

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HJR 9

51st Legislature, 1st Session, 2013

Tracking Number: .190793.12

Short Title: Boards of Regents Qualifications, CA

Sponsor(s): Representative Jeff Steinborn and Senator William Soules and Others

Analyst: Kevin Force

Date: February 14, 2013

Bill Summary:

HJR 9 proposes to amend Article 12, Section 13 of the Constitution of New Mexico to:

- increase the number of regents of New Mexico State University (NMSU) from five to seven, equivalent to the number of regents at the University of New Mexico (UNM);
- change the composition of the membership of the board of regents at both NMSU and UNM, so that:
 - three members of each board will be elected, one per district, from each New Mexico congressional district, in a nonpartisan election;
 - two members of each board, from the county in which the main campus of each university is located, shall be appointed by the Governor with the advice and consent of the Senate;
 - one member of each board shall be a student at his or her respective university, appointed by the other regents from a list provided by the student government, with the advice and consent of the Senate; and
 - one member of each board shall be a faculty member, appointed by the other regents from a list provided by the faculty senate, with the advice and consent of the Senate.

In other provisions, HJR 9 would:

- stipulate the terms of each board member, so that:
 - the three elected members serve staggered four-year terms, provided that, after the initial election, the elected members draw lots to determine which shall serve an initial term of four years, and which shall serve for two years;
 - the two appointed members from the universities' home counties serve staggered four-year terms, after drawing lots to determine which shall serve for four years and which shall serve for two;
 - the student member serves a term of two years;
 - the faculty member serves one term of four years, to be succeeded by a different faculty member from a different college within the university; and
 - no member shall serve more than two terms; and
- require the Legislature to provide by law for the election, appointment and qualifications of the non-student and non-faculty members.

Fiscal Impact:

HJR 9 does not contain an appropriation.

According to previous analyses from the Secretary of State, the cost of putting an amendment to the state constitution on the ballot is approximately \$48,000.

Fiscal Issues:

According to Legislative Finance Committee (LFC) Fiscal Impact Reports (FIR) of joint resolutions proposing to change the composition of university boards of regents in previous years, fiscal impact is indeterminate. Potentially, however, it would include additional travel and per diem expenses for additional regents.

The amendment would require that six regents, three each from UNM and NMSU, be elected, whereas the constitution currently requires that the members be appointed. Presumably, there would be accompanying costs for the newly required elections of those regents.

Substantive Issues:

According to the analysis from the Higher Education Department:

- Currently, gubernatorial appointments to boards of regents require a balance of political party affiliation, which would be removed by the resolution.¹
- The selection of two regents at each institution would be limited to a pool of qualified candidates only from the home county of the university main branch, although these institutions are considered statewide universities, with branches and other operating locations throughout the entire state.
- The inclusion of a faculty-member regent may give rise to conflicts of interest regarding many of the issues that come before the board for that regent.
- No current nonpartisan election is held based upon congressional districts, so that the Secretary of State would need to “develop additions to the *Election Code*.”

Technical Issues:

The joint resolution, when providing for the three elected members to each board, requires the drawing of lots to determine which elected member initially serves “a term of four years,” and which serves “a term of two years.” This language is unclear:

- If one member is to serve a term of four years, and one member is to serve a term of two years, what shall be the term of the remaining member?
- The sponsor may wish to consider changing the language of this section so that:
 - two members serve an initial four-year term, and one a two-year term;
 - two members serve an initial two-year term, and one a four-year term; or
 - all three members serve an initial term of differing length, such as one two-year term, one three-year term and one four-year term.

¹ It should be noted that the election of regents shall be accomplished by *nonpartisan* elections.

Background:

Currently, Article 12, Section 13 of the Constitution of New Mexico requires:

- seven regents for the board of UNM:
 - six regents must be qualified electors of New Mexico;
 - one must be a student of UNM;
 - no more than four may be of the same political party at the time of their appointment;
 - all regents are to be appointed by the Governor, with the advice and consent of the Senate; and
 - the student regent is to be selected from a list provided by the president of UNM;
- five regents for the board of NMSU:
 - four must be qualified electors of New Mexico;
 - one must be a student of NMSU;
 - no more than three may be of the same political party at the time of their appointment;
 - all regents are to be appointed by the Governor, with the advice and consent of the Senate; and
 - the student regent is to be selected from a list provided by the president of NMSU.

Previous amendments to this section include:

- the 1986 amendment, which:
 - excepted UNM from the provision requiring five regents for each institution of higher learning;
 - enlarged the UNM board to seven members; and
 - provided for the composition and appointment of the UNM Board of Regents; and
- the 1994 amendment, which provided for the inclusion of a student regent on the boards of certain of the institutions of higher learning, including both UNM and NMSU.

Committee Referrals:

HEC/HVEC

Related Bills:

HJR 8 *Board of Regents Nominating Committees, CA*

SJR 7 *Northern NM State School Regents, CA*