Fiscal Note   **2023-2024 Legislative Session**

SF1191 - 1E - Elections Administration

Chief Author:	**Bonnie Westlin**
Commitee:	**Elections**
Date Completed:	**3/6/2023 10:17:12 AM**
Agency:	Secretary of State

State Fiscal Impact	Yes	No
Expenditures	X	
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X

Local Fiscal Impact	X	

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative.
Reductions shown in the parentheses.

State Cost (Savings)			**Biennium**		**Biennium**	
Dollars in Thousands		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund		-	39	1	1	1
Restrict Misc. Special Revenue		-	-	-	-	-
	Total	-	39	1	1	1
	Biennial Total			40		2

Full Time Equivalent Positions (FTE)			**Biennium**		**Biennium**	
		FY2023	FY2024	FY2025	FY2026	FY2027
General Fund		-	.2	.1	.1	.1
Restrict Misc. Special Revenue		-	-	-	-	-
	Total	-	.2	.1	.1	.1

LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature:	Jim Carlson	**Date:**	3/6/2023 10:17:12 AM	
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State Cost (Savings) Calculation Details

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions are shown in parentheses.

*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2			Biennium		Biennium	
Dollars in Thousands		**FY2023**	**FY2024**	**FY2025**	**FY2026**	**FY2027**
General Fund		-	39	1	1	1
Restrict Misc. Special Revenue		-	-	-	-	-
	Total	-	**39**	**1**	**1**	**1**
	Biennial Total			**40**		**2**
1 - Expenditures, Absorbed Costs*, Transfers Out*						
General Fund						
Expenditures		-	61	1	1	1
Absorbed Costs		-	(22)	-	-	-
Restrict Misc. Special Revenue						
Expenditures		-	6	-	-	-
Absorbed Costs		-	(6)	-	-	-
	Total	-	**39**	**1**	**1**	**1**
	Biennial Total			**40**		**2**
2 - Revenues, Transfers In*						
General Fund		-	-	-	-	-
Restrict Misc. Special Revenue		-	-	-	-	-
	Total	-	**-**	**-**	**-**	**-**
	Biennial Total			**-**		**-**

Bill Description

This legislation makes changes to various provisions of law governing election administration.

- Section 1: Provides that a ballot and related materials for a Safe At Home participant can be prepared and delivered by Office of the Secretary of State (OSS) from either the materials provided by a county auditor, or from the materials maintained in the Statewide Voter Registration System (SVRS).

- Section 2: Allows the creation of application program interface for the submission of voter registration applications on the online voter registration tool.

- Section 3: Adds residential treatment, assisted living facilities, and adult foster care programs to the types of residential facilities whose staff can vouch for a those living there on election day.

- Sections 4, 5, 8, 10, 11, 13, 14, 30, 35, 40, 41, 43, 55, 58, 59, & 67: Provides a terminology update, to refer to a place where a voter "maintains" or "maintained" "residence" rather than a place where the voter "resides" or "resided." Minnesota law in Minn. Stat. 200.031 defines voter eligibility based on where a voter "maintains residence."

- Sections 6, 22, 27, 28, 29, 36, 43, 44, & 64: Provides that direct balloting and the processing of absentee ballots can begin 14 days before the election, and makes necessary conforming changes.

- Section 7: Provides that the list of individuals who selected a particular party ballot in the presidential nomination primary is only available to that party.

- Section 9: Makes a technical change to the process for challenging voter registration applications that failed the initial verification against government databases. Under M.S. 201.121 subdivision 1, County Election administrators are required to compare the voter's name, date of birth, and driver's license number, state identification number, or the last four digits of the Social Security number with the same information contained in the Department of Public Safety database. For voters that cannot be verified, the county is required to send a notice of incomplete registration and change the voter status in SVRS to "incomplete." SVRS does not have an "Incomplete" status. Instead, SVRS has a "Challenged Unverifiable" status.

- Section 12: Provides additional timing and other procedural requirements around the process for the public changing

voter eligibility prior to election day. Specifically, it clarifies that a petition may only challenge one individual, and provides the information required in the petition, as well as notice requirements to the potentially impacted voter.

- Section 15: Clarifies that a preferential ballot at state major party caucuses is only required during the year when the governor's office is on the ballot. Currently the language in the statute just refers to a preferential ballot for Governor but does not limit it to the year when the Governor is up for election. This change simply clarifies that the preferential ballot is only required for years where the election of governor is on the state general election ballot.

- Section 16: Defines the term "utility worker" for purposes of the state's absentee voting laws. This definition is used in the following section, granting certain absentee voting rights to workers deployed during the voting period for an election.

- Section 17: Authorizes trained or certified emergency response providers and utility workers to vote by absentee ballot or using the UOCAVA process, if deployed during the absentee voting period or on election day.

