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## FISCAL IMPACT REPORT

ORIGINAL DATE 02/27/11

SPONSOR Ortiz y Pino LAST UPDATED \_\_\_\_\_ HB \_\_\_\_\_

SHORT TITLE Independent Police Review Boards, CA SJR 12

ANALYST Hanika-Ortiz

### ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
<b>Total</b>			\$104.0		Nonrecurring	General Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

### SOURCES OF INFORMATION

LFC Files

#### Responses Received From

Department of Public Safety (DPS)

New Mexico Municipal League

Attorney General's Office (AGO)

### SUMMARY

#### Synopsis of Bill

Senate Joint Resolution 12 proposes a new constitutional provision in Article 10 to permit a municipality or county to establish an independent and elected citizen police review board with authority to investigate and resolve citizen complaints against a law enforcement agency or officer.

The amendment will be submitted to the people for their approval or rejection at the next general election or at any special election.

### FISCAL IMPLICATIONS

The Secretary of State has noted in previous resolutions that placing an amendment on the ballot costs an average of \$104.0 to reimburse the county clerks for the cost of advertising. If the requisite number of qualified electors is confirmed, the question shall be placed for a special election to be called within ninety days of completion or the next occurring general election. The approximate cost for a special election is \$1,675,541.55; the approximate cost for an all mail-in ballot election is \$1,968,179.31.

## **Senate Joint Resolution 12 – Page 2**

Only the specific additional cost for advertising the constitutional amendment is included in the operating budget table above, assuming that the question is presented to the voters at the next general election, and not at a special election called for the specific issue.

If approved and enacted upon by counties and municipalities, volunteer citizen review board members will be eligible for per diem and mileage for their participation.

### **SIGNIFICANT ISSUES**

The resolution if passed by the voters will enable, but not require, a governing body of any county or municipality to establish a citizen police review board independent of the governing body. The resolution provides for the election of the citizen police review board by the governing body. The resolution further provides for the board to have authority to investigate and resolve citizen complaints regarding any law enforcement agency or law enforcement officer, including any county sheriff under the jurisdiction of the board.

### **PERFORMANCE IMPLICATIONS**

The bill may conflict with the authority of the New Mexico Law Enforcement Academy Board (NMLEA Board) to revoke or suspend certifications for officer misconduct.

### **ADMINISTRATIVE IMPLICATIONS**

DPS notes that the resolution will empower a citizen police review board with jurisdiction over “...*any law enforcement agency or law enforcement officer, including any county sheriff...*” that is working within its boundaries. DPS further notes the existing lack of state statutory guidance in the area of “citizen police review boards”.

### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

SJR 12 relates to HB 150 NM Law Enforcement Academy Board Changes and SB 391 NM Law Enforcement Academy Board Membership

### **OTHER SUBSTANTIVE ISSUES**

The goal of the resolution appears to be to support the integrity of investigations of police misconduct and to enhance community confidence in law enforcement.

For police and communities to adequately understand each other’s perspective, it is imperative that they communicate. That communication may be served through a diversified board of civilians representing the interests of the community at large.

### **ALTERNATIVES**

Expand the NMLEA Board to provide for more diversification.

Expand Internal Affairs Divisions to be able to more thoroughly investigate citizen complaints and to better investigate policies and issues raised by the community.

**POSSIBLE QUESTIONS**

DPS posed its concerns within the questions below:

What are the due process rights of officers where there is no direct employer-employee relationship between the citizen police review board and the officer?

What constitutes or defines a valid “citizen complaint process” and time limits for filing, investigation, adjudication, and resolution of a citizen complaint?

What happens when investigative findings and results are in conflict between the agency’s internal affairs investigation and the citizen police review board investigation?

AHO/svb