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## FISCAL IMPACT REPORT

SPONSOR	<u>Brandt</u>	LAST UPDATED	<u>1/29/2023</u>
		ORIGINAL DATE	<u>1/29/2023</u>
SHORT TITLE	<u>Nonpartisan Judicial Elections, CA</u>	BILL NUMBER	<u>Senate Joint Resolution 3</u>
		ANALYST	<u>Gray</u>

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

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
		Up to \$200	Up to \$200	Up to \$400	Nonrecurring	General fund
<b>Total</b>						

Parentheses ( ) indicate expenditure decreases.

\*Amounts reflect most recent analysis of this legislation.

### Sources of Information

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)

Secretary of State (SOS)

## SUMMARY

### Synopsis of Senate Joint Resolution 3

Senate Joint Resolution 3 proposes to amend the New Mexico Constitution (Article 6, Section 33) to provide that justices and judges of the court of appeals, district court, or metropolitan court stand for a nonpartisan election prior to being eligible for a nonpartisan retention election.

SJR3 also proposes to amend the Constitution to provide that every justice and judge who was elected to office in a partisan election and is holding office on January 1st following the adoption of the amendment will have fulfilled the requirements for eligibility for a nonpartisan retention election.

SJR3 is to be submitted for approval by the people of the state in the next general election (November 2024) or any special election called for that 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. SoS is also required to publish the samples 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 to \$200 thousand depending on the size and number of ballots and if additional ballot stations are needed. According to the SOS, in 2022, the SOS published three constitutional amendments and three bond questions for approximately \$404,000.

The number of constitutional amendments that pass may also impact the page size of the ballot, or if the ballot size is caused to become greater than one page, front and back, which may increase the cost of producing the ballots for the general election. In addition to the cost of the ballot, there may be time added to the voting process, which would require additional ballot printing systems to ensure a smooth and efficient voting process within the bounds of national best practices.

## **SIGNIFICANT ISSUES**

The proposed amendment would change the hybrid system of partisan and nonpartisan judicial elections established in 1988. Currently, applicants for judicial vacancies are assessed on merit by a judicial nominating commission comprised of both appointees named by partisan officeholders and those named by justices, judges, and the New Mexico State Bar. The judicial nominating commission submits lists of qualified applicants to the governor for final selection. The constitution does not forbid the governor from considering partisan aspects in making judicial appointments from nominating commission lists.

As of June 2021, 13 states used the judicial selection method of nonpartisan election of justices at the state supreme court level and 15 states used this selection method for at least one type of court below the supreme court level.

Upon adoption of the SJR3 constitutional amendment, statutory language would need to be amended to reflect that judicial elections would be nonpartisan. Section 1-26-2 NMSA 1978, governing judicial retention, provides that a justice or court of appeals, district court, or metropolitan court judge is eligible for nonpartisan judicial retention after the justice or judge has first been elected to that position in a partisan election.

The proposed SJR3 amendment does not affect magistrate judge elections.

BG/al/ne