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FISCAL IMPACT REPORT

SPONSOR Pratt/Lente ORIGINAL DATE 2/9/19
LAST UPDATED 3/1/19 HJR 6/aHJC
SHORT TITLE Allow For Runoff Elections, CA SB _____
ANALYST Daly

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total			\$5.5	\$5.5	Nonrecurring	Election Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Response Received From

Secretary of State (SOS)
Administrative Office of the Courts (AOC)
New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of HJC Amendment

The House Judiciary amendment to House Joint Resolution 6 inserts a comma, presumably on page 1, line 22 following the bracket.

Synopsis of Original House Joint Resolution 6

House Joint Resolution 6 proposes to amend the state constitution to allow runoff elections in every election other than municipal elections. The resolution is to be submitted for approval by the people of the state in the next general election (November 2020) or any special election called for that purpose.

FISCAL IMPLICATIONS

The SOS is constitutionally required to publish the full text of each proposed constitutional amendment once a week for four weeks preceding the election in one newspaper in every county in the state. In 2018, the SOS spent \$16,200 for the required newspaper publications; however, the cost is dependent upon the number and length of the constitutional amendments proposed. For planning purposes, SOS advises \$21.13 per word be used to represent the costs realized in the 2018 general election to estimate the cost of publishing each constitutional amendment.

SIGNIFICANT ISSUES

Currently, only municipalities are authorized to conduct runoff elections, either as a top-two or ranked choice runoff election. See Section 1-2216, NMSA 1978. As NMAG explains, runoff elections are generally a two round system of voting where two candidates emerge from the first round and one is elected from the second round. Ranked choice voting is also a form of runoff election, sometimes called an instant runoff, whereby voters rank their choices in order of preference. The amendment does not specify the type of runoff election that it is proposing, so it is likely that the ranked choice could be an option that the state could pursue in implementing runoff elections in the state.

Should the amendment be approved by the voters of the state, implementing legislation would need to be adopted, including provisions that set thresholds that determine the margin of votes between the first and second place candidates that would trigger a two round system of runoff election.

To the extent this amendment, and any implementing legislation, might impact the constitutional provisions governing election of judicial officers, AOC provides these comments:

Under current law (Article VI, Section 35), justices and judges appointed by the governor following nomination by the judicial nominations commission must stand for partisan election at the next general election. Thereafter, justices and judges must face nonpartisan retention elections at the end of their term of office.

If the Legislature exercised the power granted to it by this proposed amendment, by requiring newly appointed justices and judges to face not only a partisan general election (and the party primary election preceding it), but the prospect of a new runoff election, the barriers to judicial applications would likely rise. Adding additional electoral demands and the uncertainty posed by any election to the already uncertain prospects facing a newly appointed justice or judge may tend further to diminish the number of qualified judicial applicants.

As the judicial system has faced growing difficulty in the past decade attracting sufficient numbers of highly qualified applicants for judicial vacancies, any increase in the number of elections a newly appointed judge might have to face would tend to further diminish applicant numbers. As a highly qualified judiciary is the goal of the current system of judicial applications, nominations, and appointments, a reduced applicant pool would pose challenges to maintaining the high quality of judges.

OTHER SUBSTANTIVE ISSUES

Should the Legislature authorize runoff elections in implementing this amendment upon voter approval, SOS advises the cost of a top two runoff election would be the same as conducting the initial election in which no candidate receives the majority of votes cast for the office. A statewide rank choice voting election has yet to be conducted so the actual fiscal impact is unknown at this time. A rank choice voting runoff election, however, likely would be considerably less expensive because the ballots cast on election day would be used to rank the votes for each candidate within the contest until one candidate receives the majority of votes. This all takes place on one day, eliminating the need for an additional election thirty to forty-five days after election day.

MD/sb/gb