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FISCAL IMPACT REPORT

SPONSOR Brown ORIGINAL DATE 3/01/17
LAST UPDATED _____ HJR 12

SHORT TITLE Constitutional Amendments by 2 Sessions, CA SB _____

ANALYST Esquibel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total			\$50.0- \$100.0		Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)
Office of the Attorney General (OAG)

SUMMARY

Synopsis of Joint Resolution

House Joint Resolution 12 (HJR12) proposes to amend Article 19, Section 1 of the Constitution of New Mexico to require legislatively-proposed amendments to the Constitution to be considered and approved at two consecutive regular sessions of the Legislature before being published and put on the election ballot for ratification. The proposed amendment in the second session may be modified, but not to such a degree as to change its original purpose.

FISCAL IMPLICATIONS

Section 1-16-13 NMSA 1978 requires the Secretary of State (SOS) to print the full text of each proposed constitutional amendment, in both Spanish and English, in an amount equal to 10 percent of the registered voters in the state. The SOS is also constitutionally required to publish the full text of each proposed constitutional amendment once a week for four weeks preceding the election in newspapers in every county in the state. LFC staff estimate each constitutional amendment may cost from fifty thousand dollars to one hundred thousand dollars (\$50,000-\$100,000) in printing and advertising costs based on 2016 actual expenditures.

SIGNIFICANT ISSUES

The Attorney General's Office (AGO) notes the proposed amendment will make it more

difficult to amend the state constitution.

TECHNICAL ISSUES

The Administrative Office of the Courts (AOC) writes in contrast to the provisions of the bill requiring double-session approvals, Section 2 of HJR12 provides that this resolution itself, if approved in the current session, would be submitted to the people for their approval or rejection at the next general election according to the current process for constitutional amendments.

OTHER SUBSTANTIVE ISSUES

The Administrative Office of the Courts notes currently, a simple majority is required in each house of the Legislature in one legislative session to place a proposed constitutional amendment on the ballot. Requiring a joint resolution to be passed twice may result in fewer such proposed constitutional amendments being submitted to voters.

Constitutional amendments have been proposed somewhat frequently in the New Mexico Legislature. In a 2012 analysis of HB151 that would have created a constitutional revision commission, LFC reported that, “In the last five thirty-day sessions alone, an average of 42 constitutional amendments were proposed.”

Piecemeal amendment of the constitution of New Mexico since 1912 has produced more than a few “essential” amendments. Exclusive of the 1911 “Blue Ballot” amendment, there have been 152 changes to the 1910 document. If we were to apportion this total over the years since statehood, the changes would be the equivalent of 1.65 amendments for each of the 92 years of our state's existence. [*Piecemeal Amendment Of The Constitution Of New Mexico 1911 to 2004*, Richard H. Folmar, N.M. Legislative Council Service, 16th rev (April 2005), at iv.]

Although rather outdated, an interesting comparison of processes for state constitutional amendments is found in *Legislative Powers To Amend A State Constitution*, by Brenda Erickson and Joan Barilla, National Conference of State Legislatures, *E- Journal Of The American Society Of Legislative Clerks And Secretaries* (Spring 2002), <http://www.ncsl.org/print/aslcs/erickson.pdf> at p. 1 :

In 35 states, the legislation proposing a constitutional amendment must be adopted by the Legislature during only one session. In 12 states a proposed constitutional amendment must be enacted during two legislative sessions, and a general election must occur between the two sessions. The remaining three states may use one or two sessions.

In addition to the number of sessions, some states require supermajority votes or limit the number of proposals per session. However, no matter how many steps a state may place on legislatively-initiated amendments, nearly all the states require that constitutional changes be submitted to the voters. [*Id.* at p. 3.] Delaware is the only state that allows the legislature to amend the constitution without a popular vote. [[Constitutions: Amend With Care](#), by Jennie Drage Bowser, *State Legislatures Magazine*, September 2015.]