

LFC Requester:

Nathan Eckberg

**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:

Date Prepared: 1/28/2024

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

Bill No: SJR 16

Sponsor: Sen. Steven Neville, Sen.
Joseph Cervantes, Sen. Leo
Jaramillo, Sen. Greg
Nibert, and Rep. Art De La
Cruz

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

**Short
Title:** County Official Salaries

**Person Writing
Analysis:** Rose Bryan
Phone: 505-537-7676
Email: legisfir@nmag.gov

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”) 16 is a proposed amendment to Article 10, Section 1 of the New Mexico Constitution that would transfer responsibility for establishing the salary of county officers from the legislature to each board of county commissioners.

The proposed amendment also streamlines and adds clarity to the language that already prohibits county officers from receiving any funds other than their county salary and dictates that any fees collected by a county official shall be paid into the treasury of the county.

This clarifying language does not appear to change the ultimate substance or purpose of those portions of Art. 10, Sec. 1 which served to replace the fee-based system of compensation operated by the counties prior to statehood with a salary-based system. *See State ex rel. Gilbert v. Board of Comm'rs*, 29 N.M. 209, 213, 222 P. 654, 655 (1924); cf. Thomas J. Mabry, *New Mexico's Constitution in the Making—Reminiscences of 1910*, 19 N.M. Hist. Rev. 168, 173 (1943) (At the time the state constitution was drafted in 1910 “[b]oth parties were united in its purpose to end the pernicious and extravagant fee system for county officers.”).

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

None.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

NMSA 1978 Sec. 4-44-12.3(B) provides the delegation of authority to set salary increase and decreases for county officials and imposes a limitation that increases do not take effect until a new term of office.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

Midterm Salary Changes: NMSA Sec. 4-44-12.3(B) currently permits salary increases and decreases to elected county officials if approved by the majority of a board of county commissioners and as long as the increase does not take effect until a new term of office, which codifies the constitutional limitation on mid-term salary changes in Art. 4, Sec. 27. If passed and ratified by the voters, SJR 16 would be limited from implementing midterm salary changes under Section 4-44.12.3(B) and Art. 4, Sec. 27. SJR 16 could include language permitting midterm salary changes, meeting the exception under Art. 4, Sec. 17 of “except as otherwise provided in this constitution.”

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS