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FISCAL IMPACT REPORT

ORIGINAL DATE 1-24-07

SPONSOR Garcia, M.H. LAST UPDATED 1/31/07 HB 146/aHVEC

SHORT TITLE School Board Recall and Petitions SB _____

ANALYST Baca

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Public Education Department (PED)

SUMMARY

Synopsis of HVEC Amendment

The House Voters and Elections Committee amendment strikes language stipulating that a board member shall not be submitted to a recall election more than once during the term for which the board member is elected.

Synopsis of Original Bill

House Bill 146 amends the “Local School Board Member Recall Act” to limit school board recall petition signatures to registered voters residing in a board member’s district if the district does not provide for single-member districts. The bill limits a petition to recall a member to no more than once during the member’s term, restricts voting on a recall question to registered voters depending on whether the school district is not districted or on whether the registered voter resides in the board member’s district.

SIGNIFICANT ISSUES

General Counsel for the PED notes that this bill has serious constitutional implications, i.e.; taking away a person’s right to vote. He cites Article XII, Section 14 of the New Mexico Constitution provides, “Any elected local school board member is subject to recall by the voters

of the school district from which elected.”

He further states that, “according to that provision, the Legislature may only govern ‘*procedures* for filing petitions and for determining *validity of signatures*. . .’ It could be argued persuasively that this bill affects substantive rights of voters and actually eliminates certain classes who do not reside in a given board member’s district. The authority of the Legislature (unless the Constitution is changed) is limited to procedures and the validity of signatures.”

He states that the bill’s provision limiting a petition for recall of a named member to no more than once during the term of that member’s election is also subject to constitutional challenge.

Article XII, Section 14 provides, “A petition for a recall election must cite grounds of malfeasance or misfeasance *in office* or violation of the oath of office by the member concerned.” Article XII, Section 14 provides, “A petition for a recall election must cite grounds of malfeasance or misfeasance *in office* or violation of the oath of office by the member concerned.”

WHAT WILL BE THE CONSEQUENCES BE OF NOT ENACTING THIS BILL?

The current law will remain in effect, namely, recalls of school board members accused of committing malfeasance of misfeasance in office will remain in effect.

POSSIBLE QUESTIONS

- If this bill poses constitutional questions, what might be done to make the intent of the bill constitutional?
- Why is this bill needed?

PA/mt