TRANSCRIPT OF PROCEEDINGS BEFORE
THE SENATE OF THE STATE OF TEXAS
EIGHTY-SECOND LEGISLATURE
(COMMITTEE OF THE WHOLE SENATE)
AUSTIN, TEXAS

IN RE: CONSIDERATION OF SENATE BILL 14

COMMITTEE OF THE WHOLE SENATE TUESDAY, JANUARY 25, 2011

BE IT REMEMBERED THAT AT 8:05 a.m., on Tuesday, the 25th day of January 2011, the above-entitled matter continued at the Texas State Capitol, Senate Chamber, Austin, Texas, before the Committee of the Whole Senate. The following proceedings were reported by Aloma J. Kennedy, Lorrie A. Schnoor and Kim Pence, Certified Shorthand Reporters.

VOLUME 2 PAGES 20 - 542
CONSIDERATION OF SENATE BILL 14 1/25/2011

CHAIRMAN DUNCAN: All right. Thank you, Ms. McGeehan.

The Chair recognizes Senator Davis.

QUESTIONS FROM SENATE FLOOR

SEN. DAVIS: Hello. Good evening. Thank you so much for being here with us to provide answers for our questions. I know you've had a long day.

I just want to ask you a few questions about the current state of voter education as it's taking place today in the Secretary of State's Office. Can you describe for us the use of the HAVA funds and how those are currently being used today?

MS. McGEEHAN: We received -- when Congress passed the Help America Vote Act, the state of Texas received a set amount of funds. And pursuant to the Help America Vote Act, there are certain purpose areas that we can use those funds for, and one of the purpose areas is voter education. So since two -- we have conducted three statewide education -- voter education programs, one in 2006, one in 2008 and one in 2010 using those federal dollars. And they have been -- we've worked with a public education firm to do research, and then they develop creative material. We run PSAs on TV, radio. In this last cycle, 2010, we used the Internet quite a bit as well.
CONSIDERATION OF SENATE BILL 14 1/25/2011

SEN. DAVIS: That's the amount that was given to the state of Texas?

MS. McGEETHAN: Yes.

SEN. DAVIS: Okay. And so of that amount, how much have we spent so far?

MS. McGEETHAN: Let's see here. We -- I think we have spent $177,798,488.

SEN. DAVIS: Okay. And you described spending about $3 million over the last three two-year cycles. How have we spent the balance of that?

MS. McGEETHAN: Well, I mean, the bulk of the money or about half of the money went to counties to obtain HAVA compliant voting systems, electronic voting systems that made -- that complied with HAVA and allowed disabled voters to vote independently. So let's see. $140 million went to the counties for that purpose.

The other program areas are for developing a statewide voter registration system. We've spent 25 million on that. And then as far as the administrative expenses, we've spent about 2.8 million on that. For voter education, we've spent 9.5 million so far.

SEN. DAVIS: And what are the -- setting aside the requirements of the bill that's being introduced today, what are the intended plans for the
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 budget that I discussed is following that state plan.

   SEN. DAVIS: Okay. And under that state
2 plan right now, what portion of funding remains for
3 voter education?

   MS. McGEEHAN: For voter -- okay. And
4 actually to be more precise, what the -- the purpose
5 area for voter education is for voter education and also
6 for election official and poll worker training; that's
7 grouped. And the amount remaining is between 5 and
8 $7 million.

   SEN. DAVIS: Okay. And that is expected
9 to extend us or to take us through the next how many
10 years under that plan?

   MS. McGEEHAN: It will -- again, it's
11 going to depend how extensive our next few voter
12 education programs are because that's what the bulk of
13 the money has been spent on, voter education programs.
14 The average is about 3 million. So I guess the hope
15 might be for at least two other statewide voter
16 education programs.

   SEN. DAVIS: Okay. And I'm sure you've
17 seen the fiscal note that was a part of this bill. And
18 by the way, I think it would be very helpful if you
19 would enter that state plan into the record as an
20 exhibit for our further use.

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but it's hard for me to say today exactly how much that
may take away from future voter education efforts.

SEN. DAVIS: When was the last time in the
state of Texas we made any changes of significance to
the voter rules?

MS. McGEEHAN: Probably the -- when we had
to implement the federal Help America Vote Act. That's
when provisional voting became a requirement. There
were significant changes to voter registration as to
what's required to become a registered voter, and that's
why we have these HAVA dollars for voter education.

SEN. DAVIS: And that began in '06.

Correct?

MS. McGEEHAN: Correct.

SEN. DAVIS: Okay. In '06, the Texas
t voter registration application form changed in
accordance with those requirements, it's my
understanding, and that's when we began to collect this
data that requested a driver's license number or a
social security number. Is that's correct?

MS. McGEEHAN: That's correct.

SEN. DAVIS: Okay. So we have data, I
guess, only from '06, and that would -- would that only
be then for new registrants from '06? If I had already
registered to vote prior to that, you wouldn't have that
CONSIDERATION OF SENATE BILL 14 1/25/2011

percent number, but the actual number is 2.3 million
since 2006. Since January 1, 2006 through December 31,
2010, 2.3 million, when they registered, provided their
driver's license number.

