

LESC bill analyses are available on the New Mexico Legislature website (www.nmlegis.gov). Bill analyses are prepared by LESC staff for standing education committees of the New Mexico Legislature. LESC does not assume any responsibility for the accuracy of these reports if they are used for other purposes.

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

Bill Number	<u>SB302</u>	Sponsor	<u>Munoz</u>
Tracking Number	<u>.206229.1</u>	Committee Referrals	<u>SRC/SEC</u>
Short Title	<u>School Board Vacancy & Candidacy Requirements</u>		
Analyst	<u>Force</u>	Original Date	<u>2/22/17</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

Senate Bill 302 (SB302) proposes to amend the School Election Law so that vacancies on school boards will be filled through a special election, to be held within 40 days of the occurrence of the vacancy; a local school board must issue proclamation calling a special school district election within 10 days of the vacancy, followed by the election to be held within 30 days of the issuance of the proclamation.

The proclamation, to be published in Spanish and English, must specify the date of the election, the position to be filled, the date on which declarations of candidacy must be filed, polling hours, and the date and time of the closing of the registration books by the county clerk. The county clerk must publish the proclamation in a newspaper of general circulation in the school district.

Declarations of candidacy must be filed one week after publication of the proclamation, between the hours of 9:00 a.m. and 5:00 p.m., along with proof that the candidate's primary residence is located within the school district.

SB302 also amends the Public School Code to note that special elections to fill school board vacancies must occur within 30 days of the occurrence of the vacancy.

FISCAL IMPACT

SB302 does not contain an appropriation.

There will be costs associated with the publication of the proclamation and administration of any special election called to fill a vacancy on the school board, presumably to be borne by the county clerk.

SUBSTANTIVE ISSUES

Current law requires school board vacancies be filled by a majority of the remaining school board members at an open meeting of the board where a quorum is present. If the board does not fill the vacancy, the Public Education Department (PED) must appoint a replacement. The Attorney General's Office notes that the schedule proposed in SB302 includes shorter timeframes than those for other school special elections. Further, while a potential candidate is required to provide proof of residency within the school district, there does not appear to be any requirement that the candidate furnish proof that she is a qualified elector, registered to vote at the time of the proclamation. It should be noted, however, that Subsection 3(B) of the bill assumes that the person elected to fill the school board vacancy is a qualified elector.

PED notes that the bill relieves the department of its obligation to name a replacement in absence of a decision by the board, thus eliminating PED's responsibility and enhancing local control. While a special election may preserve local control of the school district, it should be noted that even regular school elections suffer from extremely low participation. For example, voter turnout in regular elections for Albuquerque Public Schools was as low as 2.6 percent in 2015. It is uncertain if a special election would elicit similar participation as a regular school election, particularly given the shorter time period involved in publishing notice of the special election.

ADMINISTRATIVE IMPLICATIONS

The county clerks' offices would be required to administer the special school elections called for by SB302. While the work is very similar to that required by regular school board elections, it is uncertain if the unpredictable scheduling of special elections would increase clerks' administrative burdens.

TECHNICAL ISSUES

Section 1 of the bill, a new section of the School Election Law, requires that the election to fill a vacancy on the school board be held within 30 days of the issuance of a proclamation to that effect. The proclamation must be issued within 10 days of the vacancy, such that the election would be held 40 days from the occurrence of the vacancy. Section 3 of the bill, amending the Public School Code requires the election be held within 30 days of the vacancy itself. The sponsor may wish to amend the bill to resolve this apparent discrepancy.

RELATED BILLS

Conflicts with HB104, Local Election Act, which consolidates school elections with other local and municipal elections under the Local Election Act.

Conflicts with HB174/HLELCS, Local Election Act, which consolidates school elections with other local and municipal elections under the Local Election Act.

Relates to HB297, School District Campaign Reporting Dates, which extends an election cycle from 30 days before an election to 30 days after the subsequent election for the same office.

SOURCES OF INFORMATION

- Legislative Education Study Committee Files
- Office of the Attorney General
- Public Education Department

RKF/rab