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FISCAL IMPACT REPORT

SPONSOR Park ORIGINAL DATE 01/23/10
LAST UPDATED _____ HJR 3
SHORT TITLE Civil Offices For Former Legislators, CA SB _____
ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY10	FY11	FY12	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		\$104.0		\$104.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 53

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Secretary of State (SOS)

SUMMARY

Synopsis of Bill

House Joint Resolution 3 is a resolution proposing an amendment to the New Mexico State Constitution to allow the appointment of certain former members of the legislature to civil offices in the State in a limited situation.

A member of the legislature may be appointed to a civil office during the term of the legislature for which the member was elected if the member resigns from the legislature prior to the appointment.

A member of the legislature may not be appointed to a civil office if during the term prior to the member's resignation, the civil office to which the appointment is to be made was not created or the emoluments of which were not increased.

FISCAL IMPLICATIONS

The SOS notes placing a Constitutional Amendments on the ballot is very costly. The previous 2008 General Election had 5 Constitutional Amendments that cost the State of New Mexico over

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\$520,000. Each amendment cost approximately \$104,000. These amendments have to be published in English and Spanish in a major recognized newspaper in every county statewide.

SIGNIFICANT ISSUES

The AGO provided the following:

HJR 3 creates an exception to the Constitution’s prohibitions on holding appointed office. HJR 3 allows a member of the legislature to be appointed to a civil office during his or her term in limited situations.

It should be noted that this Constitutional provision only applies to appointed office and not elected office.

The proposed amendments in HJR 3 should be read consistently with other existing ethics statutes. Although, state legislators are excluded from the definition of “public officer or employee” some of the provisions in this resolution do apply to them.

Whether or not a legislator can be appointed, he or she is still prohibited from, among other things:

- (1) obtaining personal benefits or pursuing private interests incompatible with the public interest;
- (2) requesting money or something of value for performance official act; and
- (3) accepting employment if it is being afforded them with the intent to influence their conduct.

ADMINISTRATIVE IMPLICATIONS

The amendment proposed by this resolution if approved, will be placed on the next general election ballot. The SOS can handle the provisions of this bill with existing staff as part of ongoing responsibilities.

RELATIONSHIP

SB 52, Educational Employees as Legislators

DW/svb