

**STATE and LOCAL  
FISCAL IMPACT**

**Drafting Number:** LLS 14-0368 **Date:** March 20, 2014  
**Prime Sponsor(s):** Sen. Ulibarri; Johnston **Bill Status:** Senate SVMA  
 Rep. Hullinghorst **Fiscal Analyst:** Bill Zepernick (303-866-4777)

**SHORT TITLE:** UPDATE UNIFORM ELECTION CODE OF 1992

Fiscal Impact Summary*	FY 2014-2015	FY 2015-2016
<b>State Revenue</b>		
Cash Funds	Potential fee and fine revenue increase.	
<b>State Expenditures</b>	<b>\$180,154</b>	<b>\$21,484</b>
General Fund	30,000	21,484
Cash Funds	150,154	0
<b>FTE Position Change</b>		
<b>Appropriations Required:</b> \$180,154 - Multiple agencies (FY 2014-15) \$41,124 - Dept. of Corrections (FY 2014-15 to FY 2018-19)		

\* This summary shows changes from current law under the bill for each fiscal year.

**Summary of Legislation**

The bill makes several changes to the state election code, which are summarized below.

**Voter registration deadlines.** The bill creates a uniform deadline (eight days prior to election day) for most methods of voter registration in order for voters to have a ballot sent to them in the mail. The deadline for registering through a voter registration drive remains at 22 days prior to the election. Persons registering to vote after the 8th day prior to an election must be notified that they will *not* receive a mail ballot and must go to a voter service and polling center (VSPC) to vote. County clerks must process voter registration applications up to and on election day.

**Residency.** The bill broadens the applicability of various provisions concerning changes in residency to apply to any change in residence, rather than only changes from one county or precinct to another. The bill eliminates language concerning a voter's intention to make the new location his or her permanent place of residence. Instead, the bill states that residency is changed after a person has moved and made the new residence his or her sole legal place of residence.

**Criminal offenses.** The bill makes several changes concerning election-related criminal offenses. These change include:

- increasing the penalty for providing false residency information when registering to vote from a class 6 felony to a class 5 felony;
- creating a new class 5 felony for aiding or abetting a voter in providing false residency information when registering to vote; and
- creating a new class 5 felony for tampering with a ballot box, including a mail ballot drop-off box.

**Change of address searches.** The bill specifies that the Secretary of State shall conduct the national change of address (NCOA) search required under current law using the United States Postal Service address change database. In order for a change to be made to a voter registration identified in the NCOA search, the address change must be indicated as permanent. In the event of an address change within a county, the county clerk must mark the voter as active, update the registration record, and send a confirmation card. For changes of address involving post office boxes, county clerks must update the mailing address on the registration record and send a confirmation card notifying the elector of the change and stating the elector's place of residence for voting purposes. The bill gives county clerks the authority to conduct NCOA searches as frequently as they deem necessary.

**Postcard notifications.** When a voter changes his or her place of residence through the state's online voter registration (OLVR) website, the bill eliminates the requirement that county clerks send a postcard notification to the voter's former address.

**Uniform Military and Overseas Voters Act changes.** The bill makes several changes to the Uniform Military and Overseas Voters Act (UMOVA), including clarifying the timeliness of ballots cast under UMOVA; adding spouses and civil union partners of UMOVA-covered voters as being covered under the act; and eliminating and clarifying certain deadlines relating to ballot applications.

**Other changes.** The bill makes various other updates to election law, including:

- making submission of the last four digits of the voter's social security number optional for voters changing party affiliation through the OLVR website;
- changing the basis for determining the number of VSPCs that a county must operate, so that after the November 2016 election, the number of active voters is based on the number of active voters at the preceding presidential election;
- harmonizing the self-affirmation a person makes when registering to vote with the residency requirements in the bill;
- making the use of ballot stubs and duplicate stubs optional for county clerks;
- requiring signature cards to be filled out using information in the statewide voter database (SCORE), rather than completed manually by election judges;
- allowing an emergency ballot to be received by voters for non-medical reasons, including natural disasters;
- requiring the self-affirmation on mail ballots to be signed by the elector and not a person acting on the elector's behalf;
- making conforming amendments to statute concerning challenges to voter eligibility; and
- removing obsolete language.

