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FISCAL IMPACT REPORT

ORIGINAL DATE 01/31/11
 LAST UPDATED 02/23/11 **HB** 207/aHJC/aHAFC

SPONSOR Cervantes

SHORT TITLE Independent Constitutional Commission **SB** _____

ANALYST Graeser

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
\$100.0		Nonrecurring	Legislative Cash Balances

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	\$20.0*	\$40.0*	\$40.0*	\$100.0	Nonrecurring	Legislative operating funds

(Parenthesis () Indicate Expenditure Decreases)

*Note: see Fiscal Implications section for discussion of adequacy of the appropriation and the impact on staffing of the proposed commission and the legislative council service.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General (AG)

Secretary of State (SOS)

SUMMARY

Synopsis of the HAFC Amendment

The House Appropriation and Finance Committee Amendment to House Bill 207 as amended changes the source of the funds required to conduct the independent Constitutional Commission from the general fund to legislative cash balances. The amount of money appropriated is unchanged at \$100.0.

Synopsis of HJC Amendment

House Judiciary Committee Amendment to House Bill 207 strikes the phrase, “in consultation with the governor” from the authority of the legislative council to appoint six public members.

Synopsis of Original Bill

House Bill 207 creates a 17-member independent commission (15 voting members) to recommend changes to the NM Constitution pursuant to Article 19, Section 1 of the New Mexico State Constitution. The commission would be composed of fifteen (15) voting members and two advisory, non-voting members. The commission members would be appointed as follows:

- Three public members appointed by the speaker of the House of Representatives, with a maximum of two being from the same political party;
- Three public members appointed by the president pro tempore of the senate, with a maximum of two being from the same political party;
- Three public members appointed by the governor, with a maximum of two being from the same political party;
- Six public members appointed by the New Mexico legislative council in consultation with the governor;
- The two advisory, non-voting members shall be the Chief Justice and the NM Attorney General. However, they do have the power to designate an individual to serve on their behalf.

The objective of this commission would be to recommend constitutional changes. The members would study the Constitution of the State of New Mexico and consult other state constitutions for recommendations. A report of findings and recommendation shall be made to the governor and each member of the fifty-first legislature thirty days prior to convening the 2013 legislature.

The commission members would be entitled to per diem and mileage.

The bill contains an emergency clause requesting immediate effect and calls for a repeal as of April 1, 2013.

FISCAL IMPLICATIONS

House Bill 207 appropriates \$100.0 from ~~the general fund~~ [legislative balances] to the legislative council service for the purpose of paying the expenses of the commission.

The appropriation of \$100.0 contained in this bill is a non-recurring expense to ~~the general fund~~ [legislative balances]. Any unexpended or unencumbered balance remaining at the end of FY13 shall revert to the general fund.

It is unlikely that the appropriation of \$100.0 contained in this bill would permit the commission to hire dedicated staff and pay per diem and mileage for two years worth of meetings. The GRTF effort from April 2010 through December 2010 took an estimated 3,000 hours of senior staff effort and resulted in about \$42,000 in per diem and mileage payments (See FIR to HB 130).

SIGNIFICANT ISSUES

Removing the consultation with the Governor in appointing the public members might jeopardize the perceived legitimacy of the constitutional study commission.

ADMINISTRATIVE IMPLICATIONS

Staff and research work would be done under the supervision of the chair of the commission by staff hired by the commission and, upon request, by the legislative council service staff.

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