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FISCAL IMPACT REPORT

SPONSOR HJC ORIGINAL DATE 01/23/17
LAST UPDATED 02/07/17 HB 40/HJCS

SHORT TITLE Municipality Officer Recall Elections SB _____

ANALYST Amacher

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	NFI	NFI	NFI	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Administrative Office of the Courts (AOC)

New Mexico Municipal League (NMML)

Office of Attorney General (AOG)

Secretary of State (SOS)

SUMMARY

Synopsis of Bill

The House Judiciary Committee Substitute for House Bill 40 amends the conditions for the recall election of elective officers in commission-manager municipalities. This bill makes clear that any commission-manager municipality is subject to a recall election for malfeasance or misfeasance in office, or a violation of the oath of office. As outlined in this bill, prior to the circulation of a recall petition, a determination of probable cause for the recall by the district court must be made.

If enacted, this bill will become effective June 16, 2017.

FISCAL IMPLICATIONS

No known fiscal impact.

SIGNIFICANT ISSUES

The House Judiciary Committee Substitute for House Bill 40 amends the conditions for the recall election of elective officers in commission-manager municipalities. The amendments change the

provisions of the Commission-Manager Form of Government (Section 14-13-6 NMSA 1978) which governs recall elections of elected officers in commission-manager municipalities. The proposed amendments make clear that any commission-manager municipality is subject to a recall election for malfeasance or misfeasance in office, or a violation of the oath of office.

As outlined in this bill, a determination of probable cause for the recall by the district court must be made prior to the circulation of a recall petition. A compliant must be filed with the district court for the county in which the recall is to be conducted outlining factual allegations that support the grounds for recall. The court shall only consider evidence of acts or failures to act during the current term of the official sought to be recalled. The court must hold a hearing so that the proponents of the recall effort and the officer sought to be recalled are given an opportunity to present evidence.

If the district court determines probable cause for the recall exists, the recall petition may then be circulated. The proposed amendments require the petition for a recall election cite grounds of malfeasance or misfeasance in office or violation of the oath of office by the official concerned. Such actions must have occurred during the official's current term.

Upon verification by the municipal clerk of the signature of the petition the commission shall call a special election unless the regular municipal election occurs within sixty days, in which case the votes on the recall may be made at the regular election. If an officer is recalled, the officer is not eligible for reelection until the original term of office has expired.

PERFORMANCE IMPLICATIONS

The AOC has commented that the courts participate in performance-based budgeting. It is unknown if enactment of this bill would impact performance measures as they relate to judicial budgeting. However, any fiscal impact to the judiciary would be proportional to the enforcement of this law and commenced hearing. New laws, amendments to existing laws and new hearings have the potential to increase caseloads in the courts, thus requiring additional resources to handle the increase.

ADMINISTRATIVE IMPLICATIONS

As mentioned by the AOC, the proceedings identified in this bill shall be given precedence over other pending matters before the court so that the court may reach an expedited decision without delay. There would be an administrative impact on the courts as a result of additional case priority given to these cases and an increase in caseload and/or in the amount of time necessary to dispose of this case type.

After consultation, the NMML indicated there are currently eight commission-manager municipalities in New Mexico which this bill may affect.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Elected officials in commission-manager municipalities will continue to be subject to a recall election upon petition, with a total number of signatures that is more than 20 percent of the average number of voters from the previous election.