

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** SJR 2aa

**51st Legislature, 1st Session, 2013**

**Tracking Number:** 190488.1

**Short Title:** Limit School Class Sizes, CA

**Sponsor(s):** Senator Timothy M. Keller

**Analyst:** Sarah Amador-Guzman

**Date:** March 5, 2013

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**AS AMENDED**

**The Senate Education Committee amendments apply the class size limits from school year 2020-2021 through school year 2030-2031.**

**The Senate Rules Committee amendments remove language that requires the Legislature to provide funds to reduce the average number of students in each classroom by at least two students per year until the maximum number of students per classroom no longer exceeds the requirements established by this joint resolution.**

**Original Bill Summary:**

SJR 2 proposes to amend Article 12 of the Constitution of New Mexico to require:

- a new section to limit class sizes in public schools and only allow waivers under certain conditions prior to school year 2020-2021;
- that the maximum number of students assigned to public school classroom teacher does not exceed:
  - 18 students in kindergarten through third grade;
  - 22 students in fourth through eighth grade; and
  - 25 students in ninth through twelfth grade.

Among its other provisions, SJR 2:

- states that class size requirements do not apply to music, band, elective, or extracurricular classes;
- requires the Legislature beginning in school year 2015-2016, to provide sufficient funds to reduce the average number of students in each classroom by at least two students per year until the class size requirements are met;
- allows the Secretary of Public Education to waive individual class size requirements until school year 2020-2021, if the school district demonstrates that:
  - portable classrooms are not reasonably available;
  - funding sources are not available to meet the need for additional classrooms; and

- within one year the school district is planning alternatives to increase building capacity for implementation.

Implementation of the provisions of SJR 2 would require voter approval in the next general election (2016) or a special election called for that purpose.

**Original Fiscal Impact:**

As a resolution, SJR 2 does not contain an appropriation.

The Office of the Secretary of State indicated that the cost to put a constitutional amendment is:

- approximately \$45,000 for a general election ballot using 2012 election figures; and
- approximately \$4.2 million for a special election.

The Office of the Secretary of State indicates that because the next general election isn't until 2016, using the calculation below it could be estimated that the cost may be \$58,000. The cost of a special election would vary depending on when it was held, but the calculation below provides an estimate of the annual cost increase that may occur with either election option.

<b>General Election vs. Special Election Estimated Costs</b>			
<b>Election</b>	<b>2008</b>	<b>2012</b>	<b>Annual Cost Increase</b>
General Election	\$32,000	\$45,000	\$3,250
Special Election	\$1.2M	\$4.2M	\$750,000
<b>Source:</b> Secretary of State Bureau of Election			

However, while there may be a fiscal impact, previous analysis by the Legislative Finance Committee (LFC), have stated that combining elections may lessen the cost of holding multiple elections.

**Original Fiscal Issues:**

If SJR 2 is approved by the voters it may result in added funding needs for school districts, because of the increase in the number of teachers. In order for the intent of SJR 2 to be implemented a recurring appropriation may be required.

**Original Substantive Issues:**

In current law, the provisions of the *School Personnel Act* require:

- school districts to report to the Public Education Department (PED) the size and composition of classes subsequent to the 40<sup>th</sup> day and the December 1 count;
- the Secretary of Public Education to disapprove a school district's budget for failure to meet class load requirements within two years; and
- PED to report to the Legislative Education Study Committee (LESC), annually by November 30, each school district's ability to meet the class load requirements prescribed in law.

## **Technical Issues:**

According to a survey conducted on January 8, 2013 by the New Mexico Coalition of School Administrators (NMCSA), the class size waivers may be resulting in an annual savings of about \$8.0 million to school districts statewide. The NMCSA survey of school administrators includes only the districts that responded to the survey and excludes the largest district, Albuquerque Public Schools. Among the survey respondents were the following school districts:

- Moriarty-Edgewood;
- Artesia Public;
- Texico Municipal;
- Clovis Municipal;
- Cloudcroft Municipal;
- Carlsbad Municipal;
- Silver Consolidated;
- Santa Fe Public;
- Alamogordo Public;
- Farmington Municipal;
- Belen Consolidated; and
- Las Cruces Public.

Additionally, school districts responded to the survey using information across multiple school years and not necessarily the most recent school year completed.

The information gathered in the NMCSA's survey is self reported and in most cases the information was an estimate. In order to obtain more accurate information, PED would need to provide the annual report required in the *School Personnel Act* to the LESC detailing class size information by school and district for school year 2012-2013.

## **Background:**

### ***Waivers Allowable in Current Law***

Current provisions in the *Public School Code*:

- allow a superintendent implementing a collaborative school improvement program to apply for a waiver of provisions relating to length of day, staffing patterns, subject area, or purchase of instructional material;
- exempt all charter schools from requirements pertaining to the length of the school day, staffing patterns, subject areas, and instructional materials; and
- provisions in the *Instructional Material Law* allow school district superintendents to request waivers of the use of funds for the purchase of instructional material either included or not included on the multiple list.

In the 2009 special session, legislation was enacted to add a temporary provision in the *Public School Code* for school year 2009-2010 through school year 2011-2012 to allow the Secretary of Public Education to waive requirements pertaining to:

- individual class load;
- teaching load;

- length of school day;
- staffing patterns;
- subject areas; and
- purchases of instructional materials.

In the 2012 legislative session, similar legislation was enacted adding a temporary provision to the *Public School Code* allowing the Secretary of Public Education to waive class size and teaching load requirements through school year 2012-2013.

PED was also required to monitor the waivers and report to the LESC and the LFC on any issues or actions of a school district that appear to adversely affect student learning.

### ***Class Load Requirements***

While there are exceptions for students receiving special education services, band and music classes, and athletic electives, the *School Personnel Act* establishes limits on the size of individual classes and the average class load or daily teaching load of teachers in kindergarten through twelfth grade as follows:

- 20 students per kindergarten teacher; provided that a class load of 15 to 20 students entitles the teacher to a full-time educational assistant;
- 22 students per teacher, when averaged among first, second, and third grade; provided that any teacher in first grade with a class load of 21 or more shall be entitled to a full-time educational assistant;
- an average of 24 students per teacher in fourth through sixth grade;
- a daily teaching load of 160 students per teacher in seventh through twelfth grade; and
- for teachers of required English courses:
  - a maximum of 27 students per class and a daily teaching load of 135 student per teacher in seventh through eighth grade; and
  - a maximum of 30 students per class and a daily teaching load of 150 students per teacher in ninth through twelfth grade.

### ***Waiver of Class Load Requirements***

Among its other provisions, the *School Personnel Act* allows the Secretary of Public Education to waive individual school class load requirements for no more than two consecutive years if a school district demonstrates that:

- no portable classrooms are available;
- no other available sources of funding exist to meet its need for additional classrooms;
- the school district is planning alternatives to increase building capacity for implementation within one year; and
- the parents of all children affected by the waiver have been notified in writing:
  - of the statutory class load requirements;
  - that the school district has made a decision to deviate from these class load requirements; and
  - of the school district's plan to achieve compliance with the class load requirements.

The secretary may also waive the individual class load and teaching load requirements upon a demonstration of a viable alternative curricular plan and a finding that the plan is in the best interest of the school district and that, on an annual basis, the plan has been presented to and is supported by the affected teaching staff.

However, the act requires that if a waiver is granted, the average class load for elementary school teachers at that school is not to exceed:

- 20 students for first grade classes; and
- 25 students for second through sixth grade classes.

**Committee Referrals:**

SRC/SJC/SEC/SFC

**Related Bills:**

HJR 7 *Limit School Class Sizes, CA*