

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 563

52nd Legislature, 1st Session, 2015

Tracking Number: .198734.3

Short Title: Increase School Hours & Days

Sponsor(s): Senators Joseph Cervantes and John M. Sapien

Analyst: Ian Kleats and Travis Dulany

Date: February 26, 2015

Bill Summary:

Among its provisions, SB 563 amends the *Public School Code* to:

- set minimum instructional hours and days for grades K-5 at 5.5 hours per day, or 1,127.5 instructional hours in 205 days (see “Background,” below), effectively eliminating half-day kindergarten programs and making full-day kindergarten programs mandatory;
- set minimum instructional hours for grades 6-12 at six hours per day, or 1,080 hours per year;
- require that:
 - for a school that follows a regular school year calendar, a school year consists of a minimum of 205 instructional days for K-5 that provide the minimum instructional hours established in SB 563 as evenly spaced in a balanced calendar as practicable; and
 - for a school that follows a variable school calendar pursuant to the *Variable Calendar School Calendar Act*, the Public Education Department (PED) shall approve a school’s requested length and number of instructional days in a school year that provides the minimum instructional hours established in SB 563 as evenly spaced in a balanced calendar as practicable;
- remove references to full-day or half-day kindergarten, instead referring only to “kindergarten”;
- prescribe the programs that may count toward calculation of minimum instructional hours in a school year, including up to:
 - 33 hours of the kindergarten program for home visits by the teacher or for parent-teacher conferences;
 - 22 hours in grades 1-6 to consult with parents to develop next-step plans for students and for parent-teacher conferences; and
 - 12 hours in grades 7-12 to consult with parents to develop next-step plans for students and for parent-teacher conferences;
- specify that days or hours when no instruction is given due to weather, in-service training, teacher planning and preparation, or other events that are not educational programs shall not count toward the calculation of minimum instructional hours and days; and

- remove the provisions allowing the Secretary of Public Education to waive the minimum length of school days in school districts where such minimums would create “undue hardships” as defined by PED.

SB 563 also amends the *Public School Finance Act* to:

- increase the cost differential factor used in the calculation of early childhood education program units from 1.44 to 1.74;
- remove references to half-day kindergarten in the calculation of early childhood education program units, counting all kindergarten students as 1.0 MEM;
- adjust the cost differential factors used in the calculation of basic program units as follows:
 - grade 1: increase to 1.5 units (from 1.2);
 - grades 2 and 3: increase to 1.48 units (from 1.18);
 - grades 4 and 5: increase to 1.075 units (from 1.045); and
 - grades 6-12: increase to 1.55 (from 1.25 for grades 7-12 and 1.045 for grade 6).

Finally, SB 563 specifies that the bill’s provisions:

- apply to school year 2017-2018 and subsequent school years; and
- shall become effective upon certification by the Secretary of State that the Constitution of the State of New Mexico has been amended as proposed by a certain joint resolution of the 52nd Legislature, First Session (see “Fiscal Issues,” below).¹

Fiscal Impact:

SB 563 does not contain an appropriation.

Fiscal Issues:

The provisions of SB 563 are contingent upon approval of constitutional amendments proposed in SJR 12, *Land Grant Fund for Longer School Time, CA*. Among its provisions, SJR 12 would:

- make an additional distribution from the Land Grant Permanent Fund beginning in FY 17 equal to 1.0 percent of the average of the year-end market values of the fund for the immediately preceding five calendar years;
- require that this additional distribution be used to implement and maintain a school year for K-5 public school students that is longer than the school year provided by law as of the effective date of SJR 12; and
- distribute approximately an additional \$126 million annually according to the PED bill analysis.

