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FISCAL IMPACT REPORT

ORIGINAL DATE 01/26/12
LAST UPDATED 02/08/12 **HB** 161/aHFI#1/aHEC
SPONSOR Roch and Morales
SHORT TITLE School Athletics Reporting Requirements **SB** _____
ANALYST Gudgel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY12	FY13		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Public Education Department (PED)

SUMMARY

Synopsis of HEC Amendment

House Education Amendment strikes House Floor Amendment #1 in its entirety.

Synopsis of HFI Amendment #1

House Floor Amendment #1 to House Bill 161 eliminates the requirement to report on funds raised by booster clubs or fundraising activities that are used to support the school's athletics programs in grades nine through twelve.

Synopsis of Original Bill

House Bill 161 amends the School Athletics Equity Act to eliminate the following reporting requirements for grades seven and eight: 1) an accounting of the funding sources that are used to support the school's athletic programs and to which programs those funds are allocated; 2) expenses for athletics programs including capital outlay expenses and other expenditures; and 3) a statement of benefits and services to each athletic program.

FISCAL IMPLICATIONS

PED indicates the department has developed a table for collection of the data requirements for the School Athletics Equity Act that was due to PED from middle and high schools with sports on August 31, 2011. PED is still in the process of developing the data collection system for the financial data that is due August 31, 2012. This is being accomplished within existing resources.

SIGNIFICANT ISSUES

The School Athletics Equity Act was enacted in 2009 to ensure each public school is operating its program in a manner that does not discriminate against students or staff on the basis of gender. The Act establishes reporting requirements for public schools that have athletics programs for grades seven through 12.

The Legislative Education Study Committee formed a workgroup on November 16, 2011 to develop reporting guidelines for schools required to report under the School Athletics Equity Act. The workgroup is requested to make a preliminary report to the LESC at the first meeting of the 2012 interim, and to present draft guidelines for review by the LESC, LFC and the Governor by November 30, 2012. PED indicates that HB161 reflects amendment items the workgroup agreed upon at the first meeting.

Per PED Analysis:

Title 9 of the Education Amendments of 1972 [20 U.S. Code Sections 1681, 1682, 1683, 1685, 1686] does not require schools or state educational agencies to collect and submit data related to Title 9 compliance. **The School Athletics Equity Act emphasis on collecting data is purely a state requirement that is not required by Title 9.** Section 22-31-5 NMSA 1978, of the School Athletic Equity Act is the only reference to Title 9 in the Act. This section requires an annual statement of assurance, signed by the district superintendent or head administrator of a charter school, that each school is in compliance with Title 9. The LESC work group members raised several concerns about this section:

1. Title 9 is much broader than just athletics, as it applies to hiring practices, admissions policies at postsecondary institutions, etc;
2. in other instances for example, bullying policies and safe school plans, the Public Education Department (PED) receives either reports illustrating or statements assuring compliance with requirements, but not both, as is the case with the School Athletics Equity Act;
3. It's possible that superintendents may be signing such statements without really knowing the particulars at the individual schools; and
4. The PED does not provide oversight to schools/districts for Title 9 compliance. The U.S. Department of Education's Office for Civil Rights (OCR) is the federal entity responsible for overseeing district/school compliance and complaints.

After the work group finished its task, the LESC convened a second work group to develop a guidance manual around data submission for the School Athletics Equity Act. Some members of the manual work group recommended striking Section 22-31-5 from the Athletics Equity Act. However, the original LESC work group did not have the opportunity to vote on this recommendation.

PED rule *Governing Participation in Interscholastic Sports* (6.13.4 NMAC) requires school boards and districts: (1) to not subject any person to discrimination based on sex in any interscholastic sport; (2) to provide comparable athletic opportunity in interscholastic sports for both sexes; and (3) to require school boards and districts to undertake self-evaluation and continuing reappraisal of student needs as determined by the total educational program.

Although HB 161 would eliminate the need for middle schools to report financial data, middle schools would continue to be required to submit, on an annual basis, data pertaining to student enrollment and data pertaining to athletic directors and coaches. This data submission was burdensome for middle schools and has resulted in increased cost for the New Mexico Activities Association.

ADMINISTRATIVE IMPLICATIONS

PED will still be required to develop and implement and PED will continue to be required to develop and implement a data collection system for the financial data that is due August 31, 2012, write summary reports and publish the data.

Public schools with athletics programs in grades seven to twelve will continue to be required to compile and submit to the PED and their local school boards or governing bodies: 1) the data required by the School Athletics Equity Act and 2) Title 9 assurances requirement. In addition schools must inform students of their rights to view the data and publish the data.

RSG/svb:amm