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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

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(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: Feb. 14, 2025 *Check all that apply:*
Bill Number: SJR 9 Original Correction
 Amendment Substitute

Sponsor: Sen. Figueroa **Agency Name and Code** State Ethics Commission - 410
Short Title: Independent Redistricting Commission, CA **Number:** _____
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SJR 9 proposes a constitutional amendment making minor edits to existing language and adds a new section to Article 20 of the Constitution creating an independent redistricting commission, additionally providing the commission's qualifications and duties.

Section 1 of the resolution makes minor edits regarding gendered language in Article 4, Section 3 of the New Mexico Constitution, and deletes a subsection permitting reapportionment of the legislature after every decennial census.

Section 2 of the resolution adds a new section to Article 20 of the New Mexico Constitution establishing an independent redistricting commission. This section requires that after every decennial census, that an independent redistricting commission be established and that the commission develop "plans" for the redistricting of the legislature and other state offices that require redistricting. The plan that the redistricting commission adopts is filed with the Secretary of State, and whatever map provided by the commission must be used in subsequent elections. This section requires that three commissioners be from the largest political party in the state, three from the second largest political party in the state, three from neither of the largest two political parties in the state, and that the commission represents, as best as possible, the geographical diversity of the state. The Secretary of State would receive applications to sit on the commission and, at random, select two-thirds of the commission's membership. The remaining three commissioners would be selected by majority of the commission.

Additionally, under Section 2, the commission would be required to draw districts using "traditional redistricting principles" and to limit vote dilution.

Finally, Section 2 grants the commission procurement and contracting authority, and permits it to employ or hire staff, consultants, or legal counsel. If a map is challenged in court, the commission may have either its counsel or the Attorney General defend the map.

Section 3 requires that, if passed, the constitutional amendment is submitted to the voters for adoption.

FISCAL IMPLICATIONS

The State Ethics Commission is not mentioned in the resolution. A fiscal impact, if any, would come from potential enforcement of New Mexico's ethics laws against members of the redistricting commission and their staff if necessary, or issuance of advisory opinions concerning the same.

SIGNIFICANT ISSUES

Language in Section 2(C)

Subsection 2(C) states in part:

Districts shall be drawn using traditional redistricting principles and shall not result in minority vote dilution when a minority group is sufficiently large and geographically compact to constitute a majority in a single-member district and is politically cohesive and the nonminority group votes sufficiently as a block to usually enable it to defeat the minority group's preferred candidate.

“Traditional redistricting principles” in this context likely means widely held considerations when redrawing congressional districts, namely compactness of districts, contiguity, preservation of counties, political subdivision and communities of interest, and proportionality. *See e.g.*, Congressional Research Service, *Congressional Redistricting Criteria and Considerations*, <https://crsreports.congress.gov/product/pdf/IN/IN11618>, (last visited Feb. 14, 2025); *see also* Natl. Conference of State Legislatures, *2020 Redistricting Criteria*, <https://www.ncsl.org/elections-and-campaigns/2020-redistricting-criteria> (last visited Feb. 14, 2025). This language may also incorporate the state practice of drawing legislative districts by using precincts as the borders of legislative districts. *E.g.*, NMSA 1978, §§ 2-7F-1 to -77 (2021). Since (i) SJR 9 says nothing as to altering precinct boundaries, and (ii) the New Mexico precinct laws are designed around federal regulation, *see* NMSA 1978, § 1-3-11 (1995), the commission’s ability to deviate from precinct boundaries is likely limited.

The remaining language is likely an incorporation of the requirements in Section 2 of the federal Voting Rights Act of 1965. Section 2 of the Voting Rights Act prohibits any “qualification or prerequisite to voting or standard, practice, or procedure” from being imposed or applied in a manner which denies or abridges a citizen’s right to vote based on “race or color.” 52 U.S.C. 10301(a). The U.S. Supreme Court has interpreted this section as to prohibit the dilution of a racial or ethnic minority group’s vote. *See Thornburg v. Gingles*, 478 U.S. 30, 48–51 (1986). The language here, although it could perhaps be worded more clearly, would incorporate these protections into the state constitution. Having duplicative or stronger redistricting laws in New Mexico is not unjustified given that, more recently, the U.S. Supreme Court has been skeptical of the constitutionality of the Voting Rights Act. *See generally, Shelby County v. Holder*, 570 U.S. 529 (2013) (holding Section 4 of the Voting Rights Act unconstitutional).

Abrogation of Current Statute

Legislative apportionment is currently written in state statute under NMSA 1978, Sections 2-7F-1 to -77 (2021) (2021 House Redistricting), and Sections 2-8F-1 to -49 (2021) (2021 Senate Redistricting). If passed and adopted, SJR 9 would abrogate these sections following the decennial census that would occur in 2030. The legislature, moreover, would have no input on any changes to existing districts.

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SJR 9 is similar to HJR 1 introduced in the 2023 regular session. SJR 9 applies to only state districts and not federal congressional districts, unlike HJR 1(2023). SJR 9 also differs from HJR 1(2023) by removing any responsibility the State Ethics Commission has in determining who serves on the redistricting commission.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo.

AMENDMENTS