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FISCAL IMPACT REPORT

ORIGINAL DATE 02/13/2020
 SPONSOR SJC LAST UPDATED 02/15/2020 HB _____
 SHORT TITLE Ethics Comm Set Elected Official Salaries, CA SJR 7/SJCS
 ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY20	FY21	FY22	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		\$125.0-150.0		\$125.0-150.0	Nonrecurring	General Fund (SOS)
		\$40.0		\$40.0	Nonrecurring	General Fund (SEC)
		\$65.0	\$130.0	\$195.0	Recurring	General Fund (SEC)

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

State Ethics Commission (SEC)
 Administrative Office of the Courts (AOC)
 New Mexico Attorney General (NMAG)
 Secretary of State (SOS) (on original resolution)

SUMMARY

Synopsis of Bill

The Senate Judiciary Committee Substitute for Joint Resolution 7 proposes, in Section 1, to amend Article 5, Section 17 of the New Mexico constitution to authorize and require the state ethics commission to review and establish the salaries of all elected state officers (including legislators) beginning January 1, 2023, and every January of each numbered year thereafter. Section 1's effective date is January 2, 2021. Sections 2 through 4 amend other provisions of the constitution that authorize the legislature to establish the compensation or salary of certain state officers, consistent with Section 1. Section 5 repeals other constitutional provisions that address compensation for other state officers. Sections 2 through 5 take effect on January 1, 2023. SJR7 is to be submitted for approval by the people of the state in the next general election (November 2020) or any special election called for that purpose.

FISCAL IMPLICATIONS

Under Section 1-16-4 NMSA 1978 and the New Mexico constitution, 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 constitutionally required to publish the full text of each proposed constitutional amendment once a week for four weeks preceding the election in newspapers in every county in the state. The estimated cost per constitutional amendment is \$125 thousand-\$150 thousand depending upon the number of registered voters, and whether additional ballot printing systems are needed.

Additionally, SEC reports that upon voter approval of the proposed amendments, it will incur costs of implementation. It anticipates a nonrecurring cost of \$40 thousand for a compensation study to establish a compensation model based on comparative benchmarks from similar public elected positions around the country, along with collaborating with the National Conference of State Legislatures and the Bureau of Business and Economic Research at the University of New Mexico. It also anticipates the need for one FTE at approximately \$115 thousand and \$15 thousand in increased operations and overhead annually, for a total yearly cost of \$130 thousand.

SIGNIFICANT ISSUES

SOS comments that this resolution, if approved by the voters, would help to ensure that elected official salaries are in line with those of their peers around the country, as well as with the duties and requirements of an officer's position. SOS notes it could also better align an elected officer's salary to those of the officer's senior staff, who – in many cases – may earn up to 40 percent more than the office holder. SJR7 will help ensure not only fair compensation for the duties of the office, but also may act to attract candidates with the necessary qualifications to these offices.

SEC calls attention to the proposed repeal of Article 4, Section 10, which contains paragraph (C), providing that no legislator shall receive “no other compensation, perquisite or allowance” other than the per diem and mileage payments authorized by paragraphs (A) and (B). It advises that, upon that repeal, the principal constitutional provisions that would continue to constrain legislators' ability to receive additional compensation are the emoluments clause for state officers (Art. 20, § 9) and the extra-compensation Clause (Art. 4, § 27). The Legislature, however, has yet to grant SEC jurisdiction for either emoluments clauses. If it is empowered to review and set state elected and county elected salaries, SEC believes it should have the corresponding power to enforce the two emoluments clauses that limit elected state officer and elected county officer compensation.

OTHER SUBSTANTIVE ISSUES

AOC provides this information concerning how other states establish salaries and benefits of elected officials:

In 2011, the National Council of State Legislatures (NCSL) reported that 19 states have created compensation commissions to provide independent and impartial recommendations on salaries and benefits for elected officials. For example, in California, [Proposition 112](#), passed by voters in June 1990, established the California Citizens' Compensation Commission to set the salaries and medical, dental, insurance

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and other similar benefits of members of the legislature and the state's other elected officials.

AOC notes, however, that information provided by NCSL does not indicate that the powers and duties of ethic commissions in other states include setting salaries of all elected state officials.

Further, upon voter approval of the amendments and repeals contained in SJR7, legislative action to address and amend a number of statutes addressing elective state officer and county officer compensation would be appropriate. *See, e.g.*, Section 8-1-1, NMSA 1978 (setting annual compensation of elected state officers, including the governor, secretary of state, attorney general and state auditor); Section 34-1-10(G), NMSA 1978 (establishing process for setting salaries of justices, judges and magistrates); and Section 10-16(G)-5, NMSA 1978 (defining the powers and duties of the State Ethics Commission).

MD/rl/al/sb