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## F I S C A L   I M P A C T   R E P O R T

SPONSOR McKenna ORIGINAL DATE 2/3/22  
LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_  
SHORT TITLE County Redistricting Task Force SB 200  
ANALYST Rees \_\_\_\_\_

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY22	FY23		
	250.0	Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Relates to SJR 12, HJR 9

Companion to: SM 15

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Secretary of State (SOS)

Administrative Office of the Courts (AOC)

State Ethics Commission

#### No Response Received

University of New Mexico (UNM)

New Mexico Counties

### SUMMARY

#### Synopsis of Bill

Senate Bill 200 (SB200) County Redistricting Task Force, appropriates \$250 thousand from the general fund to the Secretary of State in FY23 for the purpose of convening a county redistricting task force to study and develop recommended redistricting procedures for New Mexico counties and to contract for services necessary to the work of the task force.

### FISCAL IMPLICATIONS

The appropriation of \$250 thousand contained in SB200 is a nonrecurring expense to the general

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fund. Any unexpended or unencumbered balance remaining at the end of FY23 shall revert to the general fund.

The Secretary of State notes that SB200 is a companion to SM15 and that the expenses of the task force could be covered by contracting with UNM to act as the experts to assist in studying county redistricting and developing a report of recommendations. Expenses may also include mileage and per diem for the task force members.

According to the State Ethics Commission, in 2020, New Mexico First convened a task force to consider recommendations for redistricting those entities that the Legislature must decennially redistrict (i.e., New Mexico's congressional delegation, the New Mexico senate, the New Mexico house of representatives, and the public education commission). The task force was chaired by the honorable Edward L. Chávez (Ret.), retired chief justice of the New Mexico supreme court, and the honorable Roderick Kennedy (Ret.), retired judge on the New Mexico court of appeals. The task force included several members of the Legislature, state employees (including the executive director of the state ethics commission) and several representatives of non-profit organizations operating in New Mexico. The task force resulted in recommendations that became the Redistricting Act (2021), which created the citizen redistricting committee (CRC). To review the CRC's work, visit <https://www.nmredistricting.org>.

The State Ethics Commission further notes that New Mexico First estimates that the 2020 task force cost was \$120 thousand, inclusive of New Mexico First staff time. A private grant funded the New Mexico First task force.

Like the New Mexico First task force, the task force created by SB200 might lead to state agency involvement in redistricting at the county level. Note that the citizen redistricting committee (CRC) performed its work under a budget of \$400 thousand.

The CRC, however, was *significantly* subsidized by the work of state ethics commission staff and by the metric geometry and gerrymandering group redistricting lab at Tufts University (MGGG). First, the state ethics commission appointed three of the CRC's seven members, including the CRC's chair. Following those appointments, the state ethics commission's executive director, special projects coordinator II, and executive assistant I performed significant support to the CRC and the CRC's chair, Edward Chávez, under and interagency memorandum of understanding, under which the CRC reimbursed the commission for the cost of the special projects coordinator II. Second, the MGGG supplied the CRC with use of the District mapping tool and accompanying public portal, without cost.

## **SIGNIFICANT ISSUES**

The State Ethics Commission points out that counties and other local jurisdictions are subject to the same redistricting criteria as state legislative and congressional redistricting—including the Equal Protection guarantee of equal population (within a constitutionally permissible deviation), *see, e.g., Abate v. Mundt*, 403, U.S. 182, 185 (1971); *Avery v. Midland County*, 390 U.S. 474, 480 (1968), and the Voting Rights Act, *see e.g., Patino v. City of Pasadena*, 230 F. Supp. 3d 667 (S.D. Tex. 2017).

The Administrative Office of the Courts refers to the study titled *Bernalillo Board of County Commissioners: Redistricting Basics*, prepared in September 2021 by Research and Polling, Inc.

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for the Bernalillo County Commission at [https://www.bernco.gov/county-manager/wp-content/uploads/sites/2/2021/10/Redistricting-Report-Bernalillo-County-Commission\\_09.14.21.pdf](https://www.bernco.gov/county-manager/wp-content/uploads/sites/2/2021/10/Redistricting-Report-Bernalillo-County-Commission_09.14.21.pdf).

**RELATIONSHIP**

Relates to SM15 which requires UNM to convene a county redistricting task force without an appropriation.

**OTHER SUBSTANTIVE ISSUES**

The State Ethics Commission notes that SB200 does not include any guidance as to: (i) who must or may comprise the task force; (ii) by when the task force must complete its recommendations; or (iii) to whom the task force must report. SB200 seems to vest discretion for these decisions, among several others, with the Secretary of State.

CR/rl/acv