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FISCAL IMPACT REPORT

SPONSOR Easley ORIGINAL DATE 01/28/13
LAST UPDATED _____ HJR 5
SHORT TITLE County Officer Term Limits, CA SB _____
ANALYST Cerny

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$ 46.0				Election Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General (AGO)

Secretary of State (SOS)

SUMMARY

Synopsis of Bill

House Joint Resolution 5 is a proposal to amend Article X, Section 2 of the New Mexico Constitution in order to limit a person's eligibility to hold the same county office to ten years.

Currently, county officers, after having served two consecutive four-year terms are ineligible to hold any county office for two years thereafter.

FISCAL IMPLICATIONS

Since this bill is for a constitutional amendment, there will be costs associated with the process of preparing an amendment for the voters.

SOS states, "In the 2012 general election, the SOS expended approximately \$46,000.00 per constitutional amendment for publication in statewide newspapers and publication of the voter guides, as well as translation of the amendments into Native American languages for radio broadcast."

SIGNIFICANT ISSUES

AGO points out that “the Qualifications Clause of the New Mexico Constitution provides that, “[e]very citizen of the United States who is a legal resident of the state and is a qualified elector therein, shall be qualified to hold any elective office *except as otherwise provided in this constitution*”. See N.M. Const. art. VII, §2(A) (emphasis added). “

N.M. Const. art. X, § 2(D) sets forth limitations on county officers and specifically provides that, “[a]ll county officers, after having served two consecutive four-year terms, shall be ineligible to hold any county office for two years thereafter.” HJR 5 would add an additional proviso to end of subsection D deeming, “[a] person...ineligible to hold the same county office for a total of more than ten years”.

HJR 5, if successful, would result in an amendment to the New Mexico Constitution further limiting county office-holder eligibility. According to the AGO, “there are no apparent legal impediments. See *e.g. Cottrell v. Santillanes*, 120 N.M. 367, 901 P.2d 785 (Ct. App. 1995).”

OTHER SUBSTANTIVE ISSUES

Staggered terms are stipulated on p. 2 line 3. AGO states: “While it is not clear from the face of HJR 5, it appears that the eligibility cap of ten years for a person holding the same county office may be intended to address the potential effects of the staggered term provisions in Article X, Section 2. Section 2(B) “establish[ed] staggered terms” for elected county officers by creating an initial four-year term for the assessor, sheriff and probate judge and an initial two-year term for the treasurer and clerk. See *Block v. Vigil-Giron*, 135 N.M. 24, 28, 84 P.3d 72, 76 (2004); see also Att’y Gen. Op. No. 12-4 (2012) (discussion of vacancy appointments and effect of staggered terms for county officers).”

CC/bm