

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HJR 7

51st Legislature, 1st Session, 2013

Tracking Number: .191504.1

Short Title: Limit School Class Sizes, CA

Sponsor(s): Representative Stephanie Garcia Richard and Others

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Bill Summary:

HJR 7 proposes to amend Article 12 of the Constitution of New Mexico by:

- adding a new section to limit class sizes in public schools and to allow waivers only under certain conditions prior to school year 2020-2021;
- requires that by school year 2020-2021, the maximum number of students assigned to public school classroom teacher does not exceed:
 - 18 students in kindergarten through third grade;
 - 22 students in fourth through eighth grade; and
 - 25 students in ninth through twelfth grade.

Among its other provisions, HJR 7:

- states that class size requirements do not apply to music, band, elective, or extracurricular classes;
- requires the Legislature, beginning in school year 2015-2016, to provide sufficient funds to reduce the average number of students in each classroom by at least two students per year until the class size requirements are met;
- allows the Secretary of Public Education to waive individual class size requirements until school year 2020-2021, if the school district demonstrates that:
 - portable classrooms are not reasonably available;
 - funding sources are not available to meet the need for additional classrooms; and
 - within one year the school district is planning alternatives to increase building capacity for implementation.

Implementation of the provisions of HJR 7 would require voter approval in the next general election (2014) or a special election called for that purpose.

Fiscal Impact:

As a joint resolution, HJR 7 does not contain an appropriation.

The Office of the Secretary of State indicated that the cost to propose a constitutional amendment is:

- approximately \$45,000 for a general election ballot, using 2012 election figures; and
- approximately \$4.2 million for a special election.

The Office of the Secretary of State indicates that because the next general election isn't until 2014, using the calculation below it could be estimated that the cost may be \$51,500. The cost of a special election would vary depending on when it was held, but the calculation below provides an estimate of the annual cost increase that may occur with either election option.

General Election vs. Special Election Estimated Costs			
Election	2008	2012	Annual Cost Increase
General Election	\$32,000	\$45,000	\$3,250
Special Election	\$1.2M	\$4.2M	\$750,000
Source: Secretary of State Bureau of Election			

An analysis by the Legislative Finance Committee (LFC), however, has suggested that combining elections may lessen the cost of holding multiple elections.

Staff Needs

According to the LFC Fiscal Impact Report (FIR), if approved by the voters, HJR 7:

- could have a recurring impact on the general fund appropriations beginning with school year 2015-2016 (FY 16);
- may require a minimum of 3,115 additional teachers (and classrooms), according to the Public Education Department (PED) estimates; and
- may result in a minimum cost increase of \$188.2 million in teacher salaries, using the 2012-2013 school budgets average returning teacher salary of \$46,469 and adjusting for benefits.

Capital Needs

According to the LFC FIR, the impact of HJR 7:

- cannot be determined because the number of excess classrooms statewide has not been calculated;
- may result in new construction for instances where school districts are unable to accommodate the new class size configurations;
- is estimated by PED, to result in added classroom space for up to 2,492 teachers;
- may total \$610.5 million for added classroom space using an estimate of \$245,000 per classroom.

According to the Public School Facilities Authority (PSFA):

- some small, rural school districts have seen a decline in enrollment and may have sufficient existing space; however

- a review of self-reported school district information at the elementary school level found that 14 out of 89 school districts were over capacity – the elementary enrollment exceeds the number of seats available based on general classroom capacity.

The bill requires the Legislature to:

- make adequate funding available beginning with school year 2015-2016; and
- implement the changes proposed in HJR 7, including the funding for teacher salaries and benefits, and capital funding needs.

Fiscal Issues:

If HJR 7 is approved by the voters it may result in added funding needs for school districts, because of the increase in the number of teachers. In order for the intent of HJR 7 to be implemented, a recurring appropriation may be required.

Substantive Issues:

In recent years, the Legislature has focused on class size, as well as other factors, to address the fiscal downturn. During the 2009 special session, legislation was enacted to add a temporary provision in the *Public School Code* for school year 2009-2010 through school year 2011-2012 to allow the Secretary of Public Education to waive requirements pertaining to:

- individual class load;
- teaching load;
- length of school day;
- staffing patterns;
- subject areas; and
- purchases of instructional materials.

During the 2012 legislative session, similar legislation was enacted adding a temporary provision to the *Public School Code* allowing the Secretary of Public Education to waive class size and teaching load requirements through school year 2012-2013.

PED is required to monitor the waivers and report to the LESC and the LFC on any issues or actions of a school district that appear to adversely affect student learning.

According to a survey conducted on January 8, 2013 by the New Mexico Coalition of School Administrators (NMCSA), the class size waivers may be resulting in an annual savings of approximately \$8.0 million to school districts statewide. Not all school districts responded to the survey, however.

Background:

Class Load Requirements

While there are exceptions for students receiving special education services, band and music classes, and athletic electives, the *School Personnel Act* establishes limits on the size of individual classes and the average class load or daily teaching load of teachers in Kindergarten through twelfth grade as follows:

- 20 students per kindergarten teacher; provided that a class load of 15 to 20 students entitles the teacher to a full-time educational assistant;
- 22 students per teacher, when averaged among first, second, and third grade; provided that any teacher in first grade with a class load of 21 or more shall be entitled to a full-time educational assistant;
- an average of 24 students per teacher in fourth through sixth grade;
- a daily teaching load of 160 students per teacher in seventh through twelfth grade; and
- for teachers of required English courses:
 - a maximum of 27 students per class and a daily teaching load of 135 student per teacher in seventh through eighth grade; and
 - a maximum of 30 students per class and a daily teaching load of 150 students per teacher in ninth through twelfth grade.

Waiver of Class Load Requirements

Among its other provisions, the *School Personnel Act* allows the Secretary of Public Education to waive individual school class load requirements for no more than two consecutive years if a school district demonstrates that:

- no portable classrooms are available;
- no other available sources of funding exist to meet its need for additional classrooms;
- the school district is planning alternatives to increase building capacity for implementation within one year; and
- the parents of all children affected by the waiver have been notified in writing:
 - of the statutory class load requirements;
 - that the school district has made a decision to deviate from these class load requirements; and
 - of the school district's plan to achieve compliance with the class load requirements.

The secretary may also waive the individual class load and teaching load requirements upon a demonstration of a viable alternative curricular plan and a finding that the plan is in the best interest of the school district and that, on an annual basis, the plan has been presented to and is supported by the affected teaching staff.

However, the act requires that if a waiver is granted, the average class load for elementary school teachers at that school is not to exceed:

- 20 students for first grade classes; and
- 25 students for second through sixth grade classes.

Other provisions of the *School Personnel Act* require:

- school districts to report to PED the size and composition of classes subsequent to the 40th day and the December 1 count;
- the Secretary of Public Education to disapprove a school district's budget for failure to meet class load requirements within two years; and

- PED to report to the Legislative Education Study Committee (LESC), annually by November 30, each school district's ability to meet the class load requirements prescribed in law.

Committee Referrals:

HVEC/HEC/HAFC

Related Bills:

SJR 2a *Limit School Class Sizes, CA*