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## FISCAL IMPACT REPORT

ORIGINAL DATE 2/12/08

SPONSOR Foley LAST UPDATED \_\_\_\_\_ HJR 14

SHORT TITLE Independent Redistricting Commission, Ca SB \_\_\_\_\_

ANALYST Haug

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY08	FY09		
	Indeterminate	Recurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

### SUMMARY

#### Synopsis of Bill

House Joint Resolution 14 proposes to amend Article 4, Section 3 of the Constitution of New Mexico by removing paragraph D which currently authorizes legislative reapportionment and adding a new section to Article 20 establishing the Independent Redistricting Commission. In addition, gender references are removed in Section 3. The amendment would require approval at the next general election or at any special election prior to the general election called for that purpose.

The proposed addition to Article 20 would provide for an Independent Redistricting Commission for the purpose of redistricting Congressional, Public Regulation Commission and State Legislative Districts (IRC). The IRC would be established no later than February 28 of each year ending in 1.

### Membership

The IRC would consist of five members:

- no more than two of whom are members of the same political party and;
- no more than two of whom reside in the same county.

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A member of the IRC must:

- be a qualified elector of New Mexico who has been continuously registered with the same political party or registered as unaffiliated with a political party for three or more years immediately preceding appointment.
- within the three years immediately preceding appointment, a member shall not have:
  - been appointed to, elected to, or a candidate for any other public office;
  - been employed by a state agency;
  - served as
    - an officer of a political party,
    - a registered paid lobbyist or
    - an officer of a candidate's campaign committee.

Members would be nominated by the Appellate Judges Nominating Commission (AJNC) no later than January 8 of years ending in one. The AJNC is directed to create a list of 25 nominees who are willing to serve and are qualified. The nominee list must consist of:

- ten nominees from each of the two largest political parties in New Mexico based on party registration; and
- five nominees who are not registered with either of the two largest political parties in New Mexico.

One member each would be appointed no later than January 31 by:

- the President Pro Tempore of the Senate;
- the Speaker of the House of Representatives;
- the House Floor Leader of the party in the minority with the largest statewide registration; and
- the Senate Floor Leader of the party in the minority with the largest statewide registration.

The fifth member, who serves as the chair and must not be registered with any party already represented on the IRC, is selected from the list of nominees by majority vote of the four appointed members.

Vacancies would be filled by appointment from the list of remaining nominees by a person of the same political party or status as the member being replaced.

A member may be removed by the Governor with the concurrence of two thirds of the elected members of the Senate, following written notice and an opportunity to respond on the part of the member, for:

- substantial neglect of duty;
- gross misconduct in office; or
- inability to discharge the duties of office.

A member would be ineligible for state office or registration as a paid lobbyist during the member's term and for three years following the term.

Members would serve until their successors are appointed and qualified.

### **Duties**

The IRC would initially establish districts of equal population in a geometric or grid like pattern across the state. This mapping process would then be adjusted as necessary to accommodate the following criteria:

- districts shall comply with federal constitutional and statutory requirements;
- districts shall be equal in population to the extent practicable;
- districts shall be contiguous and as geographically compact as practicable;
- district boundaries shall respect communities of interest to the extent practicable;
- when practicable, district lines shall use visible geographic features and municipal and county boundaries;
- districts shall not divide precincts; and
- competitive districts shall be favored where to do so would create no significant detriment to the other criteria.

Party registration and voting history data are excluded from the initial phase of the mapping process but may be used to test maps for compliance with the criteria above. The places of residence of incumbents or candidates shall not be identified or considered.

The IRC must advertise proposed plans for the districts for public comment for at least thirty days. Following the comment period, the IRC would make any adjustments it deems necessary to the proposed plans and establish final district boundaries. Final plans would be filed with appropriate state agencies by October 1 of years ending in 1.

### **Operations of the IRC**

The Legislature would provide adequate resources for the operation of the IRC.

The IRC would have procurement and contracting authority as well as the authority to hire staff, consultants and legal counsel to carry out its duties.

The IRC would have standing in legal actions challenging its redistricting plans or the adequacy of the resources provided for the operation of the IRC. The IRC would have sole authority to determine whether the state is represented by the Attorney General or outside counsel in the legal defense of a redistricting plan.

Members are eligible for per diem and mileage at the IRS maximum rate for Santa Fe for per diem and the IRS standard rate for travel on IRC business.

The IRC is prohibited from meeting or incurring expenses after the redistricting plan is completed with the following exceptions:

- when litigation or any governmental approval of the plan is pending;
- to revise districts if required by a court decision; or
- to consult with executive and legislative agencies on the development of budgets in preparation for the next redistricting cycle.

**FISCAL IMPLICATIONS**

While the fiscal implications are unclear, the costs of IRC staff, consultants, and legal counsel both in preparation and defense of the proposed redistricting plan could be substantial. In addition, the Appellate Judges Nominating Commission would incur additional costs in the process of compiling the list of qualified potential members.

**TECHNICAL ISSUES**

It is unclear who would make the choice of a replacement in the case of a vacancy occurring in the membership.

GH/mt