- Sections 18 and 19: Extends the time for an absentee voter to return their ballot from 3:00 p.m. to 8:00 p.m. on election day to the county auditor.

- Section 20 and 21: Reorganizes language related to the designation of in-person absentee ballot polling places. The requirements for these designations remain unchanged.

- Section 23: Permits local elections officials to engage in absentee voting activities in state veterans homes and in certain shelters for battered women, in the same manner as permitted in hospitals and other health care facilities.

- Section 24: Extends the time period for delivering absentee ballots from 20 days to 45 days for those listed in section 24.

- Section 25: Extends the deadline for requesting and delivering an agent delivery ballot to 8:00 p.m. on election day.

- Section 26: Removes the prohibition on sharing the names of individuals who have a rejected absentee ballot and makes them available to the public in the same manner as the public information list.

- Section 31: Amends the affidavit of candidacy to strike the various exceptions to the prohibition on filing for more than one office. The stricken language was moved to section 34.

- Section 32: Provides that a candidate must provide an email address unless the candidate does not have an email address.

- Section 33: Clarifies the eligibility requirement for judges and justices serving on Minnesota state courts. Minnesota has a mandatory retirement age of 70 for Judges. Adding this provision would prevent a judicial candidate from filing who would not be eligible to hold the office by the first Monday in January, which would be the first day of the term and this would make the statutes in alignment with the Supreme Court Rulings.

- Section 34: Specifies the situations in which a person may file for more than one office, incorporating the deleted text from section 31.

- Section 36: Allows a city or town to adopt a resolution to determine when write-in votes must be counted. Requires presidential candidates requesting write-in votes to be counted to include the name of the candidate for vice president.

- Section 37: Clarifies that the existing law establishing procedure for filling a vacancy in nomination for an office does not apply to candidates for election to a federal office. This is to conform Minnesota law with a United States' District Court decision invalidating this statutory section with respect to federal contests.

- Section 38: requires the county auditor to notify the secretary of state when polling places are combined or when combined polling places are separated.

- Section 39: Modifies standards for when a local government must adopt an ordinance or resolution designating a polling place for each precinct. Rather than requiring an ordinance or resolution every year, a local government would only be required to adopt an ordinance or resolution if a polling place has changed.

- Section 42: Authorizes the option of mail balloting for all towns, and all cities with fewer than 400 registered voters, regardless of their geographic location in the state. Under current law, these towns and cities are only eligible if they are located outside of a metropolitan area county.

- Section 44: Authorizes a mail election ballot to include both a special election question and candidates for office if there are overlapping municipal and school district jurisdictions and one of those jurisdictions has a question on the ballot. Current law prohibits offices from appearing on the ballot at a mail-only special election conducted for the purpose of submitting a ballot question to the voters.

- Section 45: Provides that challengers in the polling place must not converse with voters. Strikes the allowance for challengers to speak to voters about eligibility to vote.

- Section 46: Eliminates the three-person limit on the number of voters a person can assist on election day. This limit was

the subject of court decision finding that this limit was preempted by federal law and unenforceable.

- Section 47: Codifies what is already in rule, that a precinct summary statement must include the number the number of election judges
- Section 48: Provides that if the sealed envelopes containing ballots are opened pursuant to court order or statute, the auditor must re-seal the envelope and sign them.
- Section 49: Allows a canvassing board to direct a recount official to make images of challenged ballots available to the public.
- Section 50: Requires that the county canvassing board, upon identifying an obvious error, instruct the county auditor to seek a remedy in the district court. Previous state law required the county to notify an impacted candidate and placed the burden of seeking a remedy on the impacted candidate.
- Section 51: Extends the races that must be placed on the nonpartisan primary ballot to city and school races if a primary is held.
- Sections 52, 53, & 54: Extends the period for conducting a special election to fill a vacant legislative seat by two weeks, in cases where an expedited process is required in order to allow the person elected to be seated quickly for a legislative session. This ensures that voters in mail ballot jurisdictions and absentee voters have an opportunity to participate in the election.
- Sections 56 & 57: Requires municipal and school district clerks to notify the secretary of state when polling place hours are changed for municipal elections.
- Sections 60 & 61: Requires municipalities to continue to use electronic voting systems once they have started using them.
- Section 62: Provides clarification on what data is public from cast vote records.
- Section 63: Clarifies that voters voting under the Safe at Home address confidentiality program procedures must be permitted to cast a ballot using those procedures at the presidential nomination primary.
- Section 66: Corrects a cross reference in state statute.

Assumptions

This legislation largely makes technical and clarifying changes, but some changes will require programing changes to SVRS.

