prosecution and confinement could likely be absorbed within existing resources. Revenue gain from fines imposed and collected is not anticipated to have a significant fiscal implication.

Source Agencies: 212 Office of Court Admin, 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 307 Secretary of State, 403 Veterans Commission

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