## **State Revenue**

The bill potentially increases cash fund revenue from fees and fines, as described below.

**Fee revenue.** To the extent that the bill increases costs in the Department of State, business filing and other fees to the Department of State Cash Fund may need to be increased if sufficient funds are not available to cover the costs of the bill. The fee schedule for business filings and other services is set at the discretion of the Secretary of State; thus, the specific fees that may be adjusted or the potential amount of any potential fee increases cannot be estimated at this time.

**Fine revenue.** Beginning in FY 2014-15, this bill is anticipated to increase state revenue by less than \$5,000 per year, credited to the Fines Collection Cash Fund in the Judicial Department. The fine penalty for a class 3 felony is \$3,000 to \$750,000. Because the courts have the discretion of incarceration, imposing a fine, or both, the impact to state revenue cannot be determined at this time.

**State Expenditures**

The bill increases costs for several state agencies by **\$180,154 in FY 2014-15 and \$21,484 in FY 2015-16**. These costs are summarized in Table 1 and the discussion below.

<b>Table 1. Expenditures Under SB 14-161</b>		
<b>Cost Components</b>	<b>FY 2014-15</b>	<b>FY 2015-16</b>
Information Technology Costs (DOS)	\$132,720	\$0
Voter Registration Materials (DOS)	17,434	0
Information Technology Costs (DOR)	30,000	0
Correctional Facility Impact (DOC)	0	21,484
<b>TOTAL</b>	<b>\$180,154</b>	<b>\$21,484</b>
<b>General Fund</b>	<b>30,000</b>	<b>21,484</b>
<b>Department of State Cash Fund</b>	<b>150,154</b>	<b>0</b>

**Department of State.** The Department of State will have one-time costs totaling \$150,154 in FY 2014-15, paid from the Department of State Cash Fund. Of these costs, \$17,434 is for printing and distribution of updated voter registration forms and associated materials; \$132,720 is for information technology system modifications and hardware infrastructure testing and improvements. Specifically, system modifications are required in SCORE to eliminate the generation of certain automatic notices to voters and to make changes concerning ballot stubs and ballot inventory management. Changes are also required in the OLVR website. These programming changes require 240 hours of programming at a cost of \$103 per hour (\$24,720). Other required costs include \$48,000 for system load testing and \$60,000 for server and other hardware improvements to ensure that the OLVR website and SCORE are able to process additional voter registrations and modifications during the period immediately prior to the election.

**Department of Revenue.** The Department of Revenue will have costs of \$30,000 to make modifications to the voter registration system used by Driver's License Office staff when registering voters under the state's motor voter law.

**Five-Year Fiscal Impact on Correctional Facilities.** This bill is anticipated to increase state General Fund expenditures by an estimated \$21,484 in FY 2015-16 for the Department of Corrections (DOC). This increase assumes one offender will be convicted of a class 5 felony every five years and that each offender will have an average length of stay of 23.0 months relating to the new offense of aiding or abetting an elector in committing residency fraud. No increase in costs is expected from enhancing the existing crime of providing false residency information when registering to vote or for the new offense of tampering with a ballot box.

Current law prohibits the General Assembly from passing any bill to increase periods of imprisonment in state correctional facilities without appropriating an amount sufficient to cover the increased capital construction and operating costs of the bill in each of the first five fiscal years. However, current law also allows the DOC to place offenders classified as medium custody and below in private contract prisons, for which no state capital construction costs are incurred.

Offenders sentenced under this bill to DOC may be placed in either a state-run or a private contract prison, depending on several factors. Any offenders that *must* be housed in a state-run prison will likely require a shift of other inmates in that facility to private contract prisons. Therefore, this fiscal note assumes that the impact of this bill will be accommodated through the use of private contract prisons, and that no new capital construction funds are necessary.

Offenders placed in a private contract prison cost the state about \$58.86 per offender per day, including the current daily rate of \$53.74 and an estimated \$5.12 per offender per day for medical care provided by the DOC. No impact is expected in the first year because of the estimated time for criminal filing, trial, disposition, and sentencing. Table 3 shows the estimated cost of the bill over the next five fiscal years.

