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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 1st Session, 2017

Bill Number	<u>*SB290/SECS/aSFC</u>	Sponsor	<u>SEC</u>
Tracking Number	<u>.206636.2</u>	Committee Referrals	<u>SEC/SFC</u>
Short Title	<u>School District Budget Flexibility</u>		
Analyst	<u>Macdonald</u>	Original Date	<u>2/14/17</u>
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BILL SUMMARY

Synopsis of SFC Amendment

The Senate Finance Committee amendment to Senate Education Committee Substitute for Senate Bill 290 (*SB290/SECS/aSFC) would remove language allowing school districts to “make other adjustments as required” when the Legislature decreases the appropriation to the state equalization guarantee (SEG) by 2 percent or more or when the Public Education Department (PED) secretary decreases the unit value by 2 percent or more.

Synopsis of Original Bill

Senate Education Committee Substitute for Senate Bill 290 (SB290/SECS) gives school districts operational flexibility when the Legislature decreases the appropriation to the SEG by 2 percent or more or when the secretary of PED decreases the unit value by 2 percent or more after PED has approved school budgets. Once the decrease occurs, a local school board is not required to meet the following statutory minimums: individual class load, teaching load, length of school day or school year, staffing patterns, subject areas, and purchases of instructional materials; or other adjustments as required. The local school board may keep these measures in place until the end of the school year. The superintendent and local school board are required to seek input from school employees, parents, and other community members on the budget adjustments or changes to the statutory minimums. Actions taken pursuant to SB290/SECS will not impair a collective bargaining agreement. The school district is required to report to PED the steps it has taken to avoid deficit spending.

The bill contains a temporary provision for the remainder for the 2016-2017 school year, which states a local school board is not required to meet the statutory minimums for individual class load, teaching load, length of school day or school year; may modify staffing patterns, subject areas, and purchases of instructional materials; or make other adjustments as required. Actions taken pursuant to the temporary provision will not impair a collective bargaining agreement.

The bill has an emergency clause and would become effective immediately upon the governor’s signature.

FISCAL IMPACT

*SB290/SECS/aSFC does not contain an appropriation.

If implemented, many of these items, particularly the reduction in class loads, staffing patterns, and purchases of instructional materials could have a significant positive impact on school district operating costs. The extent of the fiscal impact would vary depending on the degree of school district need and the extent of implementation. One potential budgetary savings for school districts would be for those districts experiencing enrollment growth. These school districts would be able to maintain current staffing levels when they would typically be required to hire additional teachers.

SUBSTANTIVE ISSUES

There is no oversight mechanism, PED or otherwise, provided for in the bill. This could allow school districts to make decisions that negatively impact students, teachers, and staff. There is no analysis available to determine if school districts are equipped to carry out the provisions if they are implemented.

Under Section 22-1-10 NMSA 1978, the Legislature finds that funding constraints require school districts to have financial flexibility to meet decreased state support. For the 2016-2017 through the 2018-2019 school years, the PED secretary may waive requirements of the Public School Code and rules promulgated relating to individual class load, teaching load, length of school day, staffing patterns, subject areas, and purchases of instructional materials. PED is required to monitor such waivers, and the secretary is required to report to the LESC and the Legislative Finance Committee on any issues or actions of a school district that appear to adversely affect student learning. Provisions identical to those in Section 22-1-10 NMSA 1978 were in effect for the 2009-2010 through the 2013-2014 school years. During this time, the LESC did not receive any report regarding how the waived provisions may have adversely affected student learning from PED. In addition, it is unclear to what extent PED was monitoring the impact of these waivers.

If enacted, the primary benefit to school districts will be the waiver of individual class loads and teaching load requirements due to financial limitations. These waivers may allow school districts that are experiencing enrollment growth and budget shortfalls to maintain current staffing levels, and avoid additional costs of hiring more teachers to meet requirements. However, there are existing provisions that allow PED to waive the individual class load and teaching load requirements if the school district presents a viable alternative curriculum plan that is supported by impacted teaching staff.

