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FISCAL IMPACT REPORT

ORIGINAL DATE 02/08/13

SPONSOR Ortiz y Pino LAST UPDATED _____ HB _____

SHORT TITLE Elected Police Review Boards, CA SJR 8

ANALYST Wojahn

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total			\$46.0	\$46.0	Nonrecurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

New Mexico Municipal League (NMML)
 Attorney General's Office (AGO)
 Administrative Office of the Courts (AOC)
 Secretary of State (SOS)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 8 (SJR 8) calls for an election to approve or reject an amendment to Article 10 of the Constitution of the State of New Mexico that would add a new section authorizing local government bodies to establish independent police review boards. The proposed amendment would further require that local governments establishing such review boards provide for the election of the review boards members by resolution. Review boards created under the amendment would be empowered to investigate and resolve citizen complaints against law enforcement agencies or officers "as provided by law."

Section 2 of the joint resolution would require that the proposed amendment be put on the ballot at the next general election or at a special election before that date.

FISCAL IMPLICATIONS

The fiscal impact to the Secretary of State (SOS) is \$46 thousand per constitutional amendment. Article 19 of the New Mexico constitution states that the SOS shall cause amendments to the

constitution to be published, in English and Spanish, in one newspaper in every county of the state, once per week for four consecutive weeks at least two weeks prior to the election. Section 1-2-3C requires minority languages that are historically unwritten be made available orally.

SIGNIFICANT ISSUES

According to the Attorney General’s Office (AGO), two acts under the New Mexico statutes can currently come into play in the administrative review of allegations of individual police officer misconduct. The Law Enforcement Training Act authorizes the Law Enforcement Academy Board to deny, suspend or revoke certification of law enforcement officers. NMSA 1978, Section 29-7-1 through – 13. The Peace Officer’s Employer-Employees Relations Act prescribes rights for peace officers facing administrative investigations by their employer-agency. NMSA 1978, Section 27-14-1 through – 11. The language of the proposed amendment does not appear to directly conflict with either act. However, the general nature of the authority given to local police review boards under the proposed amendment should be noted. If the proposed amendment were approved in an election, additional legislation delineating how police review boards would “investigate and resolve citizen complaints” could prove helpful.

From the New Mexico Municipal League (NMML): Independent police review boards can serve an important function, but their independence from the local governing body is troublesome because these boards could potentially make findings or order actions of the law enforcement agency that involve expenditure of money that is appropriately within the province of the governing body of the local government, or could adopt policies that are not the product of discussions with experts in law enforcement functions.

PERFORMANCE IMPLICATIONS

According to the NMML, police oversight boards need to have their authority specifically and narrowly drawn so that they do not impinge on the statutory duties of the executive and legislative branches of local governments.

ADMINISTRATIVE IMPLICATIONS

SJR 8 provides no guidance as to the limitations that may be placed on such police oversight boards, only that they are empowered to operate “as provided by law”. The NMML questions whether this resolution contemplates enabling legislation at the state level or local level.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Citizen police review boards will continue to be appointed by the governing body of the county or municipality and will not be independent of the governing body.