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

SEN. WENTWORTH: And then you found a new location on Pat Booker Road out near Randolph Air Force Base, and my constituents are very pleased with that improvement and were grateful that that improvement has been made.

MS. DAVIO: Thank you so much.

SEN. WENTWORTH: Thank you.

MS. DAVIO: I appreciate that. It's nice to hear a good story.

SEN. WENTWORTH: You bet.

CHAIRMAN DUNCAN: Thank you, Senator Wentworth.

Are there any other questions of the resource witness?

(No response)

CHAIRMAN DUNCAN: All right. Thank you very much, Ms. Davio.

MS. DAVIO: Uh-huh.

CHAIRMAN DUNCAN: All right. The Chair calls Ann McGeehan, Secretary of State's Office. If you'll state your name and who you represent, please.

TESTIMONY BY ANN McGEEHAN

MS. McGEEHAN: Ann McGeehan, and I'm Director of Elections in the Texas Secretary of State's Office.
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 its 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: And how many people do you think you reach through your voter education efforts right now? And how much have each of those cycles of voter education effort cost?

MS. McGEHEEHAN: The average cost is about $3 million for each one, around that amount. As far as the number of people we've touched through the campaign, we do have some reports on that. I don't have that number at my fingertips, but we have a report for each one of the voter education campaigns that talks a little bit about the effectiveness and how many people saw the media spots and things of that nature.

SEN. DAVIS: And are the Help America Vote Act funds funds that are continually given to the state from the federal government, or was it a one-time disbursement that's been used over the course of those three cycles?

MS. McGEHEEHAN: It was authorized in that one bill. We've received it in about three or four separate payments. We don't contemplate that we're going to be receiving any more.

SEN. DAVIS: And what was the total amount that was given to Texas?

MS. McGEHEEHAN: Let me grab that. The total amount for all the purpose areas is $224,092,477.
CONSIDERATION OF SENATE BILL 14 1/25/2011

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

MS. McGEEHAN: Yes.

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

MS. McGEEHAN: 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. McGEEHAN: 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
balance of that money? Were this bill not to come forward to your department, what would the intended use for those funds be?

MS. McGEETHAN: I can't speak necessarily for, you know, exactly what would be done in the next general election cycle, but I would contemplate we would do another statewide voter education program in 2012, and if funds remained in 2014.

SEN. DAVIS: Is there a plan for ongoing capital expenditures as you talked about, which was the use of the bulk of the funds that we've received so far?

MS. McGEETHAN: Yeah. There are -- there's 24 -- roughly $24 million left in the -- in the purpose area for grants to counties to obtain voting equipment.

SEN. DAVIS: Okay. And so after you take out that 24 million, what will the balance be that remains for voter education efforts?

MS. McGEETHAN: Well, that's -- that's already frozen as far as the -- in order to draw down those funds, the state had to submit a state plan. We had to meet with stakeholders, publish in the Register and submit it to the Election Assistance Commission. And so pursuant to that state plan, we had to define how we were going to spend the money, and so these -- the
CONSIDERATION OF SENATE BILL 14 1/25/2011

budget that I discussed is following that state plan.

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

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

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

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

SEN. DAVIS: Okay. And I'm sure you've
seen the fiscal note that was a part of this bill. And
by the way, I think it would be very helpful if you
would enter that state plan into the record as an
exhibit for our further use.
CONSIDERATION OF SENATE BILL 14 1/25/2011

I'm sure you've seen the fiscal note that came as a part of this bill in terms of the expected expenditures. Part of that note talks about a fiscal impact that's related to researching and developing ways to inform the public of the new ID requirements. That's $.5 million expenditure, an additional cost of 1.5 million for media advertisements, television, radio, print and Internet. That's specifically to educate voters about the new requirements under this bill.

What will go undone that's currently in the state plan -- if we take 2 million of the 5 million remaining, what will go undone that's currently in the state plan in terms of voter education effort?

MS. McGEEHAN: I don't know that I have an exact answer to that. If we're able to incorporate the new voter ID requirements that would be required by this bill into a voter education program, then maybe we wouldn't need 2 million just for the voter ID. We could parlay that into the -- basically the voter education campaigns that we've done or the voter education programs have been to educate voters on the basic rights on how to vote, what you need to vote. So it may not be such an extension to incorporate these new requirements for voter ID, or they may. I mean, depending on the research that we get back from stakeholders and whatnot,
CONSIDERATION OF SENATE BILL 14 1/25/2011

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
evoter 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

information from me.

MS. McGEEHAN: That's right.

SEN. DAVIS: Correct?