The flexibility provisions in *SB290/SECS/aSFC coincide with an FY17 SEG reduction and cash balance sweep due to declining revenues. Based on an analysis from the LESC, SB114, School District Cash Balances, was estimated to take credit for school district cash balances in the amount of \$46.1 million, further adding to the need for budget flexibility.

Laws 2016 (Second Special Session), Chapter 6 (Senate Bill 9), reduced FY17 public school categorical appropriations by \$30 million and gave PED discretion to allocate the \$30 million across six appropriations. PED allocated the \$30 million to the transportation and instructional materials funds. According to PED, school districts and charter schools were provided flexibility in determining how to allocate these funds between transportation and instructional materials.

Locally chartered charter schools saw the reduction to instructional materials allocations only because they do not directly receive transportation funds from PED. To help offset FY17 reductions, the Legislature appropriated \$12.5 million in supplemental severance tax bond proceeds from the public school capital outlay fund to the instructional material fund.

PED is currently involved in litigation that alleges the state does not provide a uniform system of free public schools sufficient for the education of all children. The complaint refers to a 2008 American Institute for Research report that found public school operational expenses were underfunded statewide by approximately \$334.7 million, or 14.5 percent.

OTHER SIGNIFICANT ISSUES

It is unclear how often or by what means the local superintendent and local school board is required to seek input from school employees, parents, and other community members.

Statutory Class Sizes. Section 22-10A-20 NMSA 1978 establishes class loads for elementary schools teachers up to grade 6, and daily teaching load per teacher for grades 7 through 12. The average class load for kindergarten teachers is 20 students – classes with 15 or more students are entitled to an educational assistant. The average class load for teachers in grades 1 through 3 is 22 students averaged among the grades – classes with 21 or more students are entitled to an educational assistant. The average class load for teachers in grades 4, 5, and 6 is 24 students when averaged among the grades. The average daily teaching load for grades 7 through 12 is 160 students, with a lower average daily teaching load established for required English courses.

Existing Waivers to Individual Class and Teaching Loads. Provisions in the Public School Code allow PED to waive requirements, including those related to individual class load and teaching load requirements, for programmatic reasons, but do not address financial flexibility. Section 22-10A-20 NMSA 1978 allows PED to waive individual class load and teaching load requirements if it finds that a viable alternative curricular plan has been presented to, and is supported by, the affected teaching staff and is in the best interest of the school district. PED must evaluate the impact of the alternative curricular plan annually and make these annual reports available to the LESC.

Section 22-2-2.1 NMSA 1978 requires the PED secretary to grant all reasonable requests to waive the individual class load requirements pursuant to Section 22-10A-20 NMSA 1978, for all schools that exceed educational standards. Waivers pursuant to this section begin in the school year following that in which a public school exceeds the educational standards and may remain in effect as long as the school continues to exceed educational standards. Statute does not define “educational standards,” nor has the department promulgated regulations defining educational standards.

Section 22-8B-5 NMSA 1978 exempts all charter schools from requirements pertaining to individual class load, length of school day, staffing patterns, subject areas, and instructional materials.

Section 22-15-9 NMSA 1978 of the Instructional Material Law allows school district superintendents to request waivers of the use of funds for the purchase of instructional materials either included or not included on the multiple list.

RELATED BILLS

Relates to HB7/HAFCS, School District Cash Balances

Relates to HB42/aHJC, Instructional Material Definitions & Fund

Relates to HJR5, No New School Activity Without Funding, CA

Relates to SB35, Public School Funding Sufficiency

Relates to SB114/SFCS/aHAFC/aHFI/aCC, School District Cash Balances

Relates to SB140/SFCS, School District Flexibility

Relates to SB256/SECS, K-6 Minimum School Hours & Days

Relates to SB332, Replenish School Cash Balances

Relates to SJR14, School Fund for Longer School Days & Year, CA

SOURCES OF INFORMATION

- LESC Files
- LFC Files

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