

Fiscal Estimate - 2009 Session

Original
 Updated
 Corrected
 Supplemental

LRB Number 09-4558/1	Introduction Number SB-640
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Description
 Various changes in election laws, granting rule-making authority, and providing penalties

Fiscal Effect

State:

- | | | |
|---|---|---|
| <input type="checkbox"/> No State Fiscal Effect | <input type="checkbox"/> Increase Existing Revenues | <input checked="" type="checkbox"/> Increase Costs - May be possible to absorb within agency's budget
<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

<input type="checkbox"/> Decrease Costs |
| <input checked="" type="checkbox"/> Indeterminate | <input type="checkbox"/> Decrease Existing Revenues | |
| <input type="checkbox"/> Increase Existing Appropriations | | |
| <input type="checkbox"/> Decrease Existing Appropriations | | |
| <input type="checkbox"/> Create New Appropriations | | |

Local:

- | | | |
|---|--|--|
| <input type="checkbox"/> No Local Government Costs | | |
| <input checked="" type="checkbox"/> Indeterminate | | |
| 1. <input checked="" type="checkbox"/> Increase Costs | 3. <input type="checkbox"/> Increase Revenue | 5.Types of Local Government Units Affected
<input checked="" type="checkbox"/> Towns <input checked="" type="checkbox"/> Village <input checked="" type="checkbox"/> Cities
<input checked="" type="checkbox"/> Counties <input type="checkbox"/> Others
<input checked="" type="checkbox"/> School Districts <input checked="" type="checkbox"/> WTCS Districts |
| <input type="checkbox"/> Permissive <input checked="" type="checkbox"/> Mandatory | <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | |
| 2. <input type="checkbox"/> Decrease Costs | 4. <input type="checkbox"/> Decrease Revenue | |
| <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory | |

Fund Sources Affected	Affected Ch. 20 Appropriations
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GPR
 FED
 PRO
 PRS
 SEG
 SEGS 20.511

Agency/Prepared By GAB/ Nathaniel Robinson (608) 267-0715	Authorized Signature Kevin Kennedy (608) 266-8005	Date 4/6/2010
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Fiscal Estimate Narratives

GAB 4/6/2010

LRB Number	09-4558/1	Introduction Number	SB-640	Estimate Type	Updated
Description Various changes in election laws, granting rule-making authority, and providing penalties					

Assumptions Used in Arriving at Fiscal Estimate

A review of SB640 and AB895 indicates that the initiatives identified by the Legislative Reference Bureau in both bills will at least require additional costs for the Government Accountability Board (Board) to educate, train, and provide technical assistance support to voters and clerks - the targeted audiences that will be impacted by provisions in SB640 and AB895. Additional costs will also be incurred by local governmental units.

The capability and capacity building in the Statewide Voter Registration System (SVRS) in order to implement the technical requirements necessary to address some of the initiatives mandated by SB640 and AB895 will require substantial costs.

1. Voter Registration

Both bills (SB640 and AB894) call for the automatic registration of voters, using information from the Department of Transportation and other State agencies. Both bills also allow for intrastate and interstate sharing of voter information between agencies. This initiative is not included in the Wisconsin 2009-2014 Election Administration Plan approved by the Wisconsin Legislature's Joint Committee on Finance in October 2009, and subsequently approved by the U. S. Election Assistance Commission in mid-December 2009. As such, no staffing, infrastructure, development, voter outreach, or training costs associated with automatic registration are budgeted in the Wisconsin 2009-2014 Election Administration Plan. If implemented, the Board will have to incur infrastructure and staff costs to develop mechanisms for file sharing and maintenance of the exchange of information.

Board staff has not yet solicited formal information from vendors and experts. However, the Board's IT staff has determined that an upgrade to the Statewide Voter Registration System (SVRS) will be required in order to build capacity for an infrastructure to process intrastate and interstate voter information data shared between agencies. Creating this functionality in SVRS could cost up to \$1 million dollars. The engineering and architectural changes that need to be designed and tested before being put into production could take between six and twelve months to complete.

Considerations for Determining Cost:

X The Omnibus Bill requires DOT to give the G.A.B. an electronic transfer of their data. This is fundamentally different than a HAVA Check for which the G.A.B. only receives a response code but no actual data. This would be an entirely new process.

X The G.A.B. is required to determine who on the voter list is an "unconfirmed" eligible elector. This includes determining which database has the most current information.

