CONSIDERATION OF SENATE BILL 14 1/25/2011

MS. McGEETHAN: I think that's basically correct. The purposes -- you know, showing ID today is only for purposes of proving who you are. It's not to prove where you live. So independent from the requirement to show ID, either certificate or one of the other authorized ID, there's a separate requirement in the code where the election -- where the poll worker has to ask every voter "Have you moved," so regardless of what ID they show. And if they say yes, they've moved, then they have to sign a statement of residence and update their information. If they say no, they haven't, they still live at the address on the list of registered voters, then they are permitted to vote.

SEN. DAVIS: And what is your understanding of whether -- how or whether that would change under the requirements of the new bill if everyone now is going to come in with a state-issued ID or a driver's license? If the address on that ID does not match the address that's on the voter file, how is that to be handled going forward if this bill were to pass into law?

MS. McGEETHAN: My current understanding is that that process wouldn't change, that the purpose of SB 14 is, again, just to prove up ID, not prove where you reside.
SEN. DAVIS: And what steps would the Secretary of State's Office engage in to assure that the ID wasn't being used to establish an understanding of the voter's residency?

MS. McGEEHAN: Would definitely, I think, be included in our training materials to emphasize that.

SEN. DAVIS: Currently, is there any information that the Secretary of State's Office gathers that breaks down by category voters in the state? And when I say "by category," I mean by race, by gender, by disability, by age.

MS. McGEEHAN: We have some information.

We have -- we have age for sure. On gender -- we have some information on gender, but it's not conclusive because gender is now -- it used to be a required element on the voter registration application. In 1995, it was taken -- or it became optional after the National Voter Registration Act. So we have some data on gender, but, again, it's not complete.

Regarding ethnicity, we really -- we don't have any information like that because it's not collected when a person applies to register to vote. The only data that we do have is we do have the number of voters that have an Hispanic surname. And so we can run the list of registered voters against this list of
CONSIDERATION OF SENATE BILL 14 1/25/2011

Hispanic surnames that is provided by the census department.

SEN. DAVIS: I'm sure you understand that one of the sensitive issues that will arise as a consequence of this legislation will be a question as to whether the implementation of this law creates a disproportionate impact on minorities, on seniors, on the disabled, on women. How will the Secretary of State's Office work to be able to answer those questions when they are asked if we currently don't track that data? And is there an intention to track it going forward?

MS. McGEEHAN: When we changed the voter registration application in '94, '95, due to the National Voter Registration Act, there was a long discussion regarding this issue of whether the state application should request a voter's race. The determination at that time, based on feedback from all the stakeholders, was not to do it because the thought was that might be intimidating to a minority voter, "Why are you asking, you know, what my ethnicity is? It doesn't impact whether I can register or not."

We can revisit that issue because in order to provide data, you know, if the legislature wants data like that from the Secretary of State's Office, we have
to have some way to collect it. So we could revisit
putting that question or adding that as a question to
the voter registration application. I'd be happy to
visit on ways where we could try and collect that, but
right now we would not have the tools that we would need
to be able to collect that data.

SEN. DAVIS: It seems rather important as
implementation of this law advances that that
information be made available for the Justice Department
review as well as any judicial review that might occur
in terms of the impact of the implementation of the law.

I believe that's all the questions I have
for you. Thank you so much.

MS. McGEEHAN: Thank you.

CHAIRMAN DUNCAN: The Chair recognizes
Senator West.

SEN. WEST: Thank you very much,
Mr. Chairman. Many of the questions Senator Davis has
already asked, but have you had a chance to look at the
bill as introduced?

MS. McGEEHAN: Yes.

SEN. WEST: Okay. Do you happen to have
it there in front of you?

MS. McGEEHAN: Yes, I do.

SEN. WEST: Okay. Great. Before I get
CONSIDERATION OF SENATE BILL 14 1/25/2011

into it, does this bill provide you any rulemaking authority?

   MS. MCGEEHAN: No.

   SEN. WEST: Okay. So in interpreting the -- let me back up. Are you often called upon by county registrars to answer questions concerning issues that arise in local counties?

   MS. MCGEEHAN: Yes.

