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FISCAL IMPACT REPORT

SPONSOR Ivey-Soto/ Duhigg ORIGINAL DATE 02/04/21
LAST UPDATED 03/09/21 HB _____

SHORT TITLE Stagger Certain Judicial Terms SB 266

ANALYST Dick-Peddie

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY21 | FY22 | FY23 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--|-------------------------|------|------|----------------------|------------------------------|------------------|
| | See Fiscal Implications | | | | Recurring | General Fund |

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Attorney General (NMAG)

Secretary of State (SOS)

Administrative Office of the Courts (AOC)

SUMMARY

Synopsis of Bill

Senate Bill 266 amends the election code to clarify judgeship terms and adjusts the length of the first term for some newly created district and metropolitan judgeships. SB266 would require newly created metropolitan court judgeships to comply with the six-year staggered schedule, even if it results in a shortened first term in office.

FISCAL IMPLICATIONS

The Secretary of State, likely responsible for administering any changes associated with the enactment of SB266, indicated there would be no fiscal impact to the agency.

SIGNIFICANT ISSUES

According to the Secretary of State, SB266 is the Legislature's attempt to properly extend the terms of judges to create staggered offices, based on the constitutional amendment passed in 2020 which amended Article XX, Sec. 3 of the New Mexico Constitution. The amendment was intended to adjust non-statewide officeholder elections and terms in order to balance the number

of offices appearing on the presidential and gubernatorial general election ballots.

The Administrative Office of the Courts (AOC) notes the New Mexico Judicial Performance Evaluation Commission, created by the Supreme Court of New Mexico to improve the performance of judges and provide objective information to voters on judges standing for retention, conducts evaluations of judges and justices twice, once midway through a judges term, and once before a retention election. The evaluation conducted before a retention election is made public as a resource for the public, while the midway evaluation is strictly for the judge. AOC notes that staggered terms would provide the evaluation commission more time to conduct judicial performance reviews.

TECHNICAL ISSUES

AOC also notes that Article VI, Section 33(C) or (D) of the New Mexico Constitution may need to be amended to permit a district judge to serve a term other than a six-year term or a metropolitan court judge to serve more or less than a four-year term, or if judges can stand for election at different or staggered times:

Article VI, Section 33 of the NM Constitution governs the retention or rejection of Supreme Court justices, judges of the court of appeals, district court judges and metropolitan court judges at general election. Section 33 was added to the constitution in 1988 and amended in 1994. Subsection E ensured that all justices and judges would stand for retention at the same time, under the new system adopted in 1988. See *State of NM v. Raphaelson*, 2015-NMSC-028, p. 8, paragraph 28

Section 33 provides the following:

- Each district judge shall be subject to retention or rejection **in like manner** at the general election every sixth year. (Subsection C)
- Each metropolitan court judge shall be subject to retention or rejection **in like manner** at the general election every fourth year. (Subsection D)