X The information can then be confirmed by the voter (G.A.B. format). The confirmation or "opt in" can be accomplished:

1. On-line
2. By Mail
3. In person in the clerk's office
4. On Election Day.

The voter also has the option to "opt out." This means that they will never appear on the registration list.

X The language in SB640 and AB895 suggests that there is or will be "On-line Voter Registration."

X Somehow, the voter has to know that there is a confirmation available. The G.A.B. is directed to contact

voters to clarify their registration information.

SVRS will have to accommodate non-confirmed voter data. The non-confirmed voter information needs to be available at the polling place, which could mean larger poll books. Voter Public Access (VPA) would need to be expanded to allow the voter to find the non-confirmed information and then confirm it to become a registered voter.

Cost Analysis:

1. There is a DOT cost that is undetermined and not part of this cost analysis.
2. Local election officials will need training, and there is an undetermined increase in the cost of poll books to accommodate access to non-confirmed voters at the polling place.
3. A main cost to the G.A.B. includes re-tooling SVRS to handle the DOT's and other agencies' electronic transfer of data and performing the required matching and potential eligibility of the voter. SVRS will have to be able to handle the increased functionality of the "unconfirmed" voter and for VPA to allow voters to access the information to "opt in" or "opt out." There is also the cost of the expectation to contact voters (postage) for clarification.
4. Estimated Cost for Postage: Assuming over one million potential permanent absentee voters may have to be contacted via mail, the postage alone could go as high as \$1,171,017 (1,115,254 pieces of mail at \$1.05 per piece).

The \$1.05 amount per piece of mail is the actual cost that some clerks spent for mailing absentee ballots to voters for the April 6, 2010, Spring Election. The total cost is arrived at by adding together the amounts for the outgoing and return mail postage costs, i.e.

Outgoing Mail Cost: \$.61
Return Mail Cost: \$.44
Total Cost: \$1.05

5. Estimated SVRS Retooling: The cost for retooling the G.A.B.'s SVRS is estimated to be at least \$1,000,000.

PEW's role in Voter Registration Modernization

X The PEW Charitable Trusts Foundation is promoting the concept of a mega-database that would exchange data with multiple state agencies and populate a list of potential "eligible voter" data to be used by the state to review and use for non-confirmed voter records.

X The mega-database is nicknamed "ERIC." It does not currently exist. It is only conceptual at this time.

X It is unclear who would manage this database. PEW thinks it will be a consortium of states. Some think the PEW should manage it.

X If ERIC is available in time for Wisconsin to meet the requirements of the Omnibus Bill, the G.A.B development cost would likely be reduced for the required matching functionality.

This estimate does not include maintenance costs. Additional education, training and technical support to Wisconsin's 1,851 municipal clerks and 72 county clerks as well as other local election officials, i.e. Chief Election Inspectors, will also have to be developed and delivered, but would be absorbed by the G.A.B.'s resources.

2. Absentee Voting

State Impact -

Wisconsin currently permits military voters and electors who are indefinitely confined due to age, illness or disability to automatically receive absentee ballots. In addition, any voter may request an absentee ballot be automatically sent to them for every election in a calendar year.

SB640 and AB895 would permit voters to request an absentee ballot for all elections. This is an approach used in many other states to reduce the congestion at the polling place in large elections as well as facilitate

participation in low turnout elections. It also reduces the need for increased poll workers at large turnout elections.

Some absentee voting provisions in SB640 and AB895 are included in the Wisconsin 2009-2014 Election Administration Plan and are intended to be funded under that approved authority of that Plan. It should be noted that the Federal Military Overseas Voter Empowerment (MOVE) Act signed into law by the President in late October 2009, requires states, including Wisconsin, to develop a system for tracking absentee ballots online (or toll free).

At the time the Wisconsin 2009-2014 Election Administration Plan was developed and approved, the Board was aware of the developing MOVE Act and summarized its concepts into its five-year Plan. During that time, the U. S. Congress was considering authorizing a separate appropriation to fund implementation of the MOVE Act. In the final analysis, MOVE was passed and signed into law without a supporting Federal funding appropriation. For now at least, states are authorized by the U. S. Election Assistance Commission to use existing "Requirements Payments" (Federal funds to maintain compliance with the Help America Vote Act (HAVA) of 2002) to implement the MOVE Act.

SB640 and AB895 would implement the Military and Overseas Voters Empowerment (MOVE) legislation. MOVE requires a 45-day transit time for the mailing and return of absentee ballots to military and overseas electors. Given the short period of time between our September primary and the general election in November, Wisconsin has adopted a number of administrative initiatives to facilitate the transmittal and return of absentee ballots to military and overseas electors.

