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FISCAL IMPACT REPORT

SPONSOR	Reps. McQueen and Harper/Sens. Moores and Ortiz y Pino	LAST UPDATED	1/24/2024
		ORIGINAL DATE	1/23/2024
SHORT TITLE	Eliminating Pocket Veto, CA	BILL NUMBER	House Joint Resolution 2
		ANALYST	Davidson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

Agency/Program	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Secretary of State	No fiscal impact	\$75.0 to \$85.0	Indeterminate but minimal	\$75.0-\$85.0	Nonrecurring	Other state funds

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Sources of Information

LFC Files

Agency Analysis Received From
 Administrative Office of the Courts (AOC)
 New Mexico Attorney General (NMAG)
 Office of the Governor

SUMMARY

Synopsis of House Joint Resolution 2

House Joint Resolution 2 (HJR2) proposes an amendment to Article IV, Section 22, New Mexico Constitution to eliminate the governor’s ability to “pocket veto” legislation. Under the current provision, the governor must approve bills presented during the last three days of a session within 20 days after the Legislature adjourns. If the governor does not approve a bill within the required 20 days, the bill does not become law, or is “pocket vetoed.” HJR2 amends the provision to require bills presented to the governor during the last three days of the session to be approved or vetoed within 20 days after adjournment. Unless vetoed within the required 20 days, the bill becomes a law.

HJR2 also requires the governor to provide an explanation for every veto. Currently, the constitution only requires the governor to explain her objections to bills that are vetoed while the Legislature is in session.

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 required to publish the samples once a week for four weeks preceding the election in newspapers in every county in the state. Further, the number of constitutional amendments on the ballot may impact the ballot page size or cause the ballot to be more than one page, also increasing costs. The estimated cost per constitutional amendment is \$75 thousand to \$85 thousand, depending on the size and number of ballots and if additional ballot stations are needed.

SIGNIFICANT ISSUES

A similar joint resolution to HJR2, SJR2, was proposed in 2021. HJR2 is identical to 2021 SJR2 except for section D of 2024 HJR2 expanding language regarding veto explanations and where they should be sent to.

Agency analysis from the Administrative Office of the Courts (AOC) for HJR2 points to 2021 SJR 2's FIR, which had a table received from Legislative Council Services that collected the 423 bills the governor vetoed between 2010 and 2020. Of that 423, 221 of the bills were "pocket vetoed" after the Legislature had adjourned.

Analysis from AOC also addressed that 21 pieces of legislation were left unsigned, or "pocket vetoed," by the governor after the 2023 session. AOC also points to Colorado's government and its veto process:

- The governor may sign the bill, and the bill becomes law;
- The governor may let the bill become law without signature; or
- The governor may veto the bill. If the governor vetoes the bill while the General Assembly is still in session, the governor will return the bill to the house of introduction along with the veto message. The General Assembly can override the governor's veto if both chambers of the General Assembly repass the bill with a two-thirds majority vote from each chamber. If the General Assembly has adjourned, there is no opportunity for an override.

Analysis from the Office of the Governor believes that if the bill was approved it would result in a "consistent veto process for all bills regardless of when presented to the governor." Analysis on the previous joint resolution (SJR2) from the Office of the Governor also noted that the bill would impede on the governor's executive's authority and could disrupt the balance of power enumerated in the New Mexico Constitution. The previous analysis also stated that the bill would create an unnecessary burden on the governor to have to explain each veto.

OTHER SUBSTANTIVE ISSUES

Analysis from the previous joint resolution, SJR2, points out that neither HJR2 nor 2021 SJR2 has any enforceable standard as to the level of explanation required for a veto. The analysis implies that a simple statement like "the Governor doesn't approve the bill" would be the most likely explanation attached to vetoes.