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FISCAL IMPACT REPORT

SPONSOR Cervantes ORIGINAL DATE 2/21/17
LAST UPDATED _____ HB _____

SHORT TITLE Constitutional Revision Commission SB 261/ec

ANALYST Esquibel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
\$100.0		Nonrecurring	Legislative Council Cash Balance

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

Attorney General's Office (AGO)

State Land Office (SLO)

Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Bill 261 (SB261) would create an independent commission to propose constitutional amendments to the Legislature. The bill creates a 17 member commission, with 15 voting members and two nonvoting members (the chief justice of the supreme court and the attorney general, or their designees). SB261 contains an emergency clause and a delayed repeal date of April 1, 2018.

FISCAL IMPLICATIONS

The appropriation of \$100 thousand contained in this bill is a nonrecurring expense to Legislative Council cash balances. Any unexpended balance remaining at the end of FY18 shall revert to the general fund.

SB 261 provides that members of the constitutional revision commission shall receive per diem and mileage as provided for in the Per Diem and Mileage Act, but no other compensation, perquisite or allowance.

SB261 requires the Attorney General or his designee to advise the Constitutional Review Commission in a nonvoting capacity thus adding additional work and an additional time commitment by the AGO or his designee which would require funding.

PERFORMANCE IMPLICATIONS

DFA estimates that the administrative tasks associated with setting up the new commission in SHARE would require a considerable amount of staff time from the agency's financial control division. This would reduce the financial control division's ability to process its normal workload and comply with the division's statutory responsibilities.

ADMINISTRATIVE IMPLICATIONS

PED notes Section 5 of the act states “[t]he staff and research work shall be done under the supervision of the chair of the constitutional revision commission by employees approved by the commission, assisted, upon request, by the legislative council service.” The bill is not clear who employs these employees. If it is the commission, and the funding for the salaries of the employees is intended to be covered by the \$100 thousand appropriation, it may be insufficient.

TECHNICAL ISSUES

Since the appropriation is from legislative cash balances, any unexpended balance remaining at the end of FY18 should revert back to the Legislative Council cash balances.

The legislation is unclear about where the new commission would reside.

PED notes the bill is unclear about the term “public members,” does not include a timeframe for making an appointment to fill a vacancy, and suggests adding a provision requiring that the report and recommendation first be submitted to the two advisory members (Chief Justice of the Supreme Court and the Attorney General) of the panel prior to submission to the Governor and Legislature.

OTHER SUBSTANTIVE ISSUES

The Administrative Office of the Courts (AOC) writes since its adoption in 1911, the New Mexico State Constitution has twice been subject to a comprehensive review by a Constitutional Review Commission; once in 1967 and again in 1991-93. Both instances lead to the calling of a constitutional convention. For more information on the history of amendments to the New Mexico Constitution, follow these links: <https://www.nmlegis.gov/lcs/lcsdocs/152507.pdf>, http://lawschool.unm.edu/nrj/volumes/09/3/04_constitutional_revision.pdf

While all states provide for constitutional amendments by their Legislature, only one other state has adopted a similar approach by creating a Constitutional Review Commission without necessitating a constitutional convention to employ change. The Florida Constitutional Revision Commission convenes every twenty years and will be convening in 2017: http://www.floridabar.org/DIVCOM/JN/JNJournal01.nsf/c0d731e03de9828d852574580042ae7a/32f3746d496cec6185256adb005d611c!OpenDocument&Highlight=0,constitution,revision,commission,1997*