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## FISCAL IMPACT REPORT

ORIGINAL DATE 01/29/10  
 LAST UPDATED 02/01/10    **HB** \_\_\_\_\_

SPONSOR Wirth

SHORT TITLE Citizen Petition For Grand Jury Investigation    **SB** 7

ANALYST Wilson

### APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY10	FY11		
	NFI		

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Administrative Office of the Courts (AOC)  
 Administrative Office of the District Attorneys (AODA)  
 County Clerks Affiliate of the Association of Counties

### SUMMARY

#### Synopsis of Bill

Senate Bill 7 is a new act that establishes procedures for a citizen petition for a grand jury investigation. Article II, Section 14 of the New Mexico Constitution provides that a grand jury shall be ordered to convene by a judge upon the filing of a petition therefore signed by not less than the greater of 200 registered voters or 2% percent of the registered voters of the county, or a grand jury may be convened in any additional manner as may be prescribed by law.

SB 7 requires the county clerk to provide a form for such a petition and sets out in the content and filing requirements for such a petition, including:

- (1) the name and address of the person, group or organization initiating the petition;
- (2) the specific charges and factual allegations in support of the petition for a grand jury and, if known, an identification of the person alleged to have committed the offense and the approximate date and location where the alleged offense was committed; and
- (3) the affixing of the initiation date of the petition by the county clerk. Within 120 calendar days of the initiation date, the petitioner must file with the district court of the county all petition sheets containing signatures, together with a request for hearing on the petition.

The bill provides that within 14 days of receiving signed petition sheets from the district court, the county clerk shall file with the district court a report indicating whether the petition was filed with the district court within 120 days of the date of initiation, and if so, whether sufficient signatures were verified to meet the required minimum number. The report must also note in detail each signature that was not counted and the reason it was not able to be verified. If the petition was not timely filed, the clerk is to provide additional certification of the initiation date with the report. The clerk is to send copies of the report to the Petitioner and to the target of the allegations, if the address is known.

The bill sets out procedures for any interested person to challenge the sufficiency and timeliness of a filed petition. Grounds for challenge are to be identified and include signatures that should not have been verified, duplicate signatures, and signatures by non-residents.

### **FISCAL IMPLICATIONS**

There will be a minimal administrative cost for statewide update, distribution and documentation of statutory changes. Any additional fiscal impact on the judiciary would be proportional to the enforcement of this law, court hearings to determine sufficiency of grand jury petitions, challenges to the sufficiency of petitions, the number of additional grand juries to be convened and commenced prosecutions. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

According to the County Clerks Affiliate of the Association of Counties this bill will not increase the workload of the courts or county clerks, because the petition process is already guaranteed in the Constitution.

### **SIGNIFICANT ISSUES**

Currently, Article II, Section 14 of the New Mexico State Constitution has no enabling statute that specifies the format for citizen initiated grand jury petitions. However, since this existing constitutional provision requires the signatures of 2% of the voters of the county, the County Clerks of each county must attempt to verify the qualifications of the signers, without an address. There are many names on a county's voter rolls that are shared by multiple voters and without an address, it is impossible to factually determine if the signer is a registered voter, or not.

All petitions that presently exist in New Mexico statutes which require the signatures of voters require an address. Without some specified format to the petition, district judges will have petitions presented to them with no method to determine if the signatories are actually qualified voters. The proposed statute will require an address from the voter.

### **ADMINISTRATIVE IMPLICATIONS**

The mere creation of a format for a petition that is already permitted by the state constitution is unlikely to result in a stampede of grand jury petitioners. However it will ensure that district judges and county clerks do not waste their time in an attempt to verify the qualifications of the signers.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

Although SB 7 is related to existing Sections 31-6-1 through 31-6-15 NMSA 1978 regarding grand jury proceedings and challenges thereto, it does not conflict with these sections, but adds additional procedures regarding citizen procedures, an earlier part of the process contemplated by Sections 31-6-1 through -15.

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