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FISCAL IMPACT REPORT

SPONSOR Taylor ORIGINAL DATE 01/25/12
LAST UPDATED _____ HJR 16
SHORT TITLE Corporations from PRC to Sec. of State, CA SB _____
ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$104.0				

(Parenthesis () Indicate Expenditure Decreases)

Relates to HJR 11, HJR 13, HJR 14, HJR 17 & SJR 2

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Regulation Commission (PRC)

Secretary of State (SOS)

SUMMARY

Synopsis of Bill

House Joint Resolution 16 proposes to amend article 11, section 2 of the constitution of New Mexico and to enact a new section of article 11 to remove authority to charter and regulate corporations from the Public Regulation Commission and provide authority to charter corporations to the Secretary of State.

The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.

FISCAL IMPLICATIONS

The SOS reports that in accordance with Section 1-16-4 NMSA 1978, upon receipt of the certified proposed constitutional amendment or other question from the Secretary of State, the county clerk shall include it in the proclamation to be issued and shall publish the full text of each proposed Constitutional amendment or other question in accordance with the constitution of New Mexico.

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Although the county clerk includes the proposed amendments in the clerk's proclamation, it is the responsibility of the State to pay for the costs associated with the publication per Section 1-16-13 NMSA 1978, including printing samples of the text of each constitutional amendment in both Spanish and English in an amount equal to ten percent of the registered voters of the state. There are currently 1.7 million registered voters in the state. Voters whose election mail is returned as undeliverable will be sent the proper notice under federal law in 2012, and if they do not vote in the next two federal elections, may be purged in 2015. Under these timelines, the voter roll is expected to increase until the purge in 2015.

The SOS reports that in 2010, the publication cost was \$520,000 for 5 constitutional amendments, or approximately \$104,000 per amendment. Although the SOS is continually seeking ways to reduce publication costs, it believes the 2010 figure is a reasonable projection for 2012 costs, given the increasing number of voter registrations.

The PRC provided the following:

- The Corporations Bureau consists of 19 full-time employees at a cost of \$865,400
- The Corporations Bureau data is maintained within the existing PRC servers. A cost will be incurred in migrating the data to a server at the Secretary of State for an estimated \$120,000
- Depending on the final location for the Corporations Bureau, a moving expense may be incurred.
- Corporations are currently familiar with filing their documents at the PRC. Confusion may exist for a period of time.

SIGNIFICANT ISSUES

According to the National Conference of State Legislatures, 41 states have the chartering of corporations responsibilities in the Secretary of State offices.

The Corporations Division's responsibilities are ministerial and therefore might more appropriately reside in the office of the SOS whose duties are also ministerial. The other PRC divisions are more regulatory in nature.

The SOS commonly receives inquiries regarding corporate filings and reports and is currently required to direct such inquiries to the PRC.

The SOS currently handles registration of Limited Liability Partnerships, registering state trademarks and service marks, issuance of notary certificates, and filing of financing statements and documents under the Uniform Commercial Code.

The SOS notes that an independent analysis by a non-profit organization indicates that moving the registering and reporting of corporations and limited liability companies will most likely contribute to an economy of scale so as to allow cost reductions, particularly with regard to the computer systems, including servers, and software currently utilized by each agency. They also believe that such a consolidation of services will reduce confusion for business filers by streamlining all of these services into one agency.

Moving the Corporations Division from the PRC to the SOS will incur costs in the short run related to organizationally and physically moving a division's administrative services support

from one agency to another, but in the long run it may save tax payer money. See Fiscal and Administrative Implications

ADMINISTRATIVE IMPLICATIONS

If the regulatory authority over corporations is moved to the SOS there will some administrative work for the PRC, SOS, Records and Archives, Department of Finance and Administration, State Personnel Office, Department of Information Technology and General Services Department. All of these agencies can handle the administrative requirements of this move as part of on-going responsibilities

CONFLICT

HJR 16 relates to:

- HJR 11, PRC Commissioner Qualifications, CA
- HJR 13, Elected Insurance Superintendent, CA
- HJR 14, PRC Appointment & Retention, CA
- HJR 17, PRC Appointed Insurance Superintendent, CA
- SJR 2, Public Regulation Commission, CA

DW/svb