

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill Number:** HJR 2aa

**51st Legislature, 1st Session, 2013**

**Tracking Number:** .190419.1

**Short Title:** School Election Timing, CA

**Sponsor(s):** Representative James E. Smith and Senator Daniel A. Ivey-Soto

**Analyst:** Kevin Force

**Date:** March 12, 2013

---

**AS AMENDED**

**The Senate Rules Committee amendment strikes the House Judiciary Committee amendment.**

**The House Judiciary Committee amendment strikes a provision in the title of the bill, on page 1, lines 12 and 13, “Provide that school elections shall be held at different times from partisan elections,” and replaces it “Remove reference to separate school elections.”**

**Original Bill Summary:**

If approved, HJR 2, at the next general election or any special election prior to that date, would require submission to the public of a proposed amendment to Article VII, Section 1 of the Constitution of New Mexico.

The amendment proposes to change the requirement that school elections be held at different times from “other elections,” and instead be held at different times than “partisan elections.”

**Fiscal Impact:**

HJR 2 does not contain an appropriation.

**Original Fiscal Issues:**

The Legislative Finance Committee Fiscal Impact Report (FIR) indicates that, while there is no funding provided for in HJR 2, the Office of the Secretary of State has stated in previous analyses of similar issues that there would be a cost in FY 14 of \$100,000, associated with including this item on the ballot of the next statewide election.

According to the Public Education Department (PED):

- there may be some cost-savings to school districts if they can combine their elections with other nonpartisan elections, such as municipal or county elections;
- any actual savings may result in more money being available for classrooms; and
- small school districts in particular may find the cost of stand-alone elections burdensome.

## **Original Substantive Issues:**

Currently, the *School Election Law* requires school board elections to be held on the first Tuesday in February of odd-numbered years. If HJR 2 passes and is approved by the voters, the *School Election Law* must be amended as well.

According to the bill analysis from the Office of the Attorney General:

- the New Mexico Supreme Court has:
  - interpreted “other elections” as encompassing “all elections,”<sup>1</sup> so that school elections must be held separately from *all* other elections in order to satisfy the requirement of Article VII, Section 2;
  - found it “‘reasonable to assume’ that the framers [of the New Mexico Constitution] ‘sought to avoid having political issues color or influence school elections . . . [and] may have thought it better and wiser policy to have the vote of the electorate at school elections be uninfluenced by partisanship, and . . . centered solely on school matters’<sup>2</sup>; and
  - found that, if the reason for separating school elections were to avoid confusion of issues, partisan politics, and the “feeling often engendered” by general elections, then it is “just as important to achieve this end in relation to a municipal election.”<sup>3</sup>
- HJR 2 would only prohibit holding school elections in conjunction with partisan elections; and
- if HJR 2 were passed by the Legislature and ratified by the voters, school elections could be held in conjunction with other nonpartisan elections, such as municipal elections;<sup>4</sup>

According to PED’s analysis of HJR 16 (2011), a similar amendment also proposed to change Article VII, Section 2:

- The amendment may be seen as the state availing itself of the greater voter turnout of general elections:
  - according to the US Census Bureau statistics for 2006, New Mexico had a population of 1,954,599;
  - 84 percent of that number were over the age of 18;
  - in 2007, there were 1,077,318 registered voters in New Mexico; and
  - holding school board elections at the same time as general elections would enhance voter participation in school board elections.
- For example, in 2007, according to the Secretary of State’s Voter Registration Statistics Report, there were 96,929 registered voters in Doña Ana County, but only 1,317 voters participated in the 2007 Doña Ana County school board elections.<sup>5</sup>

---

<sup>1</sup> See Roswell Mun. Sch. District v. Patton, 40 NM 280, 1936 (sustaining the attorney general’s demurrer to approve a school bond election, as it was held at the same time as a municipal election).

<sup>2</sup> Patton, 282.

<sup>3</sup> Id., 283.

<sup>4</sup> Section 3-8-29(C) NMSA 1978 (“Municipal elections shall be nonpartisan.”)

<sup>5</sup> [nmpolitics.net](http://nmpolitics.net)

- Also, according to the voter registration statistical report on the Secretary of State website, Albuquerque Public Schools had 350,547 registered voters as of November 7, 2006, but according to *The Albuquerque Journal* only about 12,295 voters participated in that election, approximately 3.7 percent of potential voters.

### **Background:**

According to a report from the National School Boards Association<sup>6</sup>, school elections:

- were originally separated from general elections in order to “remove politics from education”;
- are often isolated from more “high-profile” campaigns in an effort to maintain that separation; and
- suffer from low-voter turnout when separated from general elections (for example, districts that hold their elections on the same day as national or state elections report turnouts of up to 18 percent higher).

The various states schedule their school board elections at different times of the year, with little conformity as to whether the elections are held on, or near, general election day, or at some other time of year entirely. For instance:

- Arizona holds their school board elections on general election day; while
- Colorado’s elections are scheduled for the first Tuesday in November of odd-numbered years; and
- Delaware holds their school board elections on the second Tuesday of May.

In recent years, legislation similar to HJR 2 has been proposed, for example in the 2011 and 2008 regular legislative sessions, but has not passed.

### **Committee Referrals:**

HVEC/HJC/SRC/SJC

### **Related Bills:**

CS/HB 219 *Adequate Election Day Polling Place Staff*  
 SB 272 *Early Voting Site Voter Registration*

---

<sup>6</sup> See *School Boards at the Dawn of the 21<sup>st</sup> Century, Conditions and Challenges of District Governance*, Hess, School of Education and Department of Government, University of Virginia, 2002 (<http://www.nsba.org/Board-Leadership/Surveys/SchoolBoardsattheDawnofthe21stCentury.pdf>).