   SEN. WEST: How do you normally decide those questions? Do you just look at the black and white law? Do you issue opinions? How is that -- what's that process?

   MS. MCGEEHAN: We issue opinions in a couple of different ways. We have a toll-free number. One is dedicated just for county officials. So if it's a fairly straightforward, simple question, we give a quick answer over the phone. If it's a -- if it's a less involved question, we might get an email. We'll give a response via email. If it's something that's hard or we're really interpreting several different laws or it's a new law and we feel like it has statewide impact, we want to make sure that everyone is operating under the same understanding, we'll issue an advisory.

   SEN. WEST: Okay. And so an advisory or just depending upon the circumstances maybe an email
opinion or something like that?

MS. McGEEHAN: Well, advisories are usually a little more -- it's like the most formal that we do.

SEN. WEST: Right.

MS. McGEEHAN: Yeah. Okay.

SEN. WEST: All right. Let me ask you to go to Page 4 of the bill.

MS. McGEEHAN: Okay. Can you tell me the section? Because I think I have a different format.

SEN. WEST: Okay. It's Section 7, and Section 7(c) and (d).

MS. McGEEHAN: Okay.

SEN. DAVIS: Let me know when you get there:

MS. McGEEHAN: Yes.

SEN. WEST: Okay. It's my understanding that the election officer that's being referred to in Section (d) is -- is the individual working at the poll. Is that right?

MS. McGEEHAN: Yes.

SEN. WEST: Okay. That person will be called upon in Section (d) to determine if the voter's name is on the precinct list of registered voters, and the voter's identity can be verified from the
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 documentation presented. Is that correct?
2
3 MS. McGEEHAN: Yes.
4
5 SEN. WEST: Okay. In advising on that,
6 will that be a strict interpretation? Let me -- this is
7 what I mean. I think that some of the hypotheticals
8 that were provided by Senator Davis may be illustrative
9 of what I'm asking. My last name is West, W-e-s-t. And
10 say that there's a typographical error where my name is
11 spelled W-e-s on the voters' roll, precinct list, and
12 then my -- but my identity I'm using my driver's license
13 and it has "t" on it. How does a poll -- an election
14 officer in that situation resolve that problem?
15
16 MS. McGEEHAN: That's a good question, and
17 I don't think the bill necessarily defines what
18 verification --
19
20 SEN. WEST: I know. Senator Fraser said
21 I'd have to ask the Secretary of State that question.
22 That's why I'm asking you that question.
23
24 MS. McGEEHAN: I think -- you know, based
25 on the way the bill is written now and if we had to
26 develop training materials for the poll workers on how
27 to implement this, we would look to the best practices
28 of the states that have implemented. I heard Indiana
29 testify earlier today that they have written some
30 guidelines. We'd look to that and try and incorporate
the best practices on reasonable methods to verify the
ID document against the list of registered voters.

SEN. WEST: Okay. But you would agree
with me that in interpreting Section (c) and (d) without
some sort of guidance would lend itself to a great deal
of subjectivity; thus inconsistent application
throughout the state?

MS. McGEEHAN: It could, yes.

SEN. WEST: Okay. As it relates to --
let's see. What page is it on? The next page, which
will be (h), it's in the same section.

MS. McGEEHAN: Okay.

SEN. WEST: Would you read Section (h) and
tell me how you interpret that as the chief
administrator of the election laws in the state of Texas
next to, needless to say, Secretary of State?

MS. McGEEHAN: (h) reads, "The
requirements for identification prescribed by Subsection
(b) do not apply to a voter who: (1) presents the
voter's voter registration certificate on offering to
vote; and (2) was 70 years of age or older on January 1,
2012, as indicated by the date of birth on the voter's
voter registration certificate."

The way I had -- until earlier this
afternoon when Senator Ellis asked the question, I had
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 assumed that anybody that is 70 years of age or older
2 would not have to provide the photo ID. I think the
3 wording is less than perfect. I think that's the
4 intent, and I heard Senator Fraser, I think, answer that
5 his intent is it would apply. You know, even if a
6 person became 70 after January 1, 2012, they could still
7 take advantage of this exception.

