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FISCAL IMPACT REPORT

SPONSOR McSorley ORIGINAL DATE 1/31/12
LAST UPDATED _____ HB _____

SHORT TITLE Land Commissioner Control over State Fair SB SJR 8

ANALYST Wilson

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY12	FY13	FY14	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Secretary of State		\$104.0			Non- Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 4

SOURCES OF INFORMATION

LFC Files

Responses Received From

Secretary of State (SOS)

State Land Office (SLO)

No Response Received From

New Mexico State Fair (NMSF)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 8 proposes an amendment to article 13 of the constitution of New Mexico to provide the Commissioner of Public Lands with supervisory control over the New Mexico State Fair.

The amendment proposed by this resolution shall be submitted to the people for their approval or rejection at the next general election or at any special election prior to that date that may be called for that purpose.

FISCAL IMPLICATIONS

The SOS reports that in accordance with Section 1-16-4 NMSA 1978, upon receipt of the certified proposed constitutional amendment or other question from the Secretary of State, the county clerk shall include it in the proclamation to be issued and shall publish the full text of each proposed Constitutional amendment or other question in accordance with the constitution of

New Mexico.

Although the county clerk includes the proposed amendments in the clerk's proclamation, it is the responsibility of the State to pay for the costs associated with the publication per Section 1-16-13 NMSA 1978, including printing samples of the text of each constitutional amendment in both Spanish and English in an amount equal to ten percent of the registered voters of the state. There are currently 1.7 million registered voters in the state. Voters whose election mail is returned as undeliverable will be sent the proper notice under federal law in 2012, and if they do not vote in the next two federal elections, may be purged in 2015. Under these timelines, the voter roll is expected to increase until the purge in 2015.

The SOS reports that in 2010, the publication cost was \$520,000 for 5 constitutional amendments, or approximately \$104,000 per amendment. Although the SOS is continually seeking ways to reduce publication costs, it believes the 2010 figure is a reasonable projection for 2012 costs, given the increasing number of voter registrations.

If the NMSF is under the Commissioner of Public Lands, resources will be allocated to NMSF activities to provide adequate administrative oversight. This could result in using Land Maintenance Fund for non-trust activities or will require allocation of costs to the NMSF. Because general supervisory control is not defined, and the structure and operation of the NMSF is it is difficult to evaluate the extra costs. Because general supervisory control is not defined, it is difficult to evaluate the extra costs.

SIGNIFICANT ISSUES

A recent review of the NMSF by the LFC reports the NMSF is operationally insolvent, has exhausted operational cash reserves and has under-reported actual losses to the Legislature. The NMSF has asked for a deficiency appropriation for FY 12. In response to the LFC, the NMSF has cut their staffing and is attempting to renegotiate contracts. They are also considering having fewer days.

Also under consideration is requiring the NMSF to voucher through the Department of Finance and Administrations and handle procurements through the General Services Department.

The SLO provided the following:

The Commissioner of Public Lands is prevented from using maintenance or permanent trust funds for other purposes such as the NMSF. Section 10 of the Enabling Act states disposition of any of said lands, or of any money or thing of value directly or indirectly derived there from, for any object other than that for which such particular lands, or the lands from which such money or thing of value shall have been derived, were granted confirmed, or in any manner contrary to the provisions of this act, shall be deemed a breach of trust. The Courts have interpreted this section to disallow the diversion of funds from either the maintenance or permanent fund.

The proposed amendment does not define the Commissioner of Public Lands' power to exercise general supervisory control over the NMSF. The amendment conflicts with the powers of the State Fair Commission (SFC) under NMSA 1978 § 16-6-1 et seq. The SFC is appointed by the governor, NMSA 1978 § 16-6-1 and the fair commission is

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statutorily authorized to oversee the NMSF as an independent entity. Also, the SFC is given further authority as an independent corporation, See NMSA 1978 §§ 16-6-11, 16-6-13 and 16-6-14. Based on the statutory structure, the amendment giving the Commissioner of Public Lands general supervisory control over the NMSF is in direct conflict with existing statutes.

ADMINISTRATIVE IMPLICATIONS

If this joint resolution is approved by the voters, the Commissioner of Public Lands will have to allocate extra time, effort and staff to exercise general supervisory control.

RELATIONSHIP

SJR 8 relates to SB 4, State Fair Commission as State Agency.

DW/amm