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FISCAL IMPACT REPORT

ORIGINAL DATE 02/09/12

SPONSOR Ortiz y Pino LAST UPDATED _____ HB _____

SHORT TITLE Redistricting Commission, CA SJR 10

ANALYST Hoffmann

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

The AGO analysis includes the following disclaimer: "This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Opinion letter. This is a staff analysis in response to the agency's, committee's or legislator's request."

Administrative Office of the Courts (AOC)

The AOC analysis includes the following disclaimer: "This bill analysis is submitted by the AOC and shall not be construed as a submission by the Supreme Court or any other court."

SUMMARY

Synopsis of Bill

Senate Joint Resolution 10 (SJR10) proposes to amend Article 4, Section 3 of the NM Constitution with primarily technical changes to effect gender-neutral language, and to strike subsection D which currently calls for reapportionment after the decennial census is issued.

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SJR10 also proposes to amend Section 20 by adding a new section establishing a redistricting commission responsible for redistricting congressional and state legislative districts after the decennial census is issued. The Legislature would have the power to authorize the commission to redistrict other state offices.

The Redistricting Commission would consist of five commissioners chosen from retired district and appellate court judges and former Supreme Court judges applying for a commission seat. No more than three could be from the same political party. The commissioners would not receive compensation but would be reimbursed for mileage and per diem. Their term of service would run until their successors are appointed and qualified.

The Appellate Judges Nominating Commission would select 12 nominees from application from former judges, with a maximum of 6 from the same political party. The names of these nominees would be placed in a selection pool submitted to the legislative leadership by December 1 of the year of the decennial census. The leader of the majority party in each house would make one appointment. The leader of the minority party in each house would make one appointment. The fifth member would be selected by the four previously appointed commissioners from the remaining pool of nominees no later than January 15th of the year following the decennial census. The bill provides for filling vacancies that may occur and for removal of a commissioner for cause.

The commission's process for mapping congressional and state legislative districts would begin with the existing districts. Adjustments would be made in consideration of:

- compliance with state and federal constitutional and statutory requirements;
- the creation of districts with boundaries that are contiguous, compact, and to the extent practical respect communities of interest and use visible geographic features and municipal and county boundaries;
- and avoiding the division of precincts unless required to meet federal constitutional standards.

The Redistricting Commission would be required to hold public hearings on proposed redistricting plans and take public comments for 40 days. The commission would have to file its final plans with appropriate state agencies by October 1 of the year following each federal decennial census.

The proposed constitutional amendment would confer operating authority on the commission to successfully accomplish its mission. A quorum would require three members, and actions would require a majority vote of the commission. The Legislature would be required to provide adequate resources, and the commission would have authority for procurement, contracting and hiring staff and legal counsel as necessary. The selection of whether the Attorney General or private counsel would represent the commission would be at the discretion of the commission.

The commission would cease to meet or incur expenses at the end of the redistricting process, unless further activity is pending including litigation, revision of districts as a result of a court order, or to consult with executive and legislative agencies in preparation for the next redistricting cycle.

The proposed constitutional amendment would be presented to the voters at the next general or any special election prior to that date that may be called for that purpose.

FISCAL IMPLICATIONS

The requirement for an appropriation in the future is implied by this constitutional amendment. If passed, the newly-appointed commission would have to prepare a budget and submit it to the legislature. It would be difficult to estimate the impact of such a cyclical expense at this time.

SIGNIFICANT ISSUES

The AGO reports that twenty-one states have a redistricting commission that either (1) redistricts the legislative districts, (2) advises the legislature on drawing up the boundaries or (3) acts as a backup if the legislature fails to draw up the maps for legislative districts.

The purpose behind these various state alternatives—and the purpose of this bill—is to take partisan politics out of the re-districting process. An additional purpose is to eliminate the practice of incumbents drawing district boundaries that preserve their re-election.

The last several decades have seen the courts ultimately deciding the redistricting boundaries, so this bill by passing the legislature and immediately proceeds to judicially drawn maps.

The AOC provides the following discussion.

Creating a redistricting commission achieves the perceived benefit of removing political considerations from the redistricting process. Limiting the commission to retired judges may reinforce the perceived benefit, as judges may be considered unlikely to manifest partisan bias and will understand the requisites of the Voting Rights Act.

The approach tracks a plan designed for Minnesota by former Republican Governor of Minnesota Arne Carlson and former vice president Walter Mondale. On January 24, 2012, the San Diego County Board of Supervisors voted to pursue changes in the California election code to allow San Diego County to create a redistricting commission composed of retired judges. In Oregon, a similar proposal of an appointed commission of retired judges will appear on the November ballot if enough signatures are collected.

Thirteen states have recently adopted some form of independent redistricting commission, including Arizona in 2000. Like the commission proposed in HJR 10, Arizona's redistricting commission consists of five members, but the proposal in HJR 10 only permits retired judges to serve on the commission. In Arizona, the only restriction on applicants for the redistricting commission is that they be registered Arizona voters who have not changed their political party affiliation in three years.

TECHNICAL ISSUES

The AGO observes the bill does not define the “appellate judges nominating commission” but presumes this is the commission established by Article VI, § 35, of the N.M. Constitution.

ALTERNATIVES

According to the AGO, one compromise is to adopt what Connecticut, Illinois, Mississippi, Oklahoma and Texas have done—create a redistricting commission that is authorized to draw electoral boundaries when the Legislature fails to draw a map or the Governor vetoes the maps.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Without enacting this bill, the AGO suggests that every decade, redistricting efforts will be burdened by partisan gridlock and incumbent gerrymandering.

CH/svb