MS. McGEEHAN: That's right. It was voluntary before. So we have some TDLs and SSN numbers from -- but it wasn't required until 2006.

SEN. DAVIS: So we've been able to gather that information from that point in time for people who are newly registering to vote in the state of Texas. Of that group, how many people or what percentage of people are answering one or both of those questions in response to No. 8 versus signing the attestation clause in Section No. 9?

MS. McGEEHAN: Are you asking the number of --

SEN. DAVIS: Let me -- let me break it down better.

MS. McGEEHAN: Okay. Okay.

SEN. DAVIS: So under Question No. 8, what percentage of people currently, who are requesting a voter registration card, who are filling out the application starting in '06 with this new form, what percentage of people are providing their Texas driver's license in response to the questions on the application?

MS. McGEEHAN: Okay. I don't have the
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

MS. McGEEHAN: Yeah, that number is 34,506.

SEN. DAVIS: Okay. Do we have any -- any estimate of the number of people who are currently registered today? If we've only been gathering that information since 2006, do we have any kind of an estimate of the number of people who are currently registered to vote today who do not have a driver's license number to provide?

MS. McGEEHAN: Well, if we -- if we look at our entire statewide file, we have 5.2 million voters that did provide a driver's license number or an ID number. We have 2.1 million voters that present -- that provided a social security number. 4 million of them provided both. And then the numbers that have neither -- or the voters that hadn't provided either one is 690,887. So it doesn't necessarily mean that those people haven't been issued, but they didn't -- either they don't have those numbers or they registered before it was required, and so they didn't provide them when they registered if it was pre-2006.

SEN. DAVIS: But the question wasn't asked. It was -- I guess as you said, you could voluntarily provide that information prior to '06.

MS. McGEEHAN: Well, it was asked, but it
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 don't have -- or have not been issued a driver's license
2 or a personal ID number. So we're trying to run some of
3 those numbers right now.

4 SEN. DAVIS: I guess a confusion for me is
5 how we came up with the $2 million fiscal note for that
6 and yet we don't really know, as you said a moment ago
7 we don't really know how many people will be impacted by
8 it and what that statewide voter education effort is
9 going to need to look like. So where did the $2 million
10 number come from?

11 MS. McGEEHAN: Well, the $2 million number
12 came from the way the bill is written because the bill
13 simply says "a statewide voter education effort." So
14 there's not too much detail in the bill as to what's
15 required. Our assumption is that our previous voter
16 education programs might be the model, and they've been
17 around 3 million. And plus, we also noticed that last
18 session the Senate put a $2 million fiscal note on it.
19 So we thought, well, maybe that's some representation of
20 legislative intent as to what an appropriate voter
21 education program might cost, but --
22
23 SEN. DAVIS: So we've had voter education
24 efforts in the past that have cost about $3 million each
time we've engaged in the voter education effort. We're
25 talking today about making some sweeping changes to
CONSIDERATION OF SENATE BILL 14 1/25/2011

what's required in order to vote in the state of Texas.

Why is the number to educate -- on such a sweeping
change for what will likely be a much larger group of
impacted people in the state of Texas, why is that
number so much lower than the $3 million number that's
currently being spent for voter education?

MS. McGEEHAN: Well, if the -- if a
$2 million program is added into an existing $3 million
program, then you've got a $5 million program. I mean,
our voter education under HAVA is directed to all
registered voters. And so, you know, a new voter -- a
new photo ID requirement would also need to be directed
to all registered voters because it's a change for all
voters.

SEN. DAVIS: So we're talking about -- I'm
sorry to interrupt you. We're talking a $2 million
addition to the $3 million that was already intended for
voter education in this next two-year cycle.

MS. McGEEHAN: Possibly, possibly. I
mean, we -- you know, we've got a communications
director that would have some input on that. This
fiscal note represented what we thought might be a
reasonable fiscal note. If we have, you know,
legislative direction to take it a different way or do
additional outreach, that's fine. But based on the way
CONSIDERATION OF SENATE BILL 14 1/25/2011

the bill was written and based on the fiscal note filed
last time, we thought that was a reasonable number.
SEN. DAVIS: So let's say we spend about a
total of $5 million in the next two years with our
intended voter education effort that's already been
planned and with an additional cost for educating on the
requirements of this proposed new law. That's about the
balance of the voter education fund right now. Is that
correct?
MS. McGEEHAN: Well, it's about -- we've
spent 9 million. I think the balance -- yeah, the
balance is between 5 and 7 million. That's correct.
SEN. DAVIS: Okay. So that will take us
through about what -- how long of a period of time will
that take us through?
MS. McGEEHAN: If we used 5 million to do
a voter -- a general voter education plan and then
another 2 million to do a detailed photo -- photo
identification plan, that might -- that might use it up.
SEN. DAVIS: And if it uses it up, what
will we do in future years to educate our voters about
these requirements?
MS. McGEEHAN: Well, frankly -- I mean,
state law has never appropriated state funds to educate
voters. So, you know, these federal funds have been
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
have to change and update training like that because at least it's always been considered that is part of our mandate in election administration. So when we get appropriation under the election administration umbrella, our statutory mandate is to train and assist election authorities.

