

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 02/01/12

SPONSOR Gentry **LAST UPDATED** _____ **HB** HJR 24

SHORT TITLE PUBLIC OFFICER IMPEACHMENT SANCTIONS, CA **SB** _____

ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	\$0.0	\$104.0*	\$0.0	\$104.0*	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

*See Fiscal Implications for financial data provided by the SOS.

Relates to HB 210 and SB 197.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General's Office (AGO)

Public Regulation Commission (PRC)

SUMMARY

Synopsis of Bill

House Joint Resolution 24 contains a proposed amendment to Article IV, Section 36 of the New Mexico Constitution which, if approved by the voters, would allow the legislature to provide by separate or later enactment of law additional sanctions in the event of impeachment of a state officers and district court judges for crimes, misdemeanors and malfeasance in office.

FISCAL IMPLICATIONS

The SOS reports that in accordance with Section 1-16-4 NMSA 1978, upon receipt of the certified proposed constitutional amendment or other question from the Secretary of State, the county clerk shall include it in the proclamation to be issued and shall publish the full text of each proposed Constitutional amendment or other question in accordance with the constitution of New Mexico.

Although the county clerk includes the proposed amendments in the clerk's proclamation, it is the responsibility of the State to pay for the costs associated with the publication per Section 1-16-13 NMSA 1978, including printing samples of the text of each constitutional amendment in both Spanish and English in an amount equal to ten percent of the registered voters of the state. There are currently 1.7 million registered voters in the state. Voters whose election mail is returned as undeliverable will be sent the proper notice under federal law in 2012, and if they do not vote in the next two federal elections, may be purged in 2015. Under these timelines, the voter roll is expected to increase until the purge in 2015.

The SOS reports that in 2010, the publication cost was \$520,000 for 5 constitutional amendments, or approximately \$104,000 per amendment. Although the SOS is continually seeking ways to reduce publication costs, it believes the 2010 figure is a reasonable projection for these one-time 2012 costs, given the increasing number of voter registrations. That number is set forth in the table above as a nonrecurring expense.

Other than the cost of the SOS, the amendment itself will not result in costs as the amendment itself does not provide any additional sanctions. Any changes, additional proceedings, or other actions that may lead to additional expenses would require future legislation, the fiscal impact of which would be analyzed at the time of its introduction.

SIGNIFICANT ISSUES

Article IV, Section 36 currently allows, in addition to removal from office through impeachment (and disqualification from future office and loss of the right to vote) for crimes, misdemeanors and malfeasance in office, that a state officer or district judge is also liable to criminal prosecution and civil actions, according to law. This bill would authorize the legislature to add additional sanctions in separate legislation.

As the AGO advises, any such additional sanctions could not include criminal sanctions without providing the officer or judge with the full panoply of rights afforded a criminal defendant under the state and federal bill of rights, including the right to jury trial.

The AGO also questions whether the process set forth in Article IV, Section 35, requiring a two-thirds vote in the senate for impeachment would apply to the determination and imposition of any additional sanctions as may be authorized by separate legislation.

RELATIONSHIP

HJR 24 relates to HB 210, which provides for immediate removal from office of any public office holder convicted of a felony. HJR also relates to SB 197, which provides for the addition of a fine equal to the office holder's salary and benefits to the basic sentence of any public official convicted of a felony arising out of or related to the office held.

MD/amm