SEN. DAVIS: What's the total number of
applications in that time period?

MS. McGEEHAN: And the total number -- I
think it's going to be just under 3 million, and I'm
doing math on the fly. I might have to -- I'd prefer to
give that --

SEN. DAVIS: Can you provide that
information --

MS. McGEEHAN: Yes.

SEN. DAVIS: -- to us?

MS. McGEEHAN: Yes.

SEN. DAVIS: That would be appreciated.

So what's the number of people who are not
filling out either the driver's license number or the
social security number in Section 8 but instead are
going to Section 9 and signing the attestation clause of
Section 9?

MS. McGEEHAN: And that's the attestation
clause saying they have not been issued either form of
ID?

SEN. DAVIS: (Nodded)
CONSIDERATION OF SENATE BILL 14 1/25/2011

was optional. It was on the form.

SEN. DAVIS: Uh-huh. Okay. So we really
don't know how many of that group were answering the
question voluntarily because they have the number versus
those who were not answering it, not because they chose
to, but because they did have their driver's license
number?

MS. McGEEHAN: Yes, you are correct.

That's right.

SEN. DAVIS: So when we're putting
together an estimate of what the cost to educate our
voters is going to be and when we think about how
significant the changes are that are addressed in this
bill, what's your -- what's your process been to try to
determine how many people will be impacted and what that
voter education is going to need to look like?

MS. McGEEHAN: Well, we -- I mean, to be
very honest, we haven't done much planning yet. We
prepared this fiscal note on Friday. That would be
obviously a very important component is trying to
identify who the appropriate audiences are, who you need
to get the information out to.

Senator Williams had approached us earlier
today to see if we could do some comparisons to try and
further focus in on who those registered voters are that
CONSIDERATION OF SENATE BILL 14 1/25/2011

1 what's required in order to vote in the state of Texas.
2 Why is the number to educate -- on such a sweeping
3 change for what will likely be a much larger group of
4 impacted people in the state of Texas, why is that
5 number so much lower than the $3 million number that's
6 currently being spent for voter education?
7 MS. McGEEHAN: Well, if the -- if a
8 $2 million program is added into an existing $3 million
9 program, then you've got a $5 million program. I mean,
10 our voter education under HAVA is directed to all
11 registered voters. And so, you know, a new voter -- a
12 new photo ID requirement would also need to be directed
13 to all registered voters because it's a change for all
14 voters.
15 SEN. DAVIS: So we're talking about -- I'm
16 sorry to interrupt you. We're talking a $2 million
17 addition to the $3 million that was already intended for
18 voter education in this next two-year cycle.
19 MS. McGEEHAN: Possibly, possibly. I
20 mean, we -- you know, we've got a communications
21 director that would have some input on that. This
22 fiscal note represented what we thought might be a
23 reasonable fiscal note. If we have, you know,
24 legislative direction to take it a different way or do
25 additional outreach, that's fine. But based on the way
CONSIDERATION OF SENATE BILL 14 1/25/2011

really nice to have them to do that. We never had that kind of funding before. So if there's a desire to do voter education programs of this -- of this type, then we would need state appropriation.

SEN. DAVIS: So these federal funds will take us basically through a one-time voter education drive on the requirements of this new law, but it's not going to take us further than that?

MS. McGEEHAN: Not if we use it all, not -- it could possibly use up the remainder of the voter education funds.

SEN. DAVIS: Okay. So we've talked about the voter education. Talk to us a little bit about the costs of training the poll workers and the registrars.

MS. McGEEHAN: We currently have several training programs for -- well, we have training programs for the county election officials and then other training programs for the poll workers. We have an online training program. We have a video. We have handbooks. So we would have to update all of those -- all those different formats of training.

SEN. DAVIS: And what's the anticipated costs for updating all those forms of training?

MS. McGEEHAN: We don't usually put a fiscal note when there's a change in state law and we
CONSIDERATION OF SENATE BILL 14 1/25/2011

MS. McGEEHAN: It's my understanding that when we've been asked to prepare fiscal notes for these kinds of issues, we have not added a fiscal impact for something that's already a statutory duty. As we analyze HB 1, maybe we're going to have to revise that, but at least our standing policy was if it was a statutory duty that we're already charged to do, that we don't put an additional fiscal note on it.

SEN. DAVIS: Are you concerned that you're going to find yourselves fairly flatfooted in terms of not being prepared with the resources that you need, to train election workers and to train county administrators on the requirements of this new law facing the budget cuts that you're facing without a fiscal note that's going to add resources to your department for purposes of carrying out these requirements?

MS. McGEEHAN: I think all state agencies in the state have concerns about providing the services they are charged to provide in light of significant budget cuts. But on the issue of training, the analysis was that that was not going to cost anything additional as to what we've already been appropriated.