- Section 1 permits, but does not require, that OSS use data from SVRS to provide a ballot to a Safe at Home voter. This note assumes that Safe at Home staff will only use that procedure when a county fails to provide a ballot in a timely manner or when a participant enters the program close to the end of a voting period. The cost to the program would be de minimis, the cost of printing a single double-sided sheet of paper.
- Section 2 permits, but does not require, the creation of an application program interface. For this reason, the OSS does not assume costs associated with this at this time.
- Section 4 requires the OSS to update language on the online voter registration application. There will be minor programing costs associated with changing the language, but more significant costs associated with translating that change into the other languages that the OSS supports. Because the OSS has made a policy decision to translate this online tool into multiple languages and supports that policy decision with the use of Help America Vote Act (HAVA), the OSS will absorb those additional costs through HAVA funding.
- Section 7 requires that the OSS only provide each major party data associated on those voters that selected their major party ballot in the presidential nomination primary. This change will require minor programing changes to the report provided at the conclusion of the presidential nomination primary.
- Sections 16 and 17, depending on the method of implementation, will have programing costs associated with tracking this eligibility category in SVRS. This note assumes that this category of voter will need to be separately tracked within SVRS because, while they are now being allowed to use UOCAVA voting procedures, they are not UOCAVA voters for the purpose of federal reporting requirements.
- Sections 6, 22, 27, 28, 29, 36, 43, 44, and 64, which provide for direct balloting and processing of absentee balloting starting 14 days before the election will require some minor programing changes to implement in SVRS.
- Section 26 will require the creating of a new report, which will result in minor programming costs.
- Section 39, removing the metro county prohibition on townships and small cities adopting voting by mail may have some smaller programing costs.

The OSS assumes that all these programing changes will need to occur either concurrently or in quick succession. To accommodate this and the necessary work that comes with this (release management, concurrent code review, meetings, etc.), the OSS assumes an additional 25% of contingency time that will be necessary to implement these policies concurrently.

Several provisions will require conforming rulemaking. The OSS regularly conducts rulemaking, and so the costs of this additional rulemaking can be included in the standard costs the OSS would already incur in the periodic rulemaking process. The OSS would absorb any rulemaking costs, representing approximately $21,500, based on previous estimates from the Office of Administrative Hearings.

The changes in this legislation will also require updating training and manuals and guides. However, updates to training, manuals, and guides are currently made periodically, and so these changes will be noted in the next round of trainings and guide updates.

Expenditure and/or Revenue Formula

Section 4				
Language Change Cost	OSS IT	4 hours		
	QA	7 hours		
		Total Hours: 11 hours		
		11 hours @ $100/hour =	$1,100	
Translation Computing Costs	ED Business Analysis	4 hours		
	OSS IT	16 hours		
	QA	16 hours		
		Total Hours: 36 hours		
		36 hours @ $100/hour =	$3,600	*Absorbed through HAVA Funds*
Translation Costs	Print/Electronic Translations	$2,000	$2,000	*Absorbed through HAVA Funds*
Section 7				
Changes to the Presidential Primary Report	OSS IT	22 Hours		
		22 hours @ $100/hour =	$2,200	

Sections 16 and 17				
Changes to Eligible UOCAVA Voters	ED Business Analysis	80 hours		
	OSS IT	56 hours		
	QA	60 hours		
		Total Hours: 196 hours		
		196 hours @ $100/hour =	**$19,600**	
Sections 6, 22, 27, 28, 29, 36, 43, 44, and 64				
Changes to Direct Balloting and Absentee Processing Timelines	OSS IT	16 Hours		
		16 hours @ $100/hour =	**$1,600**	
Sections 26				
Public Data List Report Costs	ED Business Analysis	10 hours		
	OSS IT	40 hours		
	QA	10 hours		
		Total Hours: 60 hours		
		60 hours @ $100/hour =	**$6,000**	
Section 39				
Changes to Vote By Mail Jurisdiction Eligibility	OSS IT	8 hours		
		8 hours @ $100/hour =	**$800**	
Rulemaking	Cost of noncontroversial rulemaking		**$21,500**	*Absorbed as part of annual rulemaking*

Contingency		25% of Development Time	**$8,175**	
		Total Cost	**$66,575**	
		Costs Absorbed	**$27,100**	
		Total General Fund Costs	**$39,475**	

Long-Term Fiscal Considerations

The vast majority of the costs in this bill are one-time programing changes. The OSS estimates ongoing maintenance costs at 20% each year, representing $1,252 of maintenance each year.

Local Fiscal Impact

Many of the changes impacting local governments, such as voting by mail, that may have costs are permissive and not mandatory. The requirement to administer absentee voting at additional locations will have costs related to staff time to coordinate this outreach and hiring and paying election judges. The other changes would either provide cost savings or be cost neutral to local governments.

References/Sources

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