

LFC Requester:	Austin Davidson
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**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

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{Analysis must be uploaded as a PDF}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:
Original **Amendment**
Correction **Substitute**

Date 1/25/24
Bill No: HJR 10

Sponsor: Rep. Natalie Figueroa
Short Title: Independent Redistricting Commission, CA

Agency Name and Code AOC 218
Number: _____
Person Writing Kathleen Sabo
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		
None	None	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		
Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY24	FY25	FY26	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Unknown	Unknown	Unknown	Unknown	Rec.	General

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to: Duplicates SJR 7, also amending Articles 20 and 4 (Section 3) of the Constitution of New Mexico.

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: HJR 10 proposes to amend Article 20 of the Constitution of New Mexico by adding a new section to create a nine-member Redistricting Commission with authority to develop and adopt plans for the redistricting of congressional districts, state legislative districts and the districts of other districted state offices. The commission would be established by September 1st the year of the federal decennial census.

HJR 10 requires the Secretary of State (SOS) to provide applications for commissioner to the general public and randomly select 120 applicants using a nongovernmental entity with statistical methodology, publicly and with immediate public observation, using the specified weighting methods, to ensure that the selection pool include 40 applicants for each of the two largest political parties and 40 applicants for those voters not affiliated with either of the two largest political parties, and that, as closely as possible, mirrors the geographic and demographic makeup of the state. HJR 10 then requires the SOS to submit the randomly selected applications to the President Pro Tempore of the Senate, the Minority Floor Leader of the Senate, the Speaker of the House of Representative and the Minority Floor Leader of the House of Representatives (hereinafter “legislative leadership”), who each may strike up to 3 applicants from the selection pool, for a maximum of 12 total strikes. HJR 10 then requires the SOS, using the nongovernmental entity, publicly, and with immediate public observation, randomly draw the names of 6 commissioners, 2 each from the 2 largest parties and 2 commissioners not affiliated with either of the 2 largest political parties.

HJR 10 requires the randomly selected commission to select by majority vote the remaining three members, ensuring required political party balance and, to the extent practicable, ensure that the entire commission reflects the gender, geographic, racial and ethnic population of the state. Under HJR 10, if the commissioners are unable to reach a decision for any of the 3 positions, the SOS is required to fill that position using random section, from the remaining pool of applicants for that political party group. The commission is required to elect a chair from among its members.

HJR 10 specifies the circumstances under which a commissioner shall be deemed to have resigned from the commission and a vacancy created (to be filled by the SOS, with an applicant from the same political party, selected randomly from the final pool of applicants).

HJR 10, Section 2(G) grants the NMS Supreme Court exclusive original jurisdiction over proceedings to remove commissioners, and permits the NM Supreme Court to remove a commissioner for substantial neglect of duty, gross misconduct in office or inability to discharge the duties of office. HJR 10 requires a proceeding for the removal of a commissioner be commenced by the Attorney General (AG) upon the request of the redistricting commission.

HJR 10 lists the factors to be considered by the commission in developing district plans, and prohibits the redistricting commission: (1) in the development phase from including party membership and voting history, but may be used to assess and revise maps for compliance with federal law and the redistricting criteria in HJR 10, Section 2(H); or (2) when proposing or adopting district plans, from considering the voting address of incumbents.

HJR 10 requires the redistricting commission to hold public hearings throughout the state to develop proposed district plans and subsequently to adopt district plans, making any adjustments to the proposed plans that it deems necessary to meet the redistricting criteria and establish the final district boundaries, and filing with the Secretary of State the commission's approved plans within six months of the release of redistricting data by the United States census bureau.

HJR 10 requires the legislature to provide adequate resources for the operation of the redistricting commission in performing its duties.

HJR 10 provides the redistricting commission with procurement and contracting authority and the ability to hire staff, consultants and legal counsel as necessary to carry out its duties. HJR 10 provides that the commission shall have standing in legal actions challenging its redistricting plans or process or the adequacy of resources provide for the operation of the commission. The redistricting commission is granted sole authority to determine whether the AG or counsel hired or selected by the commission shall represent the state in the legal defense of a redistricting plan.

HJR 10 requires commissioners to disclose communication with outside persons or organizations attempting to influence the map-drawing process outside of public meetings and public comment periods. Under HJR 10, failure to disclose the communications shall constitute substantial neglect of duty.

HJR 10 requires the redistricting commission to develop and adopt rules for the scope of their authority at the beginning of each redistricting process.

HJR 10 also makes technical, gender neutral changes to Article 4, Section 3 of the Constitution of NM.

HJR 10 requires the proposed amendment be submitted to voters for approval or rejection at the next general election or at any special election prior to that date.

FISCAL IMPLICATIONS

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to passage of this amendment and any resultant state court proceedings, including proceedings to remove commissioners and legal actions challenging commission redistricting plans or process.

New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

SIGNIFICANT ISSUES

1) HJR 10 provides that a commissioner may be removed by the Supreme Court for substantial neglect of duty, gross misconduct in office or inability to discharge the duties of office. The supreme court has original jurisdiction over proceedings to remove commissioners. Under HJR 10, a proceeding for the removal of a commissioner shall be commenced by the attorney general upon the request of the commission.

HJR 10 requires commissioners to disclose communication with outside persons or organizations attempting to influence the map-drawing process outside of public meetings and public comment periods. Under HJR 10, failure to disclose the communications shall constitute substantial neglect of duty, subjecting a commissioner to removal.

2)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>)

3) According to the National Conference of State Legislatures, as of December 2021, 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/redistricting-and-census/creation-of-redistricting-commissions>.) 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/redistricting-and-census/creation-of-redistricting-commissions>.)

4) 2021’s SB 304 enacted the Redistricting Act and 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 HJR 10 does not require approval of the redistricting commission’s plans by the legislature and governor.

PERFORMANCE IMPLICATIONS

The courts are participating in performance-based budgeting. This bill may have an impact on the measures of the district courts in the following areas:

- Cases disposed of as a percent of cases filed
- Percent change in case filings by case type

ADMINISTRATIVE IMPLICATIONS

See “Fiscal Implications,” above.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None.

TECHNICAL ISSUES

- 1) HJR 10, Section 2(C)(6) requires the randomly selected commissioners to select by majority vote the remaining 3 members, but does not specify from where the names of those interested need to be obtained.

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS

- 1) Amend HJR 10, Section 2(C)(6) to specify from where the names of those interested, and upon whom they will vote for the three remaining commissioner positions, need to be obtained.