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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