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FISCAL IMPACT REPORT

ORIGINAL DATE
LAST UPDATED 1/21/22

SPONSOR Pope HB _____
SJ _____

SHORT TITLE Runoff Elections, CA R 5

ANALYST Rees

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY22 | FY23 | FY24 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|----------------------------|------|----------------------|------------------------------|------------------|
| Total | | See Fiscal Implications | | | | |

(Parenthesis () Indicate Expenditure Decreases)

Relates and may Conflict with: SJR1, SJR4, SJR6 & HJR5

SOURCES OF INFORMATION

LFC Files

Responses Received From

Secretary of State (SoS)

New Mexico Attorney General (NMAG)

No Response Received

Office of the Governor

New Mexico Municipal League (NMML)

New Mexico Counties (NMC)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 5 (SJR5) proposes to amend Article V, Section 2 and Article VII, Section 5 of the state constitution to empower the Legislature to establish laws for runoff primary and statewide general elections. Currently, the state constitution requires the state canvassing board to declare the results of an election, and lays out rules for who wins, including how a tie is broken.

If passed, the proposed amendment would be before voters in the November, 2022 general election.

FISCAL IMPLICATIONS

Under Section 1-16-4 NMSA 1978 and the New Mexico Constitution, the Secretary of State

(SoS) is required to print samples of the text of each constitutional amendment, in both Spanish and English, in an amount equal to 10 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. The estimated cost per constitutional amendment is \$125 thousand-\$150 thousand depending upon the size and number of ballots and if additional ballot stations are needed.

The SoS also notes that the number of constitutional amendments that pass may also impact the page size of the ballot, or if the ballot size is caused to become greater than one page, front and back, which may increase the cost of producing the ballots for the general election. In addition to the cost of the ballot, there may be time added to the voting process, which would require additional ballot printing systems to ensure a smooth and efficient voting process within the bounds of national best practices.

SIGNIFICANT ISSUES

According to the SoS, SJR5 does not specify the type of runoff election that may ultimately be chosen by the Legislature if this constitutional amendment were to be approved by the voters. If a standard runoff election is chosen, this could result in a second election if the margin of the top vote getter does not meet the required vote threshold, usually 50 percent or more. In this case a second runoff election would take place between the top two vote-getting candidates which would significantly increase the costs of conducting elections since additional election workers, ballot on demand systems, tabulators, and all other election costs would be realized. A 2021 runoff in the City of Albuquerque cost an estimated \$580,000. Depending upon whether the runoff occurs on a statewide race, the cost could be as much as a regular statewide election which is approximately \$6 million. A second election would also potentially interfere with post-election processes such as result canvassing and voting system checks and delay the determination of a winner.

If an instant runoff election style is chosen by the Legislature, however, this would negate the need for a separate runoff election. With instant runoff or “rank choice voting” the voter is able to rank candidates in the order of preference to ensure that the winner is the majority favorite and achieves over 50 percent of the vote in a single election. An instant runoff election is not expected to cause the issues notated about a standard runoff; however, this type of runoff can result in delays in publishing results on election night.

The National Conference of State Legislatures issued a report titled “State Primary Election Types” dated January 5, 2021.

PERFORMANCE IMPLICATIONS

According to the SoS, rank choice voting is currently done in the City of Santa Fe and the City of Las Cruces using the tabulation systems and software owned by the state. If the legislation were adopted, the SoS does not anticipate the need to purchase or replace any voting systems but would need to modify the statewide result reporting system, the result canvassing procedures, and update administrative rules to conform.

CR/al