

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

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO:

AgencyAnalysis.nmlegis.gov

{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 1/21/24
Bill No: SJR 10

Sponsor: Sen. Antonio Maestas
Short Title: Legislative Vacancies, CA

Agency Name and Code AOC 218
Number: _____
Person Writing Kathleen Sabo
Phone: 505-470-3214 **Email** aoccaj@nmcourts.gov

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: None.

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: SJR 10 proposes to amend Article 4, Section 4 of the Constitution of New Mexico to provide that if a vacancy occurs in a legislative office, the vacancy shall be filled, as provided by law, as follows:

- If less than 6 months remains in a term at vacancy, the vacancy shall be filled by appointment for the remainder of the unexpired term;
- If 6 months or more remains in a term at vacancy and if it occurs during or less than 60 days before the start of a regular session, the vacancy shall be temporarily filled by appointment until the vacancy is filled for the remainder of the unexpired term at an election that shall be conducted no later than 60 days after that session ends; or
- In all other instances, the vacancy shall be filled at an election conducted no later than 60 days after the vacancy occurs and for the remainder of the unexpired term.

SJR 10 provides that nothing prohibits a future appointment from being made in anticipation of an impending vacancy, and that for the purposes of determining the start date to fill a vacancy pursuant to this section, an impending vacancy shall be treated as a vacancy.

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 challenges to the constitutionality of the amendment. 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) Article 4, Section 4(B) of the Constitution of New Mexico currently provides that vacancies shall be filled by appointment by the county commissioners of the county where the vacancy occurs, and that such appointments shall be for a term ending on December 31, subsequent to the next succeeding general election.

The SJR 10 constitutional amendment to Article 4, Section 4(B) provides that a vacancy shall be providing by law, and provides for appointment in Section 4(B)(1) and (2) but does not specify by whom the appointment will be made. For that information, one needs to look to Sections 2-7F-4 and 2-8F-4 NMSA 1978 which provide for appointment by county commissioners.

- 2) The National Conference of State Legislatures (NCSL) reports that, as of December 31, 2023

There is tremendous variation among state legislatures in how they fill a vacancy among their membership when it occurs.

In general, the vacancy is filled either through a special election or by appointment, and the states fall evenly into two groups. Twenty-five states fill legislative vacancies through special elections. These elections may be ordered by the governor or other official after being notified of the vacancy. The time limits for the execution of a special election vary as well. The other 25 states fill legislative vacancies through some form of appointment process, whether it be by the political party of the incumbent legislator, a board of county commissioners, the governor, the legislature or members of the same house and party as the incumbent legislator.

In addition to the variance in these laws, the provisions covering them vary as well. The vast majority of states have some provision in the state constitution for the filling of legislative vacancies. Some of these provisions state explicitly how they are to be handled while other simply state that the issue will be subject to provisions of law. In addition to constitutional provisions, most states also provide a more detailed process in statute.

The NCSL report provides information as to how each state fills vacancies, with citations to applicable state code and constitutional provisions at <https://www.ncsl.org/elections-and-campaigns/filling-legislative-vacancies> .

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

OTHER SUBSTANTIVE ISSUES

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS