F I S C A L   I M P A C T   R E P O R T

SPONSOR Tsosie   **DATE TYPED** 03/07/05   **HB**

SHORT TITLE City and County Redistricting Requirements   **SB** 223

                                                                ANALYST Hadwiger

APPROPRIATION
(in $000s)

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	**FY06**	**FY05**	**FY06**		
	NFI				

(Parenthesis ( ) Indicate Expenditure Decreases)

SOURCES OF INFORMATION
LFC Files

Responses Received From
Department of Finance and Administration (DFA)
Office of the Attorney General (AG)

SUMMARY

Synopsis of Bill

Senate Bill 223 would require New Mexico counties and municipalities to redistrict once within one year of the release of each federal decennial census.

Significant Issues

DFA provided the following background:

-- Under current statutory law, municipalities may redistrict whenever it is warranted [Section 3-12-2 NMSA 1978 (being Laws 1965, Chapter 300, Section 14-11-2, as amended)]; counties may redistrict once immediately following each federal decennial census [Section 4-38-3 NMSA 1978 (being Laws 1876, Chapter 1, Section 10, as amended)]. In prior years, a few municipalities and counties have taken a long time to redistrict after the census has been released. The City of Santa Fe was sued to more expeditiously redistrict and that the City of Gallup has only just redistricted this year. The latitude allowed to city and county governments under current statute may result in redistricting processes that are not com-

pleted for several years after a decennial census.
--The statutory amendment proposed by this bill in not included on the Governor's plan for election reform.)

The following are taken from other state statutes but have not been fully researched.

--Arizona provides a time period in which to accomplish the redistricting, rather than establishing an effective date. "The board of supervisors shall meet at the county seat on or before December 1 following the release of the United States decennial census data and divide the county into three or five supervisorial districts ..." Ariz. Rev. Stat. 11-212 (year presumably current; retrieved from current website).

--New Jersey law states that "No county board shall make division of an election district in any year in the period commencing 75 days before the primary election and the day of the general election." "To facilitate the use of Federal decennial census populations for apportionment and redistricting purposes and notwithstanding the provisions of this or any other law, no election districts shall, except with the prior approval of the Secretary of State, be created, abolished, divided or consolidated between January 1 of any year whose last digit is 7 and December 1 of any year whose last digit is 0." N. J. Stat. Ann. 19:4-15 (a) and (b) ("Time of Change"; year presumably current; retrieved from current website).

--In California a "change in the boundaries of a supervisorial district shall not be made within 45 days before the first day for circulating nomination papers for an election of supervisors in the county or between the direct primary election and the general election." Cal. Elec. Code 21506 (year presumably current; retrieved from current website).

The Attorney General identified four significant issues with regard to this bill:
 (1) The current law gives municipalities the option of redistricting whenever "warranted" or requires them to redistrict upon receipt of citizen petitions. This bill will make redistricting mandatory.
 (2) The current law does not state a deadline for municipalities or counties to implement the redistricting change. The City of Santa Fe adopted a provision in its charter that it wouldn't redistrict until the 2004 election. In 2002, citizens successfully sued the City of Santa Fe (Lopez v City of Santa Fe, CIV No. 01-1312 (D. N.M. 2002)) on grounds that this delay was too long. This bill will impose mandatory timelines on redistricting.
 (3) The current law does not state a deadline for municipalities or counties to implement the redistricting change. This can be helpful when redistricting calculations are complicated. This bill does not allow for extensions on the timelines.
 (4) The current law does not cap the number of times a municipality or county may redistrict. Thirty years ago, N.M. law prohibited redistricting from occurring more than twice in a two-year period.
      (a) This bill does not expressly re-assert any type of cap. However its use of the term "once" may make it subject to interpretation that redistricting can only be done "once" per census.
      (b) The "once" language already exists in Section 4-38-3 and counties have generally interpreted it not to be cap (i.e. Class H County Commissions have deliberated whether to move from at-large to single-member districts six years after the census). Some citizens have complained that the "once" language does constitute a cap.

FISCAL IMPLICATIONS

There would be no fiscal implication on state agencies. If the bill were interpreted to allow only one redistricting in city and county governments every ten years, local governments might save some costs for multiple redistricting during a 10-year period.

TECHNICAL ISSUES

The AG recommended the bill could be clarified to show whether "once" means *at least* "once" or *just* "once."

DFA noted that a clearer definition of "release" of the census would be useful.

DH/lg