SEN. DAVIS: And what's happened to your -- your budget, not only in this current biennium that we're in, but the proposed budget going forward?

MS. McGEEHAN: We're still digesting that as far as on the House side. I don't know about the Senate side yet. But on the House side, I believe we took about a 14.5 percent budget reduction on the House -- HB 1 bill.

SEN. DAVIS: So we're talking about a fairly dramatic budget cut for your agency while at the same time we are talking about adding some very significant requirements in terms of the changes that you would need to make to your training programs and materials for purposes of educating election workers and county administrators on the new rules that would be implemented in this bill?

MS. McGEEHAN: That's correct.

SEN. DAVIS: And there's no fiscal note currently estimated for what that cost might be?
CONSIDERATION OF SENATE BILL 14 1/25/2011

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

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

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

24  SEN. DAVIS: And do you agree with that,
25  that it's not going to cost anything additional for your
agency to provide the training for the significant changes in the law that will be imposed if this bill is passed into law?

MS. McGEEHAN: Well, after every session, we have to change all our materials. And, you know, maybe I can talk to our fiscal officer and maybe we'll start putting in fiscal notes for these kinds of things, but it has been our policy not to add a fiscal note for something we're currently doing under state law and funded for.

SEN. DAVIS: And so the change in materials is all that would occur? If I'm an election worker in the state of Texas and I'm facing some pretty significant changes -- and I have to tell you I've read this bill numerous times, and I'm still confused in terms of what it would require of me as an election worker. Is that the only costs that we assume will be incurred, is the cost of the change of the material? Isn't there some training -- active training that has to occur to be able to make sure that the election workers and the county administrators who are tasked with carrying out this new law will understand exactly what's expected of them in terms of its implementation?

MS. McGEEHAN: We do -- we do, I think, pretty extensive training right now. I mean, in an odd
CONSIDERATION OF SENATE BILL 14 1/25/2011

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
CONSIDERATION OF SENATE BILL 14 1/25/2011

updating handbooks and video and things likes that that
we normally produce as training materials.

SEN. DAVIS: When the Help America Vote
Act was implemented and in '06, as you said, that was
the first significant change that's been made or it's
the most recent significant change that's been made in
election laws in the state of Texas in terms of the
requirements of your agency and the training of your
agency, did the costs that your agency realize as a
result of the training component for HAVA increase as a
result of those new requirements?

MS. McGEEHAN: We -- what we did do was
develop an online training component. So we used a
portion of the HAVA dollars to develop an online
training component, which was in addition to our other
training. I could get -- I don't know the cost of that,
but I could get you the cost.

SEN. DAVIS: It would be a helpful number
to have.

There's also a discussion in terms of the
fiscal note on this bill, including a coordinated voter
registration drive or other activities that would be
designed to expand voter registration. What would the
costs of such a registration drive be? It's on Page 2
of the fiscal note.
MS. McGEEHAN: 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. McGEEHAN: 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...
CONSIDERATION OF SENATE BILL 14 1/25/2011

SEN. DAVIS: And that required training is to be done at the county level. It's expected that the county will fulfill that requirement through their own resources?

MS. McGEEHAN: Well, they are required to use the Secretary of State materials. I think that the election code gives them discretion as to how they implement it and how they conduct their training.

SEN. DAVIS: So it's foreseeable that at the county level increased costs will be realized as a consequence of the expectations of this bill?

MS. McGEEHAN: Most counties conduct training today. So they would just be incorporating another component into their training program. Depending on how they handled it would impact how significant the fiscal impact would be in that county.

SEN. DAVIS: If I'm a voter today and I want to go to the bill itself in terms of making sure I understand what would be expected of me under today's rules versus under the rules of the new bill, if I'm a voter today and I come in to vote and I don't have my voter registration card, instead I have an ID, I have a state issued ID, I have a valid driver's license, and my driver's license shows a different name than is
CONSIDERATION OF SENATE BILL 14 1/25/2011

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?