MOVE permits states that are unable to guarantee a 45-day transit and return for these absentee ballots because of the timing of its primary to request a waiver for each election. The G.A.B. has authorized the Director and General Counsel to apply for a waiver on behalf of the State. SB640 and AB895 also direct the G.A.B. to study the issue and report back to the Legislature at the beginning of 2011 on the impact of changing the date of the partisan primary.

In order to improve the absentee balloting process as envisioned in the 2009-2014 Election Administration Plan, and in order to add a tracking functionality as required by the MOVE Act, Wisconsin's Statewide Voter Registration System (SVRS) will have to be retooled and modified. Currently, clerks must issue labels and scan the barcode on each address label to record in-person absentee ballots as having been issued and returned. The software code will have to be modified to automatically mark in-person absentee ballots as having been issued and returned, whether or not the clerk prints out a label.

SVRS currently allows clerks to issue an absentee label directly from the voter record, but vital fields are missing. For example, there is no place to indicate whether the absentee ballot was cast in-person or via mail. The software code would have to be modified to make this feature work correctly. Similarly, there is currently no functionality that allows voters, especially military and overseas voters to track their ballot while in transit, as required by the MOVE Act.

Although Board staff have not solicited formal information from vendors and experts, the Board's IT staff, working in consultation with the Board's IT partners (Department of Administration, Division of Enterprise Technology), estimate the cost to upgrade SVRS to allow for the planning and capacity building of infrastructure of a monitoring and tracking information functionality could range between \$500,000 and \$1 million dollars, and could take up to a year for the technical engineering and architectural changes to be designed, tested, and put into production.

This estimate does not include maintenance costs. Additional education, training and technical support to Wisconsin's 1,851 municipal clerks and 72 county clerks as well as other local election officials, i.e. Chief Election Inspectors, will also have to be developed and delivered.

Local Impact -

Under the authority of the Legislatively-approved the 2009-2014 Election Administration Plan, the Board will sustain and absorb additional staff costs for providing education, training and support provided to local election officials (LEOs) regarding standards for complying with both the permanent absentee provision of Absentee Voting called for in SB640 and AB895. The Board will also absorb the retooling costs required in the SVRS in order to provide capacity to track military and overseas absentee ballots as required by the MOVE Act.

The ability of any elector to become a permanent absentee voter, however, will create additional costs at the municipal level for administrative functions such as postage, printing and additional staff needed at the

clerk's office and polling place. Other changes in absentee procedure may incur similar costs at the municipal level as well.

Currently, there are approximately 3.4 million eligible voter records in the SVRS. Given the fact both that SB640 and AB895 give the ability to any elector to become a permanent absentee voter, just the back-and-forth postage alone would be exorbitant for Wisconsin's 1,851 cities, towns and villages.

The cost of postage, at \$1.05 per piece of mail, is the actual cost that some clerks spent for mailing absentee ballots to voters for the April 6, 2010, Spring Election. The total cost per piece is arrived at by adding together the amounts for the outgoing and return mail postage costs, i.e.

Outgoing Mail Cost: \$.61
Return Mail Cost: \$.44
Total Cost: \$1.05

To illustrate the fiscal effect that increasing numbers of permanent absentee voters would have on Wisconsin's 1,851 cities, towns and villages using actual 2010 absentee ballot mailing costs, we provide the following examples:

X The number of regular absentee ballots issued for the November 2008 Presidential and General Election: 675,912

X If this number of absentee voters (675,912) were to request to become permanent under this bill, the cost to locals for postage, at \$1.05 per piece, would be \$709,708.

X If the number of 2008 absentee voters who wanted to become permanent increased by 10%, the number of absentee ballots would escalate to 743,503, at an estimated cost of \$780,678.

X If the number of 2008 absentee voters who wanted to become permanent increased by 20%, the number of absentee ballots would escalate to 892,203, at an estimated cost of \$936,813.

X If the number of 2008 absentee voters who wanted to become permanent increased by 30%, the number of absentee ballots would escalate to 966,554, at an estimated cost of \$1,014,882.

X If the number of 2008 absentee voters who wanted to become permanent increased by 40%, the number of absentee ballots would escalate to 1,040,904, at an estimated cost of \$1,092,949.

X If the number of 2008 absentee voters who wanted to become permanent increased by 50%, the number of absentee ballots would escalate to 1,115,254, at an estimated cost of \$1,171,017.