SEN. DAVIS: And do you agree with that, that it's not going to cost anything additional for your
numbered year, we hold four seminars, and we have very
good attendance from our county election officials. So
I would be certain that our August county election
official seminar will be heavily -- if this passes will
heavily emphasize these new rules.

To go back to the federal funds, which we
know are limited, the grant for voter education also
includes election official training and poll worker
training. So if there are any remaining HAVA dollars in
that category that we don't use on voter education, we
could perhaps use to additional -- to develop additional
training materials.

SEN. DAVIS: Yes, and we talked about that
a moment ago, and you did state on the record that that
category of 5 to $7 million that's remaining is the
entirety of the federal resource that you have available
to you right now, both for voter education and for
training purposes. And we've also talked about the fact
that the expectation and the demand on that particular
fund for public education is going to take the
significant balance that remains there. Correct?

MS. McGEEHAN: Right. Well, just to be
clear, the remaining balance in the HAVA is all we have
for voter education, but there are some state funds -- I
don't think it's a lot -- but that would go towards
MS. McGEETHAN: Okay. I think that what
that is referring to is that at the end of Senate
Bill 14, there's a reference that says county voter
registrars can use Chapter 19 funds to defray costs in
conducting a voter registration drive. But I don't see
anything -- and I may have missed it -- but I don't see
anything in Senate Bill 14 that requires a voter
registration drive. I think it's -- what that section
in the bill is doing is trying to make clear that these
funds, which are -- go to county voter registrars to
enhance voter registration could be used to do voter
registration drives, but I don't see anything that
requires a voter registration drive in Senate Bill 14.

SEN. DAVIS: What resources currently are
expected of our local governments in carrying out the
training and the public awareness programs under our
election code.

MS. McGEETHAN: The -- there's no state law
requirement to do voter education by the county
officials. Most of them do it as a public service
because they want to, but there's not a mandate under
state law to do that.

Under Senate Bill 14, there's required
training of poll workers on the new photo ID
requirements. And I may have missed part of your
currently on the roll because I've married or I've
divorced, how is that situation handled today?

MS. McGEEHAN: State law doesn't directly
address it. So I think that as a practical matter
what's happening is the poll workers are making judgment
calls as they qualify those voters for voting.

SEN. DAVIS: But they are not being given
guidance or rules or requirements in terms of how they
are to deal with that situation today?

MS. McGEEHAN: No.

SEN. DAVIS: It's within their discretion?

MS. McGEEHAN: At this point. I mean,
state law is silent on it, and our office has not issued
any guidance on it. So we're hearing a lot about that
today. That's definitely something we'll probably need
to look into, but right now there is no rule or statute
on that issue.

SEN. DAVIS: Okay. And today if I go to
vote and my identification that I use for purposes of
voting has a different address on it than is listed on
the precinct roll, I think it's the interpretation today
under 2004 Secretary of State opinion that I am asked
for my correct address, and I am to be believed if I say
that my address is the address that's on the precinct
list as opposed to what might be on my ID?
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
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
MS. McGEEHAN: That's correct. And just
an example of that, the cost that Bexar County put in
the fiscal note was -- I think their assumption was that
the certificate, the voter registration certificate
would have to increase in size. And I don't see
anything in the bill that requires that. And the
Secretary of State prescribes the form. So once that's
explained to the county, they might withdraw that
fiscal --

SEN. FRASER: I want to make sure that
that's clear, is that some of these assumptions are
possibly the-sky-is-falling assumptions that this is --
you know, this expense is going to be put on us, and I
don't think that's been discussed. And some of this, I
think, can be done by ruling of the Secretary of State,
directing them. And there is a real good chance that a
lot of these expenses go away that can be absorbed
through the Secretary of State. And that is correct,

isn't it?

MS. McGEEHAN: Yes.

SEN. FRASER: Okay. I wanted to clear
that up. Thank you so much.

CHAIRMAN DUNCAN: The Chair recognizes
Senator Williams.

SEN. WILLIAMS: Thank you, Mr. Chairman.
had talked earlier about the project that I asked you to
do, to cross-reference the driver's licenses and the
voter registration. How is that coming along? I know I
only asked today, but I just --

MS. McGEEHAN: Yes.

SEN. WILLIAMS: -- but what is a
reasonable expectation for us to get that information?

MS. McGEEHAN: I would hope by the end of
the week. One thing that our IT folks and our election
experts are trying to struggle with is like matching
criteria --

SEN. WILLIAMS: Right.

MS. McGEEHAN: -- you know, which we won't
have a TLD number, so we're working through some of
that. But I would expect by the end of the week we
would have it, if not earlier.

SEN. WILLIAMS: Okay. So do you need any
further direction from us? For instance, if we wanted
to target that universe of people that we know are out
there and maybe make a little extra effort to make sure
that they understood they were going to have a new
requirement when they went to vote as far as getting a
photo ID, if they didn't already have one -- and we've
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CONSIDERATION OF SENATE BILL 14 1/25/2011

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