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FISCAL IMPACT REPORT

ORIGINAL DATE 2/28/19

SPONSOR Moores LAST UPDATED _____ HB _____

SHORT TITLE Nonpartisan Judicial Elections, CA SJR 12

ANALYST Torres

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	Indeterminate but minimal			Indeterminate but minimal	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

Relates to SJR15 and HRJ6.

SOURCES OF INFORMATION

LFC Files

Responses Received From

Administrative Office of the Courts (AOC)

New Mexico Attorney General (NMAG)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 12 proposes a constitutional amendment to provide that all justices and judges (district and metropolitan courts) be elected in nonpartisan retention elections, with require a 57 percent vote required for retention. It repeals existing language in Article VI, Section 33, which provides that newly appointed justices and judges must stand for partisan election at the next general election following their appointment.

The proposed amendment provides the Legislature must enact additional statutory provisions governing the initial nonpartisan judicial elections.

The proposed amendment deems that every justice or judge holding office because of a partisan election preceding or during the general election at which this amendment is adopted is deemed to hold office by virtue of a nonpartisan election and will next stand for a nonpartisan retention election coinciding with the end of their term of office.

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The proposed amendment does not alter the present Constitutional provisions establishing partisan elections for magistrate judges.

FISCAL IMPLICATIONS

The amendment will have at most a minimal fiscal impact on the conduct of elections or on the nomination of judges.

SIGNIFICANT ISSUES

The Judicial Performance Evaluation Commission (JPEC) evaluates justices and judges standing for nonpartisan retention elections. If the proposed amendment becomes law, JPEC may have to evaluate newly appointed justices and judges before their first election. Presently, JPEC evaluations do not begin until after a justice's or judge's first successful partisan election.

The proposed amendment would change the "hybrid" system of partisan and nonpartisan judicial elections established in 1988. SJR12 ends the initial partisan election requirement for newly appointed justices and judges and replaces that requirement with nonpartisan retention elections for all newly appointed justices and judges. Thereafter, justices and judges seeking to retain office would stand in nonpartisan retention elections, as currently practiced.

Presently, applicants for judicial vacancies are assessed on merit by a judicial nominating commission composed of both appointees named by partisan officeholders and those named by justices, judges, and the New Mexico Bar. The judicial nominating commission submits lists of qualified applicants to the governor for final selection. The constitution does not forbid the governor from considering partisan aspects in making judicial appointments from nominating commission lists.

The amendment empowers the Legislature to enact statutes establishing the "nonpartisan election process" applying to newly appointed justices and judges. Presently, newly appointed justices and judges must, to retain office, run at the next general election following their appointment (Article VI, Section 35). The amendment does not repeal or alter this section, so presumably newly appointed justices and judges would face their first election – a nonpartisan retention election – at the next general election after their appointment. Legislation enacting the amendment would need to specify this will still be the case.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

SJR15 would extend the time before a newly appointed justice or judge must appear on a partisan general election ballot. Should SJR12 and SJR15 both be adopted, it would appear that a newly appointed justice's or judge's first nonpartisan retention election could not occur earlier than one year after appointment.

HJR6 would establish a new system of runoff elections affecting justices and judges.

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