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FISCAL IMPACT REPORT

SPONSOR Rodriguez ORIGINAL DATE 2/07/2007 LAST UPDATED _____ HB _____
SHORT TITLE County Officer Midterm Salary Increases, Ca SJR 7
ANALYST Moser

APPROPRIATION (dollars in thousands)

| Appropriation | | Recurring or Non-Rec | Fund Affected |
|---------------|------|-------------------------|------------------|
| FY07 | FY08 | | |
| NFI | NFI | | |
| | | | |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Attorney Generals Office (AGO)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 7, if approved by the voters, would amend Article 10 Section 1 of the New Mexico Constitution to allow boards of county commissioners to provide a midterm salary increase for elected county officers "as authorized by law".

FISCAL IMPLICATIONS

None.

SIGNIFICANT ISSUES

Article IV Section 27 of The New Mexico Constitution provides in part "*nor shall the compensation of any officer be increased or diminished during his term of office, except as otherwise provided in this constitution.*" If this resolution is enacted, implementing legislation could also be enacted to allow boards of county commissioners to authorize salary increases for themselves, the sheriff, assessor, treasurer, clerk, surveyor and/or the probate judge. See NMSA Sections 4-38-6, 4-42-1. Current annual salaries for county officers are established in NMSA Sections 4-44-1 to 4-44-14.

The Attorney General's Office states that the New Mexico Supreme Court in *State ex rel. Hargan v. Harris* 126 N.M. 310 (1998) discussed the interrelation between Article IV Section 27 and Article X Section 1 and held that the legislature had no authority to provide for mid-term salary increases for local officials, and that such increases were unconstitutional. The Court discussed the reasons behind the prohibition and stated: "*The purpose of the language in Article X Section 1 on which Petitioners rely is to replace the fee-based system of compensation operated by the counties prior to statehood with a salary-based system controlled by the Legislature...Both provisions are intended to preclude arbitrary variations in compensation that might "harass and cripple the county officer by reducing her or his compensation during her or his service or cause the bestowal of an unmerited increase."* (citations omitted).

EM/sb