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FISCAL IMPACT REPORT

SPONSOR HGEIC ORIGINAL DATE 2/5/16
LAST UPDATED _____ HJR 1/HGEICS

SHORT TITLE Independent Redistricting Commission, CA SB _____

ANALYST Jorgensen

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$104.0	NFI	\$104.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General (AG)

Secretary of State (SOS)

SUMMARY

Synopsis of Bill

The House Government, Elections, and Indian Affairs Committee Substitute for House Joint Resolution 1 proposes an amendment to Article 20 of the Constitution of New Mexico to create a 5-member Redistricting Commission (commission), established by August 1st of the year of each Federal Decennial Census, with the authority to redistrict the Congressional, Legislative and statewide officer districts (i.e. the PRC). HJR 1 provides that no more than 2 commissioners shall be members of the same political party.

HJR 1 authorizes the Appellate Judges Nominating Commission to create a pool of at least 20 candidates, from which legislative leadership appoints 4 commissioners. The 4 members appoint a 5th member from the remaining nominees in the pool, who shall serve as chair of the commission.

HJR 1 provides that the commission shall have standing in legal actions challenging its redistricting plans or process, or the adequacy of resources provided for the operation of the commission.

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HJR 1 also proposes to amend Article 4, Section 3 of the Constitution of New Mexico to remove Subsection (D) language permitting the legislature to reapportion its membership following the publication of the official report of each Federal Decennial Census. The resolution also makes technical changes to Article 4, Section 3.

HJR 1 requires the proposed amendment to be submitted to voters for the approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.

FISCAL IMPLICATIONS

Under Section 1-16-13 NMSA 1978 and the New Mexico constitution, the SOS is required to print samples of the text of each constitutional amendment, in both Spanish and English, in an amount equal to ten percent of the registered voters in the state. The SOS is also required to publish them once a week for four weeks preceding the election in newspapers in every county in the state. In 2010, the SOS estimated the cost per constitutional amendment to be \$104 thousand.

Additionally, funding will be needed to pay commissioner per diem and mileage as well as to hire staff, consultants and legal counsel. Funding will also be needed to fulfill the commission's procurement and contracting authority. These costs may be significant, but they will occur following the next decennial census taken in 2020.

Based on documents provided by the Legislative Council Service, redistricting costs for the 2000 Election Cycle totaled \$5.49 million and for the 2010 Election Cycle \$7.98 million. These costs included pre-census preparation, interim work, a special session, and litigation fees and costs. Of those amounts, litigation fees and costs totaled \$3.70 million in the 2000 cycle and \$5.76 million in from October 2011 through July 2012, demonstrating a significant increase of 55.7 percent.

Based on experience in other states, results are mixed with regard to challenges arising from redistricting commissions and their work. Costs of litigation may rise, remain the same or decline with the creation of a redistricting commission.

SIGNIFICANT ISSUES

Under the current Constitution of the State of New Mexico, the Legislature apportions its membership following each federal decennial census and is responsible to drawing up the redistricting plan.

According to the National Conference of State Legislatures (NCSL), twenty states have a redistricting commission that either draws up the plan, advises the legislature on drawing up the boundaries or acts as a backup if the legislature fails to draw up the plan for legislative districts (refer to <http://www.ncsl.org/research/redistricting/redistricting-process.aspx>)

ADMINISTRATIVE IMPLICATIONS

The legislation does not anticipate how the independent commission will operate administratively, except to indicate in Section 2, Subsections K that the Legislature “shall provide adequate resources for the operation of the redistricting commission in performing its duties.”

TECHNICAL ISSUES

The bill does not define the ‘appellate judges nominating commission’ but presumably this is the commission established by Article VI, § 35, of the N.M. Constitution.

The AG notes the following:

- There is no provision in the Resolution determining how the fifth member of the commission shall be selected by the other four members. This could be a particular concern if the four members – which are likely to consist of two members from each major political party – cannot agree upon a fifth member.

OTHER SUBSTANTIVE ISSUES

NCSL analysis stated “There are pros and cons to removing the process from the traditional legislative process. And the track record of success by commissions is inconsistent in terms of having plans overturned by courts. Reformers often mistakenly assume that commissions will be less partisan than legislatures when conducting redistricting but that depends largely on the design of the board or commission.”

CJ/al