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FISCAL IMPACT REPORT

ORIGINAL DATE 02/16/13
 LAST UPDATED 03/15/13 HJR 12/HVECS

SPONSOR HVEC

SHORT TITLE Independent Police Review Boards SB _____

ANALYST Chenier

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the District Attorney (AODA)
 Attorney General's Office (AGO)
 Department of Public Safety (DPS)
 Municipal League

SUMMARY

Synopsis of Bill

House Voters and Elections Committee Substitute for House Joint Resolution 12 proposes to amend article 10 of the Constitution of New Mexico allowing municipal and county governments to create independent review boards with authority to investigate citizen complaints regarding law enforcement. In the proposed amendment the governing body establishes the citizen review board and the board is meant to be independent of the governing body. The governing body is to establish a process to select members for the review board from a list of jurors from the county or municipality in which the review board convenes. The proposal gives the board authority to investigate citizen complaints. The proposal requires deliberations by the board to be public. Lastly, the resolution is required to be submitted to the public at the next general or special election.

FISCAL IMPLICATIONS

The approximate cost per constitutional amendment is \$46 thousand. The costs include publishing the amendments in newspapers statewide, publishing the voter guide, and recording and broadcasting the constitutional amendments in Native American languages on radio.

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There is no clear indication of revenue sources for independent police review boards or whether revenue sources would be independent of the governing body.

SIGNIFICANT ISSUES

The AODA provided the following:

The resolution says the citizen police review board “shall have authority to investigate citizen complaints” regarding law enforcement agencies and officers. Aside from the funding that would be needed for operations and to hire staff (or pay board members to work full-time on their board duties), investigations can be very costly. Without subpoena power a review board would be unable to compel production of evidence in support of their investigations.

The proposal would have the review board “independent” of the governing body so it is unknown how they could allocate funds to resolve complaints that resulted in, or might result in, civil lawsuits.

There are also some fundamental questions like who might investigate citizen complaint involving an officer with concurrent jurisdiction. That could happen if a deputy sheriff was acting within the confines of a municipality, or if a state police officer, university police officer, etc. was the person complained about, or if there was a joint agency operation. The problem could be especially confusing if the city, for example, had a citizen police review board, but the county did not, or if the person was employed in law enforcement as a state police officer, university police officer, federal officer, etc.

SIGNIFICANT LEGAL ISSUES

The AGO provided the following:

Under the New Mexico statutes, two acts can currently come into play in the administrative review of allegations of individual police officer misconduct. The Law Enforcement Training Act authorizes the Law Enforcement Academy Board to deny, suspend or revoke certification of law enforcement officers in Section 29-7-1 NMSA 1978 through 13. The Peace Officer’s Employer-Employees Relations Act prescribes rights for peace officers facing administrative investigations by their employer-agency in Section 27-14-1 NMSA 1978 through 11. The language of this proposed amendment does not appear to directly conflict with either act. However, the broad, general nature of the authority given to local police review boards under the proposed amendment should be noted. If the proposed amendment were approved in an election, additional legislation delineating how police review boards would “investigate citizen complaints” could prove helpful.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Senate Joint Resolution 8 calls for an election regarding a very similar constitutional amendment authorizing the creation by local governments of police review boards, albeit with elected members.

POSSIBLE QUESTIONS

Would the boards have the power to subpoena witnesses and compel testimony?

EC/blm