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## FISCAL IMPACT REPORT

SPONSOR Schmedes ORIGINAL DATE 02/13/21  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE Public Emergency Business Closures, CA SJR 18  
ANALYST Hanika-Ortiz

### **ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$150.0- \$200.0		\$150.0- \$200.0	Nonrecurring	GF

(Parenthesis ( ) Indicate Expenditure Decreases)

### **SOURCES OF INFORMATION**

LFC Files

#### Responses Received From

New Mexico Attorney General (NMAG)

### **SUMMARY**

#### Synopsis of Bill

Senate Joint Resolution 18 (SJR18) proposes to refer to voters an amendment to the New Mexico Constitution to add a new section at Article XI.

SJR18 would offer voters of New Mexico an opportunity to decide whether to impose strict limits on regulating certain businesses through declarations of public health emergencies. It would strictly prohibit closing one business during a statewide public health emergency without closing others of a similar type by declaring unconstitutional closing “a place of business registered in the state while allowing another business registered in the state with the same North American industry classification system code or similar succeeding industry classification to remain open.”

Article XI “Corporations other than municipal” authorizes the Legislature to make laws regarding corporations and to take corporate – as well as individually owned – property under eminent domain. It includes creation of the Public Regulation Commission and affirms the police power of the state over businesses.

If passed, SJR18 would be submitted to the voters of New Mexico for their approval or rejection at the next general election or at any special election that may be called for this purpose.

**FISCAL IMPLICATIONS**

Under Section 1-16-4 NMSA 1978 and the New Mexico Constitution, the Secretary of State (SOS) is required to print samples of the text of each 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 required to publish them once a week for four weeks preceding the election in newspapers in every county in the state. The estimated cost per constitutional amendment is \$150 thousand-\$200 thousand depending upon the size and number of ballots and if additional ballot stations are needed.

**SIGNIFICANT ISSUES**

NMAG noted that, because voters could decide to impose a definite prohibition against some government actions to close businesses during a public health emergency, SJR18 can be seen to limit the constitutional powers of the Legislature and the governor. The constitution, if SJR18 is approved by voters, would absolutely prohibit certain public health closures, regardless of whether conditions on the ground warranted issuance by the governor of an emergency public health order or the Legislature’s redress in special session. SJR18 would permanently prohibit closing of one business over another of the same North American Industry Classification (NAIC) category.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Relates to Senate Bill 74, Public Health Order Termination & Renewal  
Relates to House Bill 139, Leg. Oversight of Emergency Declarations  
Relates to House Bill 159, Rulemaking During Public Health Orders  
Relates to Senate Bill 238, Eliminate Secretary of Health Powers

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