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FISCAL IMPACT REPORT

ORIGINAL DATE 02/28/13
 SPONSOR HEC LAST UPDATED 03/07/13 HB 605/HECCS
 SHORT TITLE School District & Community College Elections SB _____
 ANALYST Hartzler-Toon

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY13	FY14		
	NFI	N/A	N/A

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		\$20.0	\$20.0	\$40.0		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Higher Education Department (HED)

Public Education Department (PED)

No Responses Received From

New Mexico Association of Community Colleges (NMACC)

New Mexico Independent Community Colleges (NMICC)

SUMMARY

Synopsis of Bill

The House Education Committee's substitute for House Bill 605 (HB 605) would amend 21-14-2 NMSA 1978, the Branch Community College Act, to allow the expansion of the branch community college district by an election of voters. A branch community college district may expand to include a school district that is in a county containing a branch community college or is in an adjoining county that contains a branch community college.

A school district's voters must vote on whether to expand the branch community college district to include a school district. The bill amends 21-14-2 NMSA 1978, adding new sections that identify two mechanisms for determining whether to hold such an election: (1) from a voter-generated request for a petition and survey demonstrating the proposal will "promote improved education services in the school district" (new Sections K and L) or (2) a school board vote to hold an election (new Section M).

Under the first option to seek an election, the petition requesting the school board's approval to hold such a selection must be approved by at least 20 percent of the votes cast for governor in the school district in the last preceding gubernatorial election; the HEC's substitute raised this percentage from 10 percent in the original bill. Once the petition has been validated by the school board, the board is required to contract with an independent survey firm to conduct a survey to determine the desirability of joining the branch community college district. The committee substitute added the requirement that the survey be conducted by an independent firm. Lastly, as required in Section O, both the petition and survey must clearly and fully describe and disclose the effects of any changes to property tax levies related to joining the branch community college district.

Under either option to secure an election on whether to join a branch community college district, the election ballot must describe and disclose the effects of changes to property tax levies. In addition, the committee substitute requires this question be placed on a ballot of a regular election of the school board. The original bill had permitted this question to be posed as part of a special election also.

If a majority of voters in a school district and a majority of voters in a branch community college district approve the ballot question to join the branch community college district, the Higher Education Department (HED) shall notify the school district and the branch community college district of the results and shall declare the extension of the branch community college district's boundaries. The addition would take effect the next succeeding July 1st.

FISCAL IMPLICATIONS

There is no appropriation in HB 605, but there are undeterminable fiscal impacts to the school district, community college, and the state.

The bill specifies that the school district incorporated in branch community college district is automatically subject to any levy on taxable property for college operations and bond issues. The HED states that, (1) at a minimum, any school district where voters support inclusion in the college district would be subject to a levy of 1 mill to support the branch community college, and (2) the district would be subject to a higher levy if the branch community college assesses more than the statutory minimum tax of 1 mill.

Where a school district board evaluates a voter survey to determine whether expanding a branch community college district would "promote improved education services," there will presumably an expansion or increase in educational services in the district. If these services include components the state funds through the higher education instruction and general expenditure formula (funding formula), then the college may experience an increase in general fund formula funding. However, under the instruction and funding formula for higher education, an increase in mill levy revenues will offset or reduce an institution's formula funding.

The bill does not specify the fund source the school district board and branch community college may use to administer the petition, survey, and election process, and these funds may include state general fund appropriations. The HED reports that additional operational funds, likely general fund appropriations, would be needed to certify the election and amend district boundaries.

SIGNIFICANT ISSUES

Comments from similar prior legislation (HB 132, 2012 Session), the New Mexico Association of Community Colleges (NMACC), which represents the state’s branch community colleges, indicated that many branch community colleges serve individuals who reside outside a branch community college district. A branch community college’s “geographic areas of responsibility” does not equal its college district, resulting in individuals who reside outside the district frequently paying higher tuition rates, compared to residents within a college district, and lacking representation on the community college’s advisory board. HB 605 provides a mechanism, currently available to other two-year institutions, for school district boards or the school district electorate to call for an election to expand a branch community college district. By exercising such an option, branch community colleges recognize that school districts within or adjacent to a community college district’s county could receive educational services and more consistent revenues to fund such services.

The HED’s response stated “expanding branch community college districts may lead to requests for expanding campuses within the new district.” Read in isolation, the bill provides a process for expanding the branch community college district, but other provisions in NMSA Chapter 21, Section 14 and other statutes require more than mere requests and commonly require the HED or other explicit approval to establish campuses, learning centers, and learning sites.

ADMINISTRATIVE IMPLICATIONS

The bill requires the school district board and the branch community college board to hold a joint election, and the HED to certify the results. In similar legislation from prior sessions, the New Mexico Independent Community Colleges (NMICC) commented this would necessitate coordination with the County Clerk. The Legislative Finance Committee (LFC) estimates that a school district and participating community college would incur additional operational costs to conduct the petition, survey, or an election to expand the college’s taxing district. The estimated costs reflect one election per fiscal year by an entity/entities that may hold such elections.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

HB 605 creates a process that allows branch community colleges to expand their districts. There are similar provisions for institutions established under the Community College Act (21-13-21 NMSA 1978) and the Technical and Vocational Institute Act (21-16-14 NMSA 1978).

CONSEQUENCES OF NOT ENACTING THIS BILL

Branch community colleges will not be able to expand the branch community college district through voter-approved processes similar to the process available to other two-year institutions.