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## FISCAL IMPACT REPORT

ORIGINAL DATE 1/27/15

SPONSOR Caballero LAST UPDATED \_\_\_\_\_ HB HJR1

SHORT TITLE Independent Police Review Boards SB \_\_\_\_\_

ANALYST Chenier

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

	FY15	FY16	FY17	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
<b>Total</b>		\$15.2	0	\$15.2	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Public Safety (DPS)  
 Attorney General’s Office (AGO)  
 Administrative Office of the Courts (AOC)  
 Secretary of State (SOS)

### SUMMARY

#### Synopsis of Bill

House Joint Resolution 1 proposes to amend Article 10 of the constitution to allow county or municipal governing bodies to establish independent police review boards. Members would be selected from a list of jurors for the county or municipality. The boards would have authority to investigate citizen complaints against a law enforcement agency or officer, and recommend action to the governing body regarding these complaints. Actions of a citizen review board shall be public, including convening of meetings and deliberations after a hearing, as well as findings of facts and conclusions of law. The respondent would have the right to be represented by counsel.

If approved by the Legislature, the amendment would be passed through referendum.

**FISCAL IMPLICATIONS**

SOS provided the following:

The SOS is required to publish proposed constitutional amendments in newspapers statewide prior to the general election at which those amendments will appear on the ballot. In addition, the SOS is required to publish information regarding those amendments in a statewide Voter Guide in an amount equal to 10% of the registered voters.

The SOS has deducted the costs of publishing the General Obligation Bond statute and Questions, and estimates the cost of publishing each constitutional amendment in newspapers statewide to be approximately \$12,658 per amendment.

Likewise, the costs of publishing the Voter Guide for constitutional amendments is approximately \$2,559 per amendment, for a total cost of publication per amendment of \$15,217

A much larger fiscal consideration is the cost of ballot production. In the 2014 General Election, the combination of constitutional amendments, state general obligation (G.O.) bond questions, county G.O. bond questions and other questions caused Bernalillo county to use a 19” ballot with very small font. The SOS received numerous complaints about the small size of the font and difficulties in reading the small print on those ballots. Using a 19” ballot face in Bernalillo County added a surcharge of \$17,000 versus the use of a 17” ballot face. If the number of constitutional amendments on the ballot in a single general election causes Bernalillo or any other county to use longer than a 19” ballot, or to go to a 2 page ballot, the increase in ballot production costs would be significant. Such an occurrence would likely double the costs of ballot production in the affected county, as well as lead to significant complications in the process of tracking and tallying ballots.

**SIGNIFICANT ISSUES**

The AGO provided the following:

HJR1 would make all actions of the citizen review board public, currently statutory and case law provide that certain aspects of a government employee being investigated or disciplined are not publicly accessible. This provision would drastically alter the employment rights of the referenced group of individuals, namely law enforcement officers.

The AOC provided the following:

Funding and authority for board investigations is not specified. Also, without subpoena power, a review board would be unable to compel production of evidence in support of their investigations. Respondents might contest the authority or jurisdiction of any particular board, possibly resulting in eventual appeals to the courts if the dispute continues.

DPS stated that:

Section 1. C. states “A citizen police review board shall have authority to investigate citizen complaints regarding a law enforcement agency or law enforcement officer of the county or municipality...” This statement could be considered ambiguous, and could be argued to include state law enforcement officers. A county or municipality review board should review only the conduct of the officers who are employed by that municipality or county.

This bill has the potential to conflict with established oversight procedures, including internal affairs investigations, criminal investigations (state or federal), prosecutions (state or federal), citizen grand juries and the New Mexico Law Enforcement Academy Board (which includes citizen participation) law enforcement officer certification revocation procedure. Introducing a citizen review panel risks jurisdictional conflicts and may violate officers’ constitutional and statutory rights. If the amendment applies to statewide law enforcement agencies or their officers, these agencies and officers would be subject to potentially 33 county review boards and more than a hundred municipal review boards.

#### **ALTERNATIVES**

DPS suggested the following:

The Department recommends an amendment to Section 1. C. to read “a law enforcement agency of the county or municipality or law enforcement officer of the county or municipality...” This amendment will ensure that statewide law enforcement agencies and their officers are not included within the scope of this constitutional amendment.

EC/je