

LFC Requester:	Hilla, Emily
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AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO

AgencyAnalysis.nmlegis.gov and email to billanalysis@dfa.nm.gov

(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: 2/14/25 *Check all that apply:*
Bill Number: SJR 9 Original Correction
 Amendment Substitute

Sponsor: Sen. Natalie Figueroa **Agency Name and Code:** AOC
Short Title: Independent Redistricting Commission, CA **Number:** 218
Person Writing: Kathleen Sabo
Phone: 505-470-3214 **Email:** aoccaj@nmcourts.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		
None	None	Rec.	General

(Parenthesis () indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: None.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SJR 9 proposes to amend Article 20 of the Constitution of New Mexico by adding a new section to create a nine-member Redistricting Commission with authority to develop and adopt plans for the redistricting of state legislative districts and the districts of other districted state offices. The commission would be established by September 1st of the year of the federal decennial census. SJR 9 requires the commission to file its adopted plans with the Secretary of State (SOS) within 6 months of the release of redistricting data by the U.S. Census Bureau. Plans adopted by the commission shall determine the districts for use in the succeeding elections for each respective body.

SJR 9 requires the 9 members to be qualified electors of NM, 3 from the largest political party, 3 from the second largest political party, and 3 who are not members of either of the two largest political parties and that, as closely as possible, reflects the demographic makeup and geographic distribution of the population of the state. SJR 9 provides that two-thirds of members will be randomly selection, using statistically accepted weighting methodology, from applications received by the SOS. The final third will be selected by majority vote by the randomly selected commission members from among the applicant pool.

SJR 9 requires districts to be drawn using traditional redistricting principles, to be nonpartisan and incumbent neutral and shall not result in minority vote dilution when a minority group is sufficiently large and geographically compact to constitute a majority in a single-member district and is politically cohesive and the non-minority group votes sufficiently as a block to usually enable it to defeat the minority group's preferred candidate. SJR 9 prohibits the commission from considering the voting address of incumbents, and from using party membership or voting history to develop redistricting plan, but allows the use of such information to assess compliance with federal law and SJR 9, Section 2.

SJR 9 grants the redistricting commission with procurement and contracting authority and the ability to employ or contract with staff, consultants and legal counsel as necessary to carry out its duties. The joint resolution grants the commission standing in legal actions challenging the redistricting plans or process or the adequacy of resources provided for the operation of the redistricting commission. Under SJR 9, the redistricting commission has sole authority to determine whether the Attorney General (AG) or the commission's counsel shall represent the state in the legal defense of a redistricting plan.

SJR 9 also makes technical, gender neutral changes to Article 4, Section 3 of the Constitution of NM.

The joint resolution requires the proposed amendment be submitted to voters for approval or rejection at the next general election or at any special election prior to that date.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation

of statutory changes. Any additional fiscal impact on the judiciary would be proportional to passage of this amendment and any resultant state court proceedings, including challenges to the amendment. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SJR 9 does not require the legislature to appropriate funding for the operation of the commission.

SIGNIFICANT ISSUES

1) While SJR is one of a fair number of joint resolutions introduced over the past few years creating a redistricting commission – see HJR 9 (2022), and HJR 10 and SJR 7 (2024), for example – it is unique in that it provides the Redistricting Commission with authority to develop and adopt plans for the redistricting of state legislative districts and the districts of other districted state offices, not congressional districts.

The National Conference of State Legislatures (NCSL) notes that the Equal Protection Clause of the 14th Amendment to the U.S. Constitution requires that state legislative districts be substantially equal, and that the Apportionment Clause of Article 1, Section 2 of the U.S. Constitution requires that all congressional districts be as nearly equal in population as practicable.

In addition, notes the NCSL

Section 2 of the Voting Rights Act of 1965 prohibits redistricting plans that intentionally or inadvertently discriminate on the basis of race, commonly called **vote dilution**. The Fourteenth and Fifteenth Amendments to the U.S. Constitution also prohibit racial gerrymandering, which occurs when a state purposefully discriminates on the basis of race during the redistricting process by using race as the predominant factor in the line-drawing process.

