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FISCAL IMPACT REPORT

ORIGINAL DATE 02/05/10

SPONSOR Gardner LAST UPDATED _____ HJR 15

SHORT TITLE Bipartisan Redistricting Commission SB _____

ANALYST Pava

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
	None		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General Office (AGO)

Secretary of State (SOS)

SUMMARY

Synopsis of Bill

House Joint Resolution 15 proposes to amend Article 4, Section 3 of the New Mexico Constitution by adding clarifying language. The legislation proposes to amend Article 20 of the New Mexico Constitution by adding a new section establishing a bipartisan redistricting committee to determine congressional and state legislative boundaries following each federal decennial census or as otherwise required.

FISCAL IMPLICATIONS

SOS, as the Chief Elections Officer, is mandated to publish all constitutional amendments in both English and Spanish in a newspaper in every county statewide. The cost for the 2008 General Election was \$520,000 for five constitutional amendments. The cost breakdown is estimated at \$104,000 per constitutional amendment.

Establishing a new eight-member commission in the current economic environment raises fiscal concerns. Pursuant to Section 2(K) the new commission would have unlimited authority to hire staff, consultants and legal counsel, adding substantial cost to a legislative budget facing serious shortfalls.

SIGNIFICANT ISSUES

AGO notes: HJR 15 raises a significant legal issue in Section 2(K) with the wording that states, “The Commission shall have sole authority to determine whether the New Mexico Attorney General or counsel hired or selected by the independent redistricting commission shall represent the state in the legal defense of a redistricting plan.”

This language is in direct conflict with the statutory language creating the duties of the Attorney General in NMSA 1978, Section 8-5-2 (B). This provision gives the Attorney General authority to prosecute or defend all actions and proceedings in any court or tribunal in which the state may be a party. This sole litigation authority in the Attorney General dovetails with the further authority of the Attorney General in Section 8-5-2 (A) that states the Attorney General must represent the state in all appeals.

To avoid this conflict, the wording of HJR 15 creating the new commission, could retain language giving it authority to hire legal counsel to assist it in its duties, but delete the wording giving the legal counsel sole authority to pursue litigation.

ADMINISTRATIVE IMPLICATIONS

The amendment proposed by this resolution if approved, would be placed on the next general election ballot.

DUPLICATION

HJR 15 is a duplicate of SJR 13.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

By not enacting this bill, the legislature would continue to determine congressional and state legislative district boundaries following each federal decennial census. The New Mexico Constitution, Article 4, Section 3 and Article 20 shall remain without amendment and. A bipartisan redistricting commission will not be established.

CP/mew