

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HJR 6

51st Legislature, 2nd Session, 2014

Tracking Number: .195574.1

Short Title: Limit Class Sizes, CA

Sponsor(s): Representative Stephanie Garcia Richard and Senator Timothy M. Keller

Analyst: Kevin Force

Date: February 5, 2014

Bill Summary:

HJR 6 proposes to amend Article XII Section 1 of the New Mexico Constitution to require the legislature to establish a graduated plan to ensure that, by school year 2020-2021, classroom size for all classes, except for music, band, elective and extracurricular classes, the maximum number of students per classroom does not exceed:

- 18 students per class, for grades k-3;
- 22 students per class, for grades 4-8 ; and
- 25 students per class, for grades 9-12.

As a constitutional amendment, if HJR 6 is passed by the Legislature, it will go before the voters at the next general election, or special election called for that purpose.

Fiscal Impact:

HJR 6 does not contain an appropriation.

Fiscal Issues:

Under Section 1-16-13 NMSA 1978 and the New Mexico constitution, the Secretary of State (SOS) is required to:

- print samples of the text of each proposed constitutional amendment, in both Spanish and English, in an amount equal to 10 percent of the registered voters in the state; and
- publish the samples once a week for the four weeks preceding the election in which the proposed amendment will be presented to the voters in newspapers in every county in the state.

In 2012, the cost for the 2012 General Election ballots was \$46,000 per constitutional amendment. However, if the ballot size increases to where it becomes longer than one page, front and back, the cost of conducting the general election would be increased by such costs as those associated with a longer ballot, the additional time required to process individuals as they vote, and additional ballot printing systems, to avoid long lines at voting locations.

According to Fiscal Impact Report of HJR 7 (2012), a joint resolution substantially similar to current HJR 6:

- If approved by the voters, the bill will have substantial recurring impact on the General Fund.
- PED estimates a minimum of 3,115 additional teachers (and classrooms) will be required, based on the differences between actual class loads and teaching loads for school year 2012-2013 and the lowered maximums established in the joint resolution.
- Based on 2012-2013 school budgets, the average returning teacher salary statewide is \$46,469. Adjusting for benefits, the minimum estimated cost to accommodate the required teachers is \$188.2 million.
- In cases where school districts are unable to accommodate the new class size configurations in existing school buildings within existing space, new or construction or remodeling may also be required.

For FY 15, HB 3, the *Education Appropriation Act*, includes a \$20.0 million appropriation to the State Equalization Guarantee for statutory class load and class size limits.

Technical Issues:

According to the Attorney General's Office (AGO):

- HJR 6 mandates a "graduated plan" to be implemented by the Legislature to ensure the class load maximums are met by school year 2020-2021.
- The term "graduated plan" is undefined, creating ambiguity and leeway for a broad interpretation of the directive:
 - Whether the Legislature should meet a half-way goal, implement a tiered approach, or implement changes one year before the 2020-2021 deadline is not clear.
 - If there is no preference, the term "graduated" should not be used, while if there is an implementation preference, the resolution's language should be made clearer and more defined.
- HJR 6 does not indicate on which reporting date class sizes should be determined.

Substantive Issues:

Section 22-10A-20, Staffing pattern; class load; teaching load., NMSA 1978 establishes class loads for elementary schools teachers up to grade 6, and daily teaching load per teacher for grades 7 through 12:

- the average class load for kindergarten teachers is 20 students, with classes with 15 or more students being entitled to an educational assistant;
- the average class load for teachers in grades 1-3 is 22 students averaged among the grades, with classes of 21 or more entitled to an educational assistant;
- the average class load for teachers in grades 4-6 is 24 students when averaged among the grades; and
- the average daily teaching load for grades 7-12 is 160 students, with a lower average daily teaching load established for required English courses.

Currently, class-size waivers are available under several sections of law:

- Section 22-10A-20 allows the Secretary to waive the individual school class load requirements for up to two years if a school 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 on alternatives to increase building capacity for implementation within one year; and
 - the parents of all children affected have been notified in writing;
- if a waiver is granted under 22-10A-20 to an individual school, the average class load for elementary school teachers at that school shall not exceed 20 students in grade 1 and shall not exceed 25 students when averaged among grades 2 through 6;
- Section 22-2-2.1, Secretary department; general powers., NMSA 1978 requires the Secretary to grant all reasonable requests to waive the individual class load requirements for all schools that exceed educational standards, to begin the school year following when the public school exceeds the educational standards and may remain in effect as long as the school continues to exceed educational standards; and
- Section 22-1-10, Waiver of requirements; temporary provision., NMSA 1978 allows the Secretary to waive class load and teaching load requirements to allow school districts to meet fiscal solvency requirements. This waiver provision has been allowed for school year 2009-2010 through school year 2012-2013, and appears to exclude charter schools.

The AGO notes that:

- Those statutes listed above may be rendered void upon passage and approval of HJR 6, as might accompanying sections of the *New Mexico Administrative Code*¹, as the language of this joint resolution does not contemplate the issuance of waivers for class load maximums.
- The method of determining class loads should be more carefully considered. Determination on the basis of individual classroom, or by the average of all classrooms in a grade or range of grades. The precise method has both practical implications, as well as potential implications for legal review of the proposed amendment.

Committee Referrals:

HEC/HVEC/HAFC

Related Bills:

HB 280 *Return to Statutory School Class Loads*

¹ See, e.g.: 6.29.1.9 NMAC