See *2020 Redistricting Criteria*, NCSL, August 2024, <https://www.ncsl.org/elections-and-campaigns/2020-redistricting-criteria> .

The NCSL lists “traditional” criteria for redistricting, as well as some common criteria considered and adopted by state since 2000. The NCSL publication includes a listing of states and the criteria they employ in redistricting.

2) In addition to departing from previous legislation by not requiring the commission to develop and adopt plans for redistricting congressional districts, SJR 9 departs from many redistricting commission joint resolutions introduced in previous years, as follows:

- Provides no criteria or mechanism for removal of a commissioner
- Does not require commissioners to disclose communications with outside persons or organizations
- Does not provide that the selection of the final one third of the commissioners be undertaken to achieve the geographic and demographic makeup of the state
- Does not require districts to be nonpartisan and incumbent neutral
- Does not require the legislature to appropriate funds for the operation of the commission
- Does not describe in detail the process the Secretary of State is to use to obtain applicants for the commission

3) The Legislative Council Service has noted that neither the Constitution of New Mexico nor state law mandates redistricting after every decennial census, although Article 4 of the Constitution of NM authorizes it. Historically, challenges to legislative redistricting plans have been filed in both state and federal court. (See *A Guide to State and Congressional Redistricting in New Mexico*, (2011), prepared by the NM Legislative Council Service, <https://www.nmlegis.gov/Redistricting/Documents/187014.pdf>)

4) According to the National Conference of State Legislatures, as of December 2021, fifteen states have a commission with **primary responsibility** for drawing a plan for state legislative districts. Six states have an **advisory commission** that may assist the legislature with drawing the district lines and five states have a **backup commission** that will make the decision if the legislature is unable to agree. (See <https://www.ncsl.org/redistricting-and-census/creation-of-redistricting-commissions>.) With regard to drawing a plan for congressional districts, ten states have a commission with **primary responsibility** for drawing a plan for congressional districts. Five states have an **advisory commission** that may assist the legislature with drawing the district lines and three states have a **backup commission** that will make the decision if the legislature is unable to agree. (See *Creation of Redistricting Commissions*, NCSL, December 2021, <https://www.ncsl.org/redistricting-and-census/creation-of-redistricting-commissions> and *Redistricting Commissions: State Legislative Plans*, December 2021, <https://www.ncsl.org/redistricting-and-census/redistricting-commissions-state-legislative-plans> .)

5) 2021's SB 304 enacted the Redistricting Act and created the Citizen Redistricting Committee, directing the committee to develop district plans for approval by the legislature and governor. (See <https://www.nmlegis.gov/Sessions/21%20Regular/final/SB0304.pdf>) The constitutional amendment proposed by SJR 9 does not require approval of the redistricting commission's plans by the legislature and governor.

6) Media and advocacy organizations and others have reported and opined on the efficacy of redistricting commissions. See, for example:

- *The Rise and Fall of Redistricting Commissions: Lessons from the 2020 Redistricting Cycle*, David Imamura, October 24, 2022 at https://www.americanbar.org/groups/crsj/publications/human_rights_magazine_home/economics-of-voting/the-rise-and-fall-of-redistricting-commissions/.
- *Do Independent Redistricting Commissions Really Prevent Gerrymandering? Yes, They Do*, November 1, 2021 at <https://campaignlegal.org/update/do-independent-redistricting-commissions-really-prevent-gerrymandering-yes-they-do> .
- *A fair maps success story or 'multi-layered stages of Dante's Hell'? Where redistricting commissions worked – and didn't work – this cycle*, Tierney Sneed, June 18, 2022 at <https://www.cnn.com/2022/06/18/politics/redistricting-commission-takeaways-success/index.html> .
- *Anti-Gerrymandering Reforms Had Mixed Results*, Michael Li, September 19, 2022 at <https://www.brennancenter.org/our-work/analysis-opinion/anti-gerrymandering-reforms-had-mixed-results> .
- *Can Commissions Make Districting Fairer?*, New America, <https://www.newamerica.org/political-reform/reports/what-we-know-about-redistricting-and-redistricting-reform/can-commissions-make-districting-fairer/> .

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on

the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS