

<b>LFC Requester:</b>	<b>Charlene Cerny</b>
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**AGENCY BILL ANALYSIS  
2015 REGULAR SESSION**

**WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:**

[LFC@NMLEGIS.GOV](mailto:LFC@NMLEGIS.GOV)

*and*

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*{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}*

**SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

*Check all that apply:*

<b>Original</b>	<input checked="" type="checkbox"/>	<b>Amendment</b>	<input type="checkbox"/>	<b>Date</b>	Jan. 29, 2015
<b>Correction</b>	<input type="checkbox"/>	<b>Substitute</b>	<input type="checkbox"/>	<b>Bill No:</b>	SB 289

<b>Sponsor:</b>	Sen. Peter Wirth	<b>Agency Code:</b>	Attorney General's Office
<b>Short Title:</b>	Public Financing of Legislative Races	<b>Person Writing</b>	Stuart Bluestone
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**SECTION II: FISCAL IMPACT**

**APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
			Public Election Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

**REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY15	FY16	FY17		

(Parenthesis ( ) Indicate Expenditure Decreases)

## **ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>3 Year Total Cost</b>	<b>Recurring or Nonrecurring</b>	<b>Fund Affected</b>
<b>Total</b>		?	?	?		Public Election Fund

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:  
Duplicates/Relates to Appropriation in the General Appropriation Act:

### **SECTION III: NARRATIVE**

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

### **BILL SUMMARY**

Synopsis: SB 289 seeks primarily to extend the availability of public financing, currently an option only for Public Regulation Commission and statewide judicial appellate races, to state legislative races as well. It also seeks to remedy constitutional problems with the current matching funds scheme that the U.S. Supreme Court has invalidated. The bill also addresses "coordinated expenditures"; revises the limits on fundraising applicable to publicly financed candidates; and restricts the use of public funds to contested races. Interestingly, a candidate applying for public financing can raise the necessary qualifying funds only from registered voters in the candidate's district.

### **FISCAL IMPLICATIONS**

Note: These will be significant to determine, but this is beyond the expertise of the AG's Office. The Secretary of State is in the best position to estimate the fiscal impact of SB 289.

### **SIGNIFICANT ISSUES**

1. Whether to expand the availability of voluntary public financing in election campaigns to state legislative races.
2. Whether the proposed funding of \$1.00 for each voter in the candidate's district will be adequate to conduct an effective race, both in the primary and general elections.
3. Whether to fix the current unconstitutional distribution of additional matching funds based on the new proposed formula that distributes up to three times the initial public funding amount depending upon how much money in \$100 contributions or less a candidate can raise from voters in the candidate's district (this applies only to the current PRC districted races and the proposed legislative races; the judicial races are statewide and funds can therefore be raised from registered voters throughout the State).
4. Whether the maximum limit of an additional three times the initial amount of public financing received, based on the total number of \$100 or less contributions a candidate raises, will be adequate to run an effective campaign against a privately financed candidate.
5. Whether the restriction of raising funds only from voters in a candidate's district (PRC or legislative) comports with the responsibility of officeholders to make decisions that have impact throughout the State and not just in the candidate's district.
6. Whether sufficient funds will be available in the Public Election Fund to provide the

public funding specified in the Bill. In this regard, it may be instructive to understand how funds deposited into the Public Election Fund have been appropriated for a) public financing of races, or b) other uses diverted from the Fund.

#### **PERFORMANCE IMPLICATIONS**

Unknown at this time, but enactment of the bill could result in litigation costs for the AGO.

#### **ADMINISTRATIVE IMPLICATIONS**

#### **CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

#### **TECHNICAL ISSUES**

#### **OTHER SUBSTANTIVE ISSUES**

#### **ALTERNATIVES**

#### **WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

The current system of public financing will remain intact, including the unconstitutional provisions that increase the amount of public financing available depending upon how much money is spent by an opposing privately financed candidate or other groups opposing the publicly financed candidate.

#### **AMENDMENTS**