

LFC Requester:

Austin Davidson

**AGENCY BILL ANALYSIS
2024 REGULAR SESSION**

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 X **Amendment** _____
Correction _____ **Substitute** _____

Date Prepared: 01/23/2024

Bill No: SJR 12

Sponsor: Sen. P. Wirth, Sen. M. Stewart

Short Title: LOCAL GOV'T
FIREARM
REGULATION, CA

Agency Name and Code Number: 305 – New Mexico
Department of Justice

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY24	FY25		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY24	FY25	FY26		

(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						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
 Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

This analysis is neither a formal Opinion nor an Advisory Letter issued by the New Mexico Department of Justice. This is a staff analysis in response to a committee or legislator’s request. The analysis does not represent any official policy or legal position of the NM Department of Justice.

BILL SUMMARY

Senate Joint Resolution (“SJR”) 12 is seeking to submit to a public vote an Amendment to Article 2, Section 6 of the New Mexico Constitution, allowing municipalities or counties to regulate the right to keep and bear arms in a manner more restrictive than state law.

FISCAL IMPLICATIONS

No known fiscal implications for this office.

SIGNIFICANT ISSUES

As written currently, Article 2 Section 6 preempts counties and municipalities (local governments) from regulating the right to keep and bear arms thus only giving the State Legislature the ability to regulate firearms. As it reads, this proposed Amendment will remove the preemption and allow local governments the ability to regulate the right to bear arms ONLY IF they pass ordinances more restrictive than State law.

This allows the potential for local governments to pass regulation violate the Second Amendment of the US Constitution. Under the Supremacy Clause, State and Local Governments cannot pass legislation in conflict with Federal Law. State and Federal Courts may be tasked with evaluating Local Government laws to ensure they do not contradict State or Federal law.

Another potential issue is notice to the public. There is a likelihood that different counties or municipalities may pass laws more stringent than their neighbors. Citizens will then have to be knowledgeable of each county/municipality’s regulations as well as the jurisdictional lines of each county. Citizens traveling through the State could cross any number of county lines and could potentially face a violation of law in one county that they would not have faced in another county for things such as carrying firearms in vehicles, on their person, etc.

PERFORMANCE IMPLICATIONS

None at this time

ADMINISTRATIVE IMPLICATIONS

None at this time

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

None at this time

TECHNICAL ISSUES

None

OTHER SUBSTANTIVE ISSUES

None

ALTERNATIVES

An alternative may be to entirely remove the section that states, "No municipality or county shall regulate in any way an incident of the right to keep and bear arms."

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS