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FISCAL IMPACT REPORT

ORIGINAL DATE 03/04/09

SPONSOR HENRC LAST UPDATED _____ HB 604/HENRCS

SHORT TITLE State Game Commission Member Elections SB _____

ANALYST Woods

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 583

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)
Department of Game and Fish (DGF)

SUMMARY

Synopsis of Bill

House Energy and Natural Resources Committee Substitute for House Bill 604 proposes to alter some of the provisions of Section 5 of the bill, NMSA 1978, § 17-1-2, as well as to add two new paragraphs to the section. The remaining sections of House Bill 604, Sections 1-4, remain identical to the original bill. HENRC's proposed amendments to Section 5 of House Bill 604 are as follows:

1. The word "consisting" is added to Subsection A for purposes of describing the membership of the Commission
2. A new Subsection B is created to describe the geographical areas from which Commission members will be appointed for representation. Formerly, the statute and House Bill 604, appointed members from seven districts that were identified by county composition. The proposed Subsection B by the HENRC provides for seven districts to be identified after the 2010 Census pursuant to apportionment under the Precinct Boundary Adjustment Act, but such districts are otherwise unidentified.

3. HENRC’s Committee Substitute bill proposes a new Subsection C that provides that “designations and boundaries used in this section are those precinct designations and boundaries established pursuant to the Precinct Boundary Adjustment Act...”
4. A new Subsection D is added to create limitations on precinct boundaries, stating as follows:

A board of county commissioners shall not create any precinct that lies in more than one state game commission district and shall not divide any precinct so that the divided parts of the precinct are situated in two or more state game commission districts. Votes cast in a statewide election from precincts created or divided in violation of this subsection are invalid and shall not be counted or canvassed.
5. HENRC’s proposed Subsection F is substantially similar to the proposed Subsection B in the original House Bill 604; provided, however that the referenced date is changed from 2010 to 2012 in the HENRC Committee Substitute. Consequently, the terms of Commission members at the reference date is correspondingly amended to reflect the term length from such time (2012).
6. HENRC’s proposed Subsection H is identical to the proposed Subsection D in the original House Bill 604, except that the phrase “as described in Subsection A of this section,” has been substituted for “as described pursuant to this section,” in the HENRC Committee Substitute.
7. Other provisions in Section 5 of the HENRC Committee Substitute that amend the original proposals under House Bill 604 consist of re-lettering certain sections to account for additional provisions in the HENRC Committee Substitute.¹

SIGNIFICANT ISSUES

AGO indicates that significant issues related to House Bill 604 Committee Substitute may require an evaluation of the Precinct Boundary Adjustment Act, NMSA 1978, § 1-3-10 to 1-3-14, the general elections provisions of Chapter 1, NMSA 1978, as well as certain constitutional protections related to legislative re-apportionment and other constitutional issues.

DGF adds that the substitute now allows for the election of State Game Commissioners pursuant to a completion of 2010 census following the Precinct Boundary Adjustment Act. Since there is not an enactment date or clause at this end of this bill, it could pass and become law July 2009. It is unclear how the governor could appoint vacancies or if current commission membership would remain until the 2010 census is completed and approved by the Secretary of State.

¹ Excerpted from AGO response dated 3-3-09.

ADMINISTRATIVE IMPLICATIONS

DGF indicates that it is unclear if any State Game Commissioners may serve on the commission until precincts are approved by the Secretary of State after the census in 2010. This could affect wildlife management decision that only commissioner are empowered to make following the provisions of Chapter 17.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

AGO indicates an association with Senate Bill 583 in that. "... it relates to redistricting, precinct creation, and precinct combination. SB 583 generally provides that authority of boards of county commissioners to create or alter precinct boundaries is suspended from June 2009 until January 2012; and, further states that any boundary adjustment shall be in accord with the Precinct Boundary Adjustment Act."

TECHNICAL ISSUES

AGO states, "In HENRC's proposed amendments to House Bill 604, Subsections E and I are duplicates of each other. One subsection should be removed. No other technical issues have been observed or noted."

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AGO states, "NMSA 1978, § 1-1-12, in the Precinct Boundary Adjustment Act, provides that "before each federal decennial census, every precinct boundary shall be adjusted to coincide with..." certain enumerated conditions. The effect of this general requirement on the adjustment of precinct boundaries is unknown as it applies to Game Commissioner's districts."

DGF notes that the governor will continue to have the ability to regularly appoint members to the State Game Commission and confirmed by the Senate as per 17-1-2 (NMSA 1978).

AMENDMENTS

None suggested by respondents.

BW/svb