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## FISCAL IMPACT REPORT

SPONSOR Ivey-Soto/Gonzales ORIGINAL DATE 01/23/22  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE Salaries for Public Officials, CA SJR 8  
ANALYST Hitzman

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

	FY22	FY23	FY24	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		See Fiscal Implications				

(Parenthesis ( ) Indicate Expenditure Decreases)

### **SOURCES OF INFORMATION**

LFC Files

#### Responses Received From

State Ethics Commission (SEC)

State Personnel Office (SPO)

Administrative Office of the Courts (AOC)

Administrative Office of the District Attorney (AODA)

New Mexico Attorney General (NMAG)

### **SUMMARY**

#### Synopsis of Bill

Senate Joint Resolution 8 (SJR8) amends several sections of the New Mexico Constitution, allowing the State Ethics Commission to review and establish salaries for all elected state officials every two years. SJR8 also amends how two of the ethics commission commissioners are appointed, now to be appointed by the Supreme Court.

SJR8 also amends several constitutional provisions regarding compensation for district attorneys (Art. VI, § 24), Magistrate judges (Art. VI, § 26), Court of Appeals judges (Art. VI, § 28), and proposes to repeal constitutional provisions governing compensation of Legislators (Art. IV, § 10), state executive officers (Art. V, § 12), Supreme Court Justices (Art. VI, § 11), and District Court judges (Art. VI, § 17).

Provisions of SJR8 will be submitted to the people for approval or rejection at the next general election or any special election. The provisions of SJR8 would take effect January 1, 2023 for section 1 and July 1, 2024 for the subsequent sections.

## **FISCAL IMPLICATIONS**

SJR8 tasks the State Ethics Commission with creating salaries for legislators, which would be a new cost to the state. SPO estimates these salaries, paying an average salary of \$20 thousand per year to New Mexico's 112 legislators, would cost the state approximately \$2.2 million. The bill may also result in increased salaries for other officials, further increasing the overall cost for implementation.

The bill does not contain an appropriation but may have additional fiscal impacts related to administrative support at the commission. For instance, SEC notes that there will be more than 330 elected state officers in the state across 13 different positions, for which SEC must review and set salaries. To do this, SEC estimates the need for two additional FTE—a director of compensation and a staff member to provide research and support. Salary costs for these two positions are estimated at \$235 thousand per year.

In addition, the SEC could require increased operational funding for rule-making costs and other operating expenses related to publishing and reviewing salary tables, estimated at \$20 thousand in the first year and \$15 thousand in subsequent years. Therefore, it is assumed that, although the bill does not contain an appropriation, there will likely be a recurring expense to the general fund to implement SJR8.

Under Section 1-16-4 NMSA 1978 and the New Mexico Constitution, 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 \$125 thousand-\$150 thousand depending upon the size and number of ballots and if additional ballot stations are needed.

## **SIGNIFICANT ISSUES**

If the Legislature enacts SJR8 and the people approve of the corresponding constitutional amendments, the Legislature would need to make several amendments to statutes addressing elective state officer compensation. Further, the existing judicial compensation commission (“JCC”) is administratively attached to the Administrative Office of the Courts and provides findings and recommendations related to salaries of judges and justices. As noted by AOC, “SJR8 conflicts with the statute governing the JCC, and does not repeal Section 34-1-10 NMSA 1978 or amend it to submit its recommendations to the State Ethics Commission.” If SJR8 is enacted, section 34-1-10(G) would also require amendment to at least include SEC as a recipient of the JCC's findings and recommendations to help determine new salaries for those officials.

SJR8 would require the SEC to set salaries for elected positions such as the governor and legislators, some of which are in charge of appointing SEC Commissioners. Currently, the seven Commissioners are appointed by the governor, the minority floor leader of the senate, the speaker of the House of Representatives, the minority floor leader of the House of Representatives, the president pro tempore of the Senate, and the two remaining commissioners by the Supreme Court under SRJ8. SEC is also tasked with investigating and adjudicating complaints against state officers, for which the commission would also be setting salaries under SJR8.

AODA also notes that the legislation does not specify the responsibility of the Legislature in certain circumstances, such as if the commission sets salaries that exceed revenues or for ensuring controls for equity and satisfaction.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SJR8 may conflict with HJR10 that creates a public officer salary commission to establish salaries for Legislators, executive branch elected officers, and state court judges.

As noted by AODA, Section 10-16G-3, NMSA 1978 will have to be amended to be consistent with the provisions set forth in SJR8 and additions will need to be made to the statutes to set forth criteria for setting salaries. The Legislature may also consider granting rulemaking authority to the commission to set the criteria for the establishment of salaries.

SJR8 proposes amendments to sections of the New Mexico Constitution that include provisions stating that no legislator shall receive “other compensation, perquisite or allowance” other than the per diem and mileage payments. Conflicts may arise in repealing and amending the related sections for limiting elected officers’ ability to receive additional compensation. For this reason, this bill may be reliant on passage of legislation creating a salary or other compensation for legislators in place of required per diem and mileage payments.

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Currently, the State Personnel Board and the State Personnel Office are the state entities that regularly evaluate the size of jobs and set and adjust salary schedules. If SJR8 is not adopted, salaries would continue to be set under existing rule.

JH/al