There are options that the Legislature could take to lessen the financial burden on municipalities. The first would be to require the return postage be paid by the voter for all absentee ballots except military voters. Overseas voters are already required to pay the costs to return their voted ballots. Wisconsin law permits an absentee ballot to be hand-delivered to the municipal clerk's office or the polling place. This is one small step that could yield significant cost savings for local election officials.

The second option is to require permanent absentee voters who do not return an absentee ballot after the primary to remain on the list unless the voter also fails to return an absentee ballot for the election associated with the primary.

The third option is that the State of Wisconsin could assist municipalities with these extra postage expenses by allowing municipalities to tap into the sum sufficient election related cost reimbursement appropriation, i.e. 20.511 (1) (b) Election-related cost reimbursements.

3. Deceptive Election Practices

SB640 and AB895 expand prohibitions in the area of deceptive election practices which the Board would be responsible for investigating. Costs include staff time to develop and promulgate rules concerning those prohibitions, as well as investigate and prosecute violations. In May 2009, Board staff prepared an analysis and fiscal estimate for 2009 SB179 and AB248 bills. The Legislative intent of these two former bills is the same as the deceptive elections practices provision in SB640 and AB895.

Currently, the G.A.B. has two full-time staff attorneys fully dedicated to other rule-making and legal functions. The addition of one full-time staff counsel, dedicated to this study of providing corrective

information to the public, and the deceptive practices' requirements will ensure that the requirements are met and enable the G.A.B. to monitor compliance with the rules. In addition, the administrative support positions of the agency have been understaffed for over a decade. The addition of one full-time administrative support person will ensure that the requirements of the legislation are met and sustained.

Fiscal Analysis:

Annual Cost Estimates

A. Staff:

Hrly. Salary Hours FTE Ann. Salary Fringe Benefits

One add. staff counsel: \$39.65 2,080 \$82,474 \$35,878
One add. elec. specialist: \$22.00 2,080 \$45,760 \$19,906
One add. admin. support: \$13.69 2,080 \$28,484 \$12,390

Total annual cost of salaries and benefits: \$156,718 \$68,174

B. Contract Investigators:

Even-numbered years (4 elections): \$200,000 to \$400,000
Odd-numbered years (2 elections): \$100,000 to \$200,000
Special elections: Indeterminate

C. Advertising: Indeterminate

In addition, note that under the Board's sum sufficient investigations appropriation, 20.511 (1) (be) Investigations. The costs for investigations and prosecution of deceptive election violations under SB640 and AB895 could be absorbed from this appropriation.

4. Voter Intimidation Suppression and Protection / Polling Place Posting Requirements

SB640 and AB895 require the creation of new notices to be posted as well as the development and promulgation of a voters' bill of rights. This means the Board will incur costs for initial creation and production of notices. Creating a voters' bill of rights, is one of the many voter services embedded in the State's 2009-2014 Election Administration Plan (pages 40-44).

Both the creation and posting of certain notices and the development and promulgation of a voters' bill of rights can be absorbed under authority of the approved 2009-2014 Election Administration Plan. Additionally, the publishing of voter informational materials in languages other than English as required by Federal law will also be absorbed.

A full time position has been requested from the Department of Administration, to develop and manage the Board's Voter Services Program. The Board's position request is under consideration. The classification and budgeted compensation for this position is Elections Specialist and the salary (\$58,009), plus fringe (\$25,234) is \$83,243.

5. Prosecution of Civil Prohibited Practice Offenses

SB640 and AB895 permit the Board to prosecute certain election offenses. If the Board chooses to exercise this right, significant staff time to research and prosecute violations will be required. Refer to the response for Section 3, "Deceptive Election Practices."

6. Challenging the Ballots of Electors at Polling Places

SB640 and AB895 should have no significant cost impact at the State or local level.

7. Withholding of Voluntarily Provided Elector Information

SB640 and AB895 should have no significant cost impact at the State or local level.

8. Automatic Tabulating Equipment Testing

SB640 and AB895 have no significant cost impact at the state or local level.

9. Proof of Residence by Certain Statutes

SB640 and AB895 should have no significant cost impact at the state or local level.

Long-Range Fiscal Implications

While a lot of the major estimated costs to implement the Voter Protection Act will be a one-time expenditure for initial retooling and upgrading, ongoing maintenance costs must be considered. Federal funds are available to absorb the initial retooling and upgrading and related staffing costs. Federal funds, however, are limited and their availability is finite. The State of Wisconsin should start preparing for picking-up all costs associated with the necessary funding for maintaining the ongoing implementation of SB640 and AB895.