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FISCAL IMPACT REPORT

ORIGINAL DATE 01/27/12
 LAST UPDATED 01/31/12 **HB** 151/aHJC

SPONSOR Cervantes

SHORT TITLE Constitutional Revision Commission **SB** _____

ANALYST Daly

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
\$100.0		Nonrecurring	Legislative Council Cash Balances

(Parenthesis () Indicate Expenditure Decreases)

*See Fiscal Implications for discussion of adequacy of appropriation and impact on staffing of proposed commission and the legislative council service.

SOURCES OF INFORMATION

LFC Files

Responses Received From
 Attorney General's Office (AGO)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary Committee amendment to House Bill 151 adds an additional qualification for members to be appointed to the constitutional revision commission: a member must not have changed party affiliation one year prior to being appointed.

Synopsis of Original Bill

House Bill 151 creates a 17-member independent commission to recommend changes to the New Mexico Constitution. The commission would be composed of fifteen voting members and two advisory, non-voting members. The members are appointed as follows:

- Three public members appointed by the speaker of the House of Representatives, with a maximum of two from the same party;
- Three public members appointed by the president pro tempore of the senate, with a maximum of two from the same party;
- Three public members appointed by the governor, with a maximum of two from the same party;

- Six public members appointed by the New Mexico legislative council; and
- Two advisory, non-voting members, being the Chief Justice and the Attorney General. Each of these members has the power to designate an individual to serve on the member's behalf.

The bill also requires the appointments be coordinated to ensure representation by the different geographical areas and reflecting the cultural, economic, professional and ethnic diversity of the state. Additionally, HB 151 requires no more than eight members shall belong to the same political party.

The commission is to study the New Mexico constitution as well as those of other states for recommendations for changes. A report of findings and recommendations is to be made to the governor and each member of the legislature thirty days prior to convening the 2014 legislature.

Each commission member would be entitle to mileage and per diem.

HB 151 contains an emergency clause, and a delayed repeal as of April 1, 2014.

FISCAL IMPLICATIONS

The appropriation of \$100,000 contained in this bill is a non-recurring expense to the legislative council cash balances. Any unexpended or unencumbered balance remaining at the end of FY 14 shall revert to the general fund.

It may be that the appropriation of \$100,000 contained in this bill would permit the commission to hire dedicated staff and pay per diem and mileage for two years of meetings. The Government Restructuring Task Force effort from April 2010 through December 2010 took an estimated 3,000 hours of senior staff effort and resulted in about \$42,000 in per diem and mileage expenditures. (See HB 130 FIR in 2011 Session).

SIGNIFICANT ISSUES

The last time a constitutional commission was created was in 1993, which reported to the legislature in 1995. In the last five thirty-day sessions alone, an average of 42 constitutional amendments were proposed. This may suggest that it is time to conduct a comprehensive review of the state constitution as a whole.

TECHNICAL ISSUES

Since the appropriation is being made from legislative council cash balances, a non-reverting fund, the reversion of any unexpended or unencumbered balance to the general fund may not reflect the legislative intent of HB 151.

Additionally, the AGO suggests that, since two of the commission members are non-voting, adding language to the restriction in Section 1(F) so that it reads "... no more than eight voting members shall belong to the same political party..." may provide clarity, if that language reflects the intention of HB 151.

MD/svb:amm