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FISCAL IMPACT REPORT

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| SPONSOR <u>HGEIC</u> | LAST UPDATED _____ ORIGINAL DATE <u>2/7/24</u> |
| SHORT TITLE <u>Independent Redistricting Commission, CA</u> | BILL NUMBER <u>CS/House Joint Resolution 10/HGEICS</u> |
| ANALYST <u>Daly</u> | |

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

| Agency/Program | FY24 | FY25 | FY26 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|----------------|------|-------------|------|-------------------|---------------------------|---------------|
| SOS | | \$75.0-85.0 | | \$75.0-85.0 | Nonrecurring | General Fund |

Note: See "Fiscal Implications"
 Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Conflicts with SJR 7

Sources of Information

LFC Files

Agency Analysis Received From
 Administrative Office of the Courts (AOC)
 New Mexico Attorney General (NMAG)
 Secretary of State (SOS)*

*On Original Bill

SUMMARY

Synopsis of HGEIC Substitute for House Joint Resolution 10

The House Government, Elections and Indian Affairs Committee substitute for House Joint Resolution 10 proposes to amend the New Mexico Constitution to create a nine-member independent redistricting commission with exclusive authority to redistrict congressional districts, state legislative districts, and districts of other districted state offices. A new commission shall be established by September 1 of every year of the federal decennial census.

CS/HJR10 sets out the qualifications for commissioners. Each must be registered qualified electors of New Mexico. Three must be members of the largest political party, three must be members of the second largest political party, and three not members of either of those two parties and that mirrors as closely as possible the geographic and demographic makeup of the state. Two-thirds of the members shall be randomly selected using statistically accepted weighting methodology, from applications received by the secretary of state. The last three shall

be selected randomly from the applicant pool by majority vote of the first six members and must achieve the geographic and demographic makeup of the state.

The commission is required to draw district plans using traditional redistricting principles, which districts shall be nonpartisan and incumbent neutral, and shall not result in minority vote dilution when a minority group is sufficiently large and geographically compact to constitute a majority in a single-member district and is politically cohesive and the non-minority group votes sufficiently as a block to usually enable it to defeat the minority group's preferred candidate.

The Legislature shall appropriate sufficient funding in an appropriations bill for the operation of the commission.

The joint resolution provides the amendment be put before the voters at the next general election (November 2024) or a special election called for the purpose of considering the amendment. The amendment would only be effective if approved by voters.

FISCAL IMPLICATIONS

Election Costs. Under Section 1-16-4 NMSA 1978 and the New Mexico Constitution, the Secretary of State (SOS) is required to print samples of the text of each constitutional amendment in both Spanish and English in an amount equal to 10 percent of the registered voters in the state. SOS is required to publish the samples once a week for four weeks preceding the election in newspapers in every county in the state. Further, the number of constitutional amendments on the ballot may impact the ballot page size or cause the ballot to be more than one page, also increasing costs. The estimated cost per constitutional amendment is \$75 thousand to \$85 thousand, depending on the size and number of ballots and if additional ballot stations are needed.

Operational Costs. Should the voters approve this amendment authorizing an independent redistricting commission, there will be fiscal impact on state agencies during each restricting cycle. In 2021, an appropriations bill estimated costs of \$300 thousand for a citizen redistricting committee. Additionally, NMAG has advised that should it represent the commission in any redistricting litigation, it will need to hire staff with specialized expertise. Although it supplies no estimates on these costs, in its analysis of Senate Bill 68, NMAG also cited a need for specialized staff and estimated that expense at \$450 thousand. Most if not all of these expenses would be incurred only cyclically, beginning with the release of redistricting data from the U.S. Census Bureau from its 2030 census.

SIGNIFICANT ISSUES

House Joint Resolution 10 would require redistricting by an independent commission after each decennial census. AOC first points out that, as the Legislative Council Service has noted, neither the Constitution of New Mexico nor state law mandates redistricting after every decennial census, although Article 4 of the state constitution currently authorizes the Legislature to do so. Under CS/HJR10, that activity would be performed by the independent commission it creates every 10 years. As AOC comments, this is a different process than that enacted in 2021, which created a Citizen Redistricting Committee, directing the committee to develop district plans for approval by the Legislature and the governor. (See Laws 2021, Chapter 79.) No legislative or

gubernatorial approval is required for the redistricting plan under CS/HJR10.

CS/HJR 10 requires districts be drawn using traditional redistricting principles, and not result in minority vote dilution. Further, the districts shall be “nonpartisan and incumbent neutral.” It is unclear what that phrase means, or how it should be interpreted and construed, both in initial application and in the event of a legal challenge.

In addition, there are no conflict of interest prohibitions, no process for replacement upon resignation or vacancy in office or removal from office, no language authorizing the adoption of rules, requiring public meetings seeking comment and testimonies, or requiring disclosure of ex parte communications. Although the Legislature is required to appropriate sufficient funding for the commission’s operation, there is no provision addressing compensation for commissioners or addressing what are necessary costs of the commission. Nor is there a provision requiring enabling legislation. As AOC notes, that absence is unlike the recent constitutional amendment establishing the State Ethic Commission, which expressly required enabling legislation. See Article V, Section 17 of the New Mexico Constitution.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Conflict: Senate Joint Resolution 7, which originally was a duplicate of this resolution, but now conflicts with this resolution in numerous ways, including the process for selecting commissioners, as well as its inclusion of provisions governing vacancies, resignations, and removals, the specific criteria to be applied in restricting, the role of public input, requiring disclosure of ex parte communications, and compensation of commissioners.

OTHER SUBSTANTIVE ISSUES

AOC reports that, according to the National Conference of State Legislatures, as of December 2021, 15 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. With regard to drawing a plan for congressional districts, 10 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.

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