8 SEN. WEST: Okay. But would it be your
9 suggestion that we need to reword that language to make
10 certain that whether you're there or someone else -- I
11 understand that you're here and you heard the
12 discussion, but if for some reason you're not in the
13 same position you're in right now, there's going to be
14 someone else, and they won't have -- they will not have
15 had the benefit of this discussion. So, therefore, do
16 you think it would be advisory to -- advisory to reword
17 that to make certain it's perfectly clear?

18 MS. MCGEEHAN: I think so. If people are
19 reading it inconsistent, it would probably help it if it
20 were.

21 SEN. WEST: Okay. Now, a couple of other
22 questions. As it relates to the counties, it's my
23 understanding that you -- that your agency and maybe
24 either yourself or someone working for you put together
25 the fiscal note. Is that correct?
CONSIDERATION OF SENATE BILL 14 1/25/2011

MS. McGEEHAN: Yes. Our agency put it -- I helped.

SEN. WEST: Okay. Did someone under your supervision contact local governments to determine the impact, the fiscal impact, that implementation of this will have?

MS. McGEEHAN: No, we did not.

SEN. WEST: That was done by someone else?

MS. McGEEHAN: I think LBB does that. We just -- we just --

SEN. WEST: Provided the information?

MS. McGEEHAN: Yeah. Right.

SEN. WEST: And based on your experience when these types of changes -- let me back up.

How much experience have you had in this particular area, that is, the election laws, in administration of election laws?

MS. McGEEHAN: I have been working in the elections division for 21 years.

SEN. WEST: So you've had a little experience, huh?

MS. McGEEHAN: Yes.

SEN. WEST: Okay. All right. As it relates to when changes are made in state law of this nature, is there an impact, a fiscal impact, on local
CONSIDERATION OF SENATE BILL 14 1/25/2011

units of governments when they have to make changes to comply with these types of changes or laws that are being suggested?

MS. MC GEEHAN: I think it really depends on what the change is. You know, if there's a new mandate for a county or if the county has to do something different, then obviously there would be a fiscal impact.

SEN. WEST: Well, will -- and, again, drawing on your expertise, will counties have to do something different to implement this particular law?

MS. MC GEEHAN: They will have to -- they are going to have to post information on their website notifying the public what the new photo ID requirements are.

SEN. WEST: Right.

MS. MC GEEHAN: When they issue voter registration certificates, they are going to have to mail out -- which they have to mail out every two years under current law. The new certificates will have new language, but -- informing voters of the voter ID requirements, but that should be cost neutral because they are already mailing out the voter registration certificates.

The piece that I think might have a fiscal

KENNEDY REPORTING SERVICE, INC.
512.474.2233
TX.00000025
CONSIDERATION OF SENATE BILL 14 1/25/2011

impact is the training. If the counties have to change
up their training procedures much or do more training
because they want to make sure the word is out to all
their -- that might increase their training costs.

SEN. WEST: Okay. So there are some
factors that need to be taken into consideration as to
whether or not counties will be burdened with additional
cost to implement this law. Is that correct?

MS. McGEEHAN: Yes.

SEN. WEST: Okay. And would it be a fair
statement to say the larger the county, the more of the
burden -- of the financial burden -- well, that's not a
fair question.

Would it be a fair statement to say that
the larger the county, the larger the potential
financial obligation that they would have to encounter
in order to implement the law?

MS. McGEEHAN: I think that's true, but I
can hear small counties say that it might be
proportional, you know, since their budgets are -- I
mean --

SEN. WEST: Right. It's all relative to
what your budgets are.

MS. McGEEHAN: Yeah.

SEN. WEST: But the fact is that that --
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 do you -- is there any -- you've read the fiscal note associated with this bill?

2 MS. McGEEHAN: Yes.

3 SEN. WEST: The $2 million that's in the fiscal note, does any of that go to the county to counties in order to implement this legislation?

4 MS. McGEEHAN: No.

5 SEN. WEST: So any cost that is not covered by the state for counties would be -- have to be borne by the counties. Right?

6 MS. McGEEHAN: Yes, yes.

7 SEN. WEST: Okay. Now, as it relates to -- is there any way that the Secretary of State's Office can give us -- do an analysis or get with the various counties to determine exactly what the fiscal impact of implementing this legislation would be?

8 MS. McGEEHAN: We could -- we could certainly solicit that information from counties and ask them what -- how they see this impacting them fiscally.

9 SEN. WEST: You could do that for each and every one of the counties?

10 MS. McGEEHAN: We can do it.

11 SEN. WEST: Mr. Chairman, I'd like to request that the Secretary of State's Office provides the Senate an analysis of -- I shouldn't say an...
analysis -- at least solicit from the various counties what the fiscal implication is going to be in order to implement this bill.

CHAIRMAN DUNCAN: Okay. I think, Senator, that will be an individual request from you, and then it can be distributed to all members of the Senate --

SEN. WEST: Okay.

CHAIRMAN DUNCAN: -- whenever it's done. You know, I doubt that that will be done by the time we rise and report to the Senate.

SEN. WEST: Okay. We can't get it tonight?

(Laughter)

SEN. WEST: I'm just joking with you.

CHAIRMAN DUNCAN: You won't be a very popular guy if the --

SEN. WEST: I'd like --

(Laughter)

SEN. WEST: I'd like to get it as soon as possible, though.

Let's see. No further questions. Thank you very much.

MS. McGEEHAN: Thank you.

CHAIRMAN DUNCAN: Thank you, Senator West. Senator Gallegos?
SEN. GALLEGOS: Let me ask you, I don't know if you heard my question earlier to Senator Fraser and he referred to you or the Secretary of State's Office to answer it. My concern was in the fiscal note that we ranked number two in the country in population. And Missouri ranks number nineteenth, and to implement their voter ID program, they came up with -- they only have 5.9 million people. We have 25 million. They came up with a fiscal note of 6 million in the first year and then 4 million in the second year for a total of 10 million second and third. That's $10 million. And you just -- I think earlier testimony with Senator Davis, you said once the 2 million runs out, that's it. Is that what you said?

MS. McGEEHAN: For -- yeah, the amount of money we have for voter education is limited. So when that runs out, that's all we have.

SEN. GALLEGOS: I guess my concern is if Missouri only has 5.9 million people, just to implement their voter ID program they start with 6 million in the first year and 4 million in the second and third year for a total of $10 million, for just 5.9 million folks, what are they -- you know, I don't -- what are they doing as far as when they are reading the bill? I heard that you said you're going by the bill, and that's how
CONSIDERATION OF SENATE BILL 14 1/25/2011

you came up with your fiscal note. Is that correct?

MS. McGEEHAN: Yes.

SEN. GALLEGOS: Okay. Well, then what are
they doing that we're not or, you know, how can you --
you know, for $10 million for 5.9 million people and
we're only going to spend 2 million, I mean, what's the
difference?

MS. McGEEHAN: I am not familiar with the
Missouri voter identification bill, and I did hear you
ask that earlier today, but I've been trying to listen
to all the questions. So we can -- we can research it
and see. Some states actually provide more to their
local county governments and print ballots and things
like that. I don't know if that's the situation in
Missouri, but I honestly don't know the answer to that
question because I don't know what the Missouri voter ID
law requires.

SEN. GALLEGOS: Well, it's a substantial
more amount of money than we're looking --

MS. McGEEHAN: Yeah.

SEN. GALLEGOS: -- at the fiscal note that
you have -- that you've given this committee on Senate
Bill 14. And I just -- it concerns me that that amount
of money, if somebody is doing -- in the formula or
methodology that you came up with that number -- I mean,
is that a true number? I mean, you know, as far as are we really doing voter education that should be done, you know, on 25 million people as opposed to what Missouri is doing with only 5.9? I mean, it just -- I mean, that would send up a red flag to me. Wouldn't it you?

MS. MCGEEHAN: Sure. I would like to understand those numbers because they are very different.

SEN. GALLEGOS: You know, I -- if we're going to mandate to Texans, you know, and then do it -- do a good educational program and Missouri is spending $10 million on their folks and we're only spending 2 million on ours, I'd like to know what the -- what the difference is. Are their people better than ours? You know, do they deserve, you know, more education? You know, I just -- you know, with the population as opposed to our population, you know, I don't -- you know, I'm a little concerned there. You know, are we cutting our folks short? Are we really going to do what you're telling us that you're going to do as far as educating the public out there on this bill?

And it just concerns me that, you know, we see -- and I haven't even taken a comparison of the other states. And we're number two, and Missouri is 19, and they are spending 10 million bucks. You know, that
CONSIDERATION OF SENATE BILL 14 1/25/2011

would concern me, and I would hope it would concern any
of the other Senators on this floor. Are we, you know, really going to do -- in implementing this bill, are we going to educate those folks out there?

Now, you know -- and I'd like that answer. I mean, you can't answer it now, I understand, but I would like an answer to that.

MS. McGEEHAN: We'll get you an answer.

SEN. GALLEGOS: And a comparison on what really your states that have implemented voter ID, how much are they paying, you know, to implement the program and what they do.

Now, on the fiscal note, it says you're going to do TV and radio and some other things. I mean, can you explain to this body the process on TV, or is it going to be in different languages, or how are you going to -- how are you going to split up the money? Who gets the most? You know, I mean, it's not -- it's not explained to us in the fiscal note how you're going to spread the money around. And is that going to be accessible to us or how the process is going to be, or how much money are you going to spend in Harris County as opposed to Lubbock, Texas or wherever?

MS. McGEEHAN: Yes, that would be available. And, you know, the programs that we've done
previously, we have detailed records that show, you know, where the media ran, and so we would -- that would be a part of any program going future.

The way -- the way it has worked thus far, the three statewide voter education programs that we have done, is we've gone out for bid for a public education firm. And then the first thing that firm does is research, and they meet with stakeholders, and then they craft the creative proposal. And then they turn that into the actual media and do the media buys for TV, radio and cycle, Internet and also print.

For the PSAs -- and I'm not the expert on this -- but I understand that we pay for a certain amount, and then we get some earned credit where TV stations will run them for free. If you pay them, you know, to run it once, they'll run it three times and only charge you for once, something along those lines.

SEN. GALLEGOS: And is that going to be -- is there going to be access as far as different languages in than budget?

MS. McGEEHAN: Oh, yes. We -- our current programs are in English and in Spanish, and in Harris County, we've had a component for Vietnamese.

SEN. GALLEGOS: Okay. Now, on Page 2 of the bill under what y'all are going to do under voter --
CONSIDERATION OF SENATE BILL 14 1/25/2011

under 31.012, Voter Identification, Senator West brought it up about -- it says here you and -- your office and
the voter registrar of each county that maintains it shall provide notice of the ID requirements as prescribed by this change.

Now, my concern there is, is at the county level -- you know, I think Senator West brought it up -- is how much is going to be incumbent on each county, you know? I and others here on this floor represent the largest county, Harris County, and Harris County is already starting to lay off, and they have a shortfall, and they are laying off as we speak right now. So, you know -- and I see what it says in the bill, you know, that you're going to get together with them. I mean, are they going to have the money? Or where is the -- if they don't have the money, where is the other money going to come from? Other than the 2 million you already have prescribed here and any federal matches that come in, where is that money going to come if those counties cannot provide?

MS. MCGEEHAN: I think that the bill presumes that counties have a website, and so this requirement is that they post, you know, the information about the new photo ID requirements that the Secretary of State's Office will actually prescribe. So we will
send that out to the counties, and then they'll have to post it on their website.

Now, in light of the fiscal circumstances -- and Senator West has asked us to do a survey -- we'll probably get some very detailed information, you know, as far as the counties' fiscal circumstances, if they are going to have to take down their websites or, you know, where they are going to have to cut.

SEN. GALLEGOS: Well, you know, with all due respect, I mean, we can presume a lot of things, and I could presume a lot of things, you know, just on anything, but I can tell you right now -- I'm not presuming -- I know that they're laying off in Harris County right now. That's not a presumption. That's a fact; that's a fact. And they're also furloughing in the City of Houston.

So, I mean, it just concerns me that this section here that says you're going to work hand-in-hand with each registrar in each county, and if those counties are already going through a budget shortfall like we are, then how can you presume that they're going to have -- I'm just saying that this bill presumes that they're going to have a website and they're going to have people to handle the education.
CONSIDERATION OF SENATE BILL 14 1/25/2011

You can't presume anything if they're laying off right now as we speak, and that's a fact. Like I said, that's not a presumption. That concerns me. And what I'm asking is that if that can't happen in Harris County or any other county in this state, where is the extra money? If they don't have, obviously, the funds to provide what is prescribed under Senate Bill 14, where is that money going to come from?

MS. MCGEEHAN: Well, you know, Senate Bill 14 doesn't make an appropriation to the county, so I don't know the answer to your question on that because, like I said, the bill -- I think the assumption is that counties have a website. So if they're not going to have a website --

SEN. GALLEGOS: But the bill prescribes that you will work in conjunction with the county registrar. Is that what I'm reading --

MS. MCGEEHAN: Yes.

SEN. GALLEGOS: -- or am I reading the wrong bill?

MS. MCGEEHAN: Maybe I'm not -- the way I read that was that we would provide them the wording, the language that they would put up on their website.

SEN. GALLEGOS: Well, you're going to provide them with that. But what about the bodies and
any other education that's prescribed by this bill? If they don't have the bodies -- they're laying off bodies right now.

MS. McGEEHAN: Yes.

SEN. GALLEGOS: Okay. And you see where I'm going here?

MS. McGEEHAN: No, I understand.

SEN. GALLEGOS: And if you provided a fiscal note, you know, that we're going by and that's on every website in the State of Texas, everybody that has a computer, then really what I'm asking you, is this a true fiscal note or is it misleading to the voters out there, that it's going to cost more than what you're showing here if other counties are having budget shortfalls like we are?

MS. McGEEHAN: Well, when we're asked to submit a fiscal note to LBB, they want to know what the state impact is. So generally we don't solicit what the impact is to local government. And I'm not exactly sure who within LBB does that, if that's LBB or the Comptroller. But I can tell you -- and maybe we've been doing them wrong, but the way we've understood our requirement in responding to a fiscal note request was to state what the state impact was. It's specifically for the agent -- you know, like for our agency for the
CONSIDERATION OF SENATE BILL 14 1/25/2011

Secretary of State's office.

SEN. GALLEGOS: Okay. So what you're
telling me is that outside of the $2 million that's in
the fiscal note and that under this section that you're
going to work with the registrar in each county, then we
just have to roll the dice and hope that the money is
there. Is that what you're telling me?

MS. McGEEHAN: Well, I think this fiscal
note that LBB did put -- does indicate that there may be
some county costs. You know, they did put some numbers
in for Tarrant County and for Bexar County. So, you
know, it's not -- I don't think it's the number you're
looking for. It's not a comprehensive number, but I
think that the fiscal note does indicate that there may
be a fiscal impact on counties.

SEN. GALLEGOS: There may be a fiscal
impact. You don't know how much?

MS. McGEEHAN: No, I don't.

SEN. GALLEGOS: So what we're looking at
in your fiscal note is just an open-ended fiscal note.
Is that what you're telling me?

MS. McGEEHAN: The fiscal note is really
showing the impact on the Secretary of State's office.
I can't really speak to how the portion of the fiscal
note that concerns impact on local government, how
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 LBB -- you know, what their process is. I don't really
2 know.

SEN. GALLEGOS: All right. Then let me
3 rephrase my question.

4 MS. McGEEHAN: Okay.

SEN. GALLEGOS: So the $2 million that
5 you're showing is what the state is going to be
6 impacted. And the language that is showing you're going
7 to work in conjunction with the counties, you know, you
8 cannot speak to that, so we really don't know. Is that
9 what you're saying? It could or could not be impacted
10 for a million, two million, three million, whatever the
11 number. I don't know the numbers that you gave Bexar
12 County and Tarrant County. I have not been privy to
13 those numbers. But what I'm saying is, I really would
14 like to know that if my county is going to be impacted, if
15 at all, it's going to be in here, you know. Do you
16 see what I'm saying?

19 MS. McGEEHAN: Well, yes, I understand
20 what you're saying. And we are going to be sending out
21 a survey to try and gather that data from all the
22 counties.

SEN. GALLEGOS: You know, I don't like the
24 mandate to my county, something that this bill said that
25 they will do and then find out that they don't have the