<b>Fiscal Year</b>	<b>Inmate Bed Impact</b>	<b>Construction Cost</b>	<b>Operating Cost</b>	<b>Total Cost</b>
FY 2014-15	0.0	\$0	\$0	\$0
FY 2015-16	1.0	\$0	\$21,484	\$21,484
FY 2016-17	0.9	\$0	\$19,640	\$19,640
FY 2017-18	0.0	\$0	\$0	\$0
FY 2018-19	0.0	\$0	\$0	\$0
<b>Total</b>		\$0	\$41,124	\$41,124

**Judicial Department.** This bill may create additional case filings for trial courts beginning in FY 2014-15. The fiscal note assumes that the workload increase is minor and can be accomplished within existing appropriations.

**Other Judicial Branch agencies.** To the extent that a defendant is indigent, he or she may qualify for the appointment of counsel from either the Office of the State Public Defender or the Office of the Alternate Defense Counsel. The fiscal note assumes any workload increase will be minimal and can be accomplished within existing appropriations.

**Comparable Crime**

Pursuant to Section 2-2-322 (2.5), C.R.S., Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of the existing crime that creates a new factual basis for the offense. There are several offenses similar to those created or enhanced in this bill. These comparable crimes and their history are provided below. No gender or minority data is available.

There have been no convictions over the last five years for the existing class 6 felony for providing false residence information when registering to vote. This is expected to continue, with no convictions under the enhanced penalty for this offense under the bill. Concerning tampering with a ballot box, there have been no convictions over the last five years for similar offenses involving tampering with voting machines or interfering with an election official. Thus, no convictions are expected for this offense.

For aiding and abetting a voter in providing false residency information, no directly comparable crime exists beyond the existing general conspiracy offenses (conspiring to commit a class 5 felony or class 6 felony is a class 6 felony). There have been three offenders convicted and sentenced to a DOC facility for conspiracy, although it is not readily available what the underlying offense is for these convictions. While there have been no convictions for electors providing false information when registering to vote, this does not preclude the possibility of a conviction of an aiding and abetting offenses in this area. Further, because of recent changes in election law and heightened attention to this issue, the fiscal note estimates that there may be one conviction every five years.

### **Local Government Impact**

The bill will increase workload and costs for county clerks in conducting elections in some areas, but will result in cost savings in others. The impact on county clerks is discussed below.

***Voter registration processing.*** County clerks will have additional costs to process more applications received from additional methods of voter registrations up to and including election day. In addition, by allowing more methods of registration where a voter can receive a mail ballot after submitting an application between the 22nd day (current law) and 8th day (the bill) before an election, more mail ballots will need to be sent and registrations may need to be processed in an expedited manner to ensure the mail ballot is received in a timely manner prior to election day. This could require additional temporary staff in the period prior to the election.

***Voter service and polling centers.*** Some counties may be required to operate additional VSPCs under the bill. Under current law, the the number of VSPCs is calculated using the number of active voters, which can vary over time. The bill sets the basis for determining the number of VSPCs as the number of active voters at the 2012 general election, or in elections after 2016, the preceding presidential election. Given that these elections will have higher turn-out than off-year elections, some counties may be required to have more VSPCs than they would have under current law.

***Postcard notifications.*** Eliminating the postcard sent to a voter's old address after they update their place of residency on the OLVR website will result in cost savings to counties, which will vary by population and use of the website.

### **Effective Date**

The bill takes effect upon signature of the Governor, or upon becoming law without his signature, and applies to elections conducted on or after this date.

**State Appropriations**

The bill requires the following appropriations in FY 2014-15:

- \$150,154 to the Department of State from the Department of State Cash Fund; and
- \$30,000 General Fund to the Department of Revenue.

In addition, the Department of Corrections requires the 5-year appropriation shown in Table 2 above.

**State and Local Government Contacts**

State  
Revenue  
Municipalities

Judicial  
Counties  
Special Districts

Corrections  
County Clerks