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FISCAL IMPACT REPORT

SPONSOR Moore **ORIGINAL DATE** 1/31/22
LAST UPDATED _____ **HB** _____
SHORT TITLE State Redistricting Commission, CA **SJR** 12
ANALYST Rees

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY22	FY23		
	See Narrative	Nonrecurring	General Fund

(Parenthesis () Indicate Revenue Decreases)

Relates to HJR 9 – Independent Redistricting Commission, CA

SOURCES OF INFORMATION

LFC Files

Responses Received From

Secretary of State (SOS)

Administrative Office of the Courts (AOC)

No Response Received

New Mexico County Clerk’s Affiliate (CCA)

New Mexico Counties (NMC)

SUMMARY

Synopsis of Bill

SJR12 would amend Article 4, Section 3 of the New Mexico Constitution clarifying the residency requirement for state senators and representatives and would also amend Article 4, Section 3, Subsection D. allowing for the legislature to modify its membership but strikes that the legislature may “reapportion” its membership.

SJR12 also proposes to amend Article 20 of the New Mexico Constitution to establish a constitutionally required state “redistricting commission.” The redistricting commission would be responsible for adjusting the boundary of all federal, state, and local offices after each federal decennial census following outlined constitutional and statutory requirements. The district boundaries approved by the redistricting committee would be the official district boundaries. The

proposed language authorizes the legislature to determine the composition of the redistricting committee in law and the committee shall be funded as necessary to carry out its duties.

FISCAL IMPLICATIONS

If SJR 12 is enacted into law, the first fiscal impact would occur when the redistricting committee is formed after the next federal census for FY 2031 and 2032. The bill requires that funds be provided by the legislature to the redistricting committee for hiring staff, consultants, legal counsel as well as to pay commissioners per diem and mileage. These costs would be incurred for approximately one year every ten years while the commission completes its work and possibly longer if there is litigation related to one of the adopted plans.

The SOS supports and understands the Legislature's prerogative to place constitutional amendments before the voters of the state. For the purposes of determining the costs involved, the SOS wishes to inform legislators that, under Section 1-16-4 NMSA 1978, the SOS is required to print the full text of each proposed constitutional amendment, in both Spanish and English. The cost of producing the voter guide will change depending upon the number and length of the constitutional amendments passed and the number of registered voters but can be estimated at \$25 thousand.

The SOS is also constitutionally required to publish the full text of each proposed constitutional amendment once a week for four weeks preceding the election in one newspaper in every county in the state. In 2020, the SOS spent \$351,015 for the required newspaper publications, however, the cost is dependent upon the number and length of the constitutional amendments that are passed. For planning purposes, an estimate of \$20.72 per word may be used to represent the costs realized in the 2020 general election to estimate the cost of publishing each constitutional amendment.

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 in order to ensure a smooth and efficient voting process within the bounds of national best practices. The additional requirement that the SOS publish a certificate for every law that is repealed by the counties will be an added cost to the SOS, although it is difficult to estimate the cost at this time.

SIGNIFICANT ISSUES

According to the Administrative Office of the Courts, 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>)

According to the National Conference of State Legislatures, 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/research/redistricting/2009-redistricting-commissions-table.aspx>) 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 <https://www.ncsl.org/research/redistricting/redistricting-commissions-congressional-plans.aspx> . See also <http://www.ncsl.org/research/redistricting.aspx> for more information on redistricting.)

The Redistricting Act, Sections 1-3A-1, et seq., NMSA 1978 (Laws 2021, Chapter 79), 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 HJR9 does not require approval of the redistricting commission’s plans by the legislature and governor.

According to the Secretary of State, SJR12 conflicts with the Redistricting Act and would likely need to be repealed if SJR12 is enacted.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflicts with HJR 9 – Independent Redistricting Commission

TECHNICAL ISSUES

- Is the Redistricting Commission exempt from the Procurement Code when given “procurement and contracting authority”? (See page 4, line 9)
- Is the Redistricting Commission exempt from the Personnel Act when given authority to “hire staff, consultants and legal counsel”? (See page 4, lines 9-10)

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Redistricting will continue to be in the domain of the legislature as voted by the members of the body and with the signature or veto of the governor.

CR/al