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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 2nd Session, 2020

| | | | |
|------------------------|---|----------------------------|---------------------|
| Bill Number | <u>HB239/aHAFC</u> | Sponsor | <u>Lewis</u> |
| Tracking Number | <u>.216677.1</u> | Committee Referrals | <u>HEC/HAFC;SFC</u> |
| Short Title | <u>Increase Fine Arts Education Program Units</u> | | |
| Analyst | <u>Simon</u> | Original Date | <u>1/30/2020</u> |
| | | Last Updated | <u>2/19/2020</u> |

BILL SUMMARY

Synopsis of HAFC Amendment

House Appropriations and Finance Committee Amendment to House Bill 239 (HB239/aHAFC) would increase the cost differential used to calculate program units for fine arts education programs from 0.05 in FY20 to 0.054 in FY21. The amendment also strikes obsolete language in the Public School Finance Act, which provides for a cost differential for fine arts education program units in FY04 through FY06. (See **Technical Issues**).

Synopsis of Bill

House Bill 239 (HB239) would increase the cost differential used to calculate program units for elementary fine arts education programs from 0.05 in FY20 to 0.06 for FY21 and subsequent fiscal years.

FISCAL IMPACT

HB239/aHAFC does not contain an appropriation. HB239/aHAFC would increase the number of program units generated by school districts and charter schools through the public school funding formula. Without an increased appropriation to the funding formula's state equalization guarantee (SEG) distribution, an increase in the number of units would dilute the unit value, impacting school districts and charter schools statewide.

The Senate Finance Committee Amendment to House Appropriations and Finance Committee Substitute for House Bills 2 and 3 does not include an appropriation to the SEG to increase fine arts education program units.

For FY20, the public school funding formula generated 8,141 program units for elementary fine arts programs, for a total of \$37.2 million at the preliminary FY20 unit value. Based on FY20 enrollment levels, HB239/aHAFC would create 651.25 program units, at an estimated cost of \$3 million at the preliminary FY20 unit value. Analysis from the Public Education Department (PED) notes that state law only allows program unit generation for student membership in a program

implemented in accordance with the Fine Arts Education Act. If an existing program’s application is denied in FY21, the estimated impact to the state could change.

HB239/aHAFC would increase the amount school districts and charter schools generate for each student enrolled in an eligible fine arts education program. Currently, school districts and charter schools generate \$228.27 per student in an elementary school fine arts program. HB239/aHAFC would increase that amount to an estimated \$246.53, based on the preliminary FY20 unit value. This represents an increase of \$18.26, or 8 percent.

SUBSTANTIVE ISSUES

Since FY04, the public school funding formula has allocated additional funding to school districts and charter schools with elementary schools that implement fine arts programs in accordance with the Fine Arts Education Act. Since FY06, school districts and charter schools have received 0.05 program units per MEM participating in a compliant fine arts education program, or about \$228 per student at FY20 preliminary unit value.

Prior to FY20, the funding formula’s training and experience (T&E) index was multiplied by early childhood education program units, basic education program units, special education program units, bilingual multicultural education program units, fine arts education program units, and elementary physical education program units. Laws 2018, Chapter 55 (House Bill 188) aligned the T&E index with the three-tiered licensure system and addressed arguments in the consolidated *Martinez* and *Yazzie* lawsuit that identified the T&E index as a potential source of inequitable funding for education. The updated law reduced the weight of the T&E index in the funding formula by applying the factor only to early childhood education and basic education program units. Although this change reduced the number of program units, the Legislature did not decrease appropriations to the SEG to account for the decreased units, allowing the funding to flow back to school districts and charter schools in the form of a higher program unit value.

Historic guidance from PED had directed school districts and charter schools to include funding from the T&E index in elementary fine arts program budgets. However, this guidance was not immediately updated following the passage of HB188 in 2018, so a number of school districts and charter schools created FY20 budgets for fine arts that included both T&E funding and the higher program unit value that was made possible by the change to the T&E index. Had HB188 not been enacted, the FY20 program unit value would have been lower but school districts and charter schools would have generated more T&E program units. In effect, by including both extra T&E funding and the higher program unit value, some initial fine arts program budgets “double counted” a portion of education funding, creating an impression that funding was cut when schools were directed to correct the budget to account for the new law. This impression was compounded by a loss of nearly 5,000 students in elementary fine arts programs, which are funded on a per student basis. Table 1 below shows a summary of fine arts education funding by fiscal year.

Table 1: Elementary Fine Arts Funding By Fiscal Year

| Fiscal Year | Students | Fine Arts Program Units | Fine Arts Funding | Per Student Funding | Program Units with T&E Index per PED Guidance | Fine Arts Funding with T&E Index per PED Guidance | Per Student Funding with T&E Index |
|---------------------|----------|-------------------------|-------------------|---------------------|---|---|------------------------------------|
| FY15 | 166,157 | 8,308 | \$33,295,786 | \$200.39 | 9,047 | \$36,259,111 | \$218.22 |
| FY16 | 166,780 | 8,339 | \$33,670,797 | \$201.89 | 9,031 | \$36,465,473 | \$218.64 |
| FY17 | 171,708 | 8,820 | \$35,100,774 | \$204.42 | 9,526 | \$37,908,836 | \$220.78 |
| FY18 | 170,180 | 8,509 | \$34,752,866 | \$204.21 | 9,173 | \$37,463,590 | \$220.14 |
| FY19 | 167,780 | 8,389 | \$35,157,041 | \$209.54 | 9,060 | \$37,969,604 | \$226.31 |
| FY20* | 162,813 | 8,141 | \$37,165,314 | \$228.27 | 8,141 | \$37,165,314 | \$228.27 |
| FY21 (HB239/aH AFC) | 162,813 | 8,792 | \$40,138,539 | \$246.53 | 8,792 | \$40,138,539 | \$246.53 |

*For FY20 and FY21, total funding is based on the preliminary unit value.

Source: LESC Files

Guidance to include T&E funding within fine arts program budgets was inconsistent with how other formula factors were treated regarding T&E. For example, the state was not allowed by the federal government to apply T&E funding associated with special education programs as special education funding for the purposes of meeting maintenance of effort requirements under the federal Individuals with Disabilities Education Act. Similarly, PED’s annual bilingual multicultural education reports do not include amounts for T&E funding. Conceptually, it is difficult to allocate T&E funding to individual programs because all eligible employees are included in the calculation of the T&E index. As a result, including T&E funding in fine arts program budgets could lead to a budget increase or decrease when school personnel that have no connection to fine arts program are hired or leave the school district.

Analysis from PED notes that program units for elementary fine arts programs are one element of non-categorical funding within the SEG distribution. As such, expenditure of these funds are subject to local decision making to allocate funds among different fine arts programs within the school district.

TECHNICAL ISSUES

H AFC amendment strikes language currently in the Public School Finance Act that provides for cost differentials in previous fiscal years. This amendment deleted the reference to 0.05 cost differential used in FY20. While it is general practice for the Legislature to delete obsolete language from statute when amending a section of law, HB239/aH AFC does not carry an effective date and, if passed by the Legislature and signed by the governor, would become effective May 20, 2020, before the end of FY20. The sponsor may wish to consider an amendment to add an effective date of July 1, 2020.

RELATED BILLS

HB239/aH AFC, as introduced, was a duplicate of SB263/aSEC, Increase Fine Arts Ed Program Units, as introduced. Both bills increase the cost differential for fine arts education program units to 0.054, but SB263/aSEC includes a \$3 million appropriation.

SOURCES OF INFORMATION

- LESC Files
- Public Education Department (PED)