Based on student membership data from the PED FY 15 preliminary funded run and using the preliminary FY 15 unit value of \$4,005.75, SB 563 would:

¹ SJR 12, *Land Grant Fund for Longer School Time, CA*

- create approximately 99,730.8 additional program units relative to current law; and
- generate approximately \$399.5 million for school districts and charter schools through the State Equalization Guarantee (commonly referred to as the SEG or public school funding formula) based on the following calculation:

$$(99,730.8 \text{ units}) \times (\$4,005.75/\text{unit}) \approx \$399.5 \text{ million}$$

The difference between this estimate and the estimate of approximately \$396 million in the PED bill analysis appears to be attributable to PED not considering the effect from elimination of half-day kindergarten. The 914 students currently in a half-day kindergarten program would be required by SB 563 to attend full-day kindergarten programs, representing approximately \$3.2 million in SEG funding.

Consequently, without additional appropriations, it does not appear that the provisions of SJR 12 would fully cover the cost of SB 563. The addition of new units to the public school funding formula, if not fully funded, may dilute the unit value, potentially impairing the ability of school districts and charter schools to meet their local obligations.

Finally, the PED bill analysis highlights that additional funding for an extended school year will be required through the transportation allocation to transport certain students to and from school for an additional 25 days. PED estimates this cost to be approximately \$13 million.

Technical Issues:

On page 5, line 18, the deletion of the cost differential factor of 1.2 for grade 1 should have a strikethrough in addition to brackets.

Substantive Issues:

Certain provisions of the *Public School Code*:

- require that every local school board establish and conduct early childhood education programs, with no mention of whether those programs shall be half- or full-time; but
- allow that establishment of full-day kindergarten programs shall be voluntary on the part of school districts and student participation shall be voluntary on the part of parents.

By requiring all kindergarten students to be in educational programs for 5.5 hours per day, or 1,127.5 instructional hours in a 205-day school year, which would presumably be enforceable through the *Compulsory School Attendance Law*, SB 563 appears to effectively eliminate half-day kindergarten programs and may therefore be in conflict with statutory provisions for voluntary full-day kindergarten.

PED asserts that the Legislature should consider retaining the ability of the Secretary of Public Education to waive the minimum length of school days for districts and schools experiencing hardship situations. According to PED, this statutory provision is necessary to ensure that children remain safe and schools operate efficiently, particularly with regard to unforeseen events such as the flu epidemic that struck New Mexico.

PED also notes that the percentage change to instructional hours is not accurately reflected in the proposed cost differential factors; for all grade levels except grade 6, the percentage change to

the cost differential factor exceeds the percentage change to instructional hours. It is unclear how this apparent overcompensation through the SEG might offset school transportation costs mentioned above.

Background:

Current Minimum Instructional Hours

Provisions in current law require the following minimum instructional hours:

- 2.5 hours per day, or 450 hours per year, for students in half-day kindergarten programs;
- 5.5 hours per day, or 990 hours per year, for students in full-day kindergarten programs;
- 5.5 hours per day, or 990 hours per year, for students in grades 1-6; and
- 6 hours per day, or 1080 hours per year, for students in grades 7-12.

K-3 Plus

The minimum instructional hours in current statute imply a 180-day school year for all students in full-day programs in grades K-12. Because SB 563 extends the school year for students in grades K-5 by 25 instructional days – from 180 to 205 – it may be helpful to highlight the effects of another state program that extends the school year for certain schools by 25 instructional days, namely the K-3 Plus program.

Enacted in 2007, K-3 Plus began as a six-year pilot program that extended the school year in kindergarten through grade 3 by at least 25 instructional days. The program is intended to demonstrate the academic and social benefits of increased classroom time in kindergarten and the early grades. In 2012, the K-3 Plus provisions in the *Public School Code* were amended to convert the program from a pilot project to an established PED program.

Since 2011, the program has been evaluated by the Start Smart K-3 Plus Project at Utah State University (USU), using a randomized, controlled trial in which students are randomly assigned to an intervention group or to a control group in order to eliminate selection bias. Initially, the study had followed 1,700 students in four districts, but the withdrawal of one district in 2011 reduced the number of kindergarten student participants.

K-3 Plus Results and Findings

The USU evaluator testimony to the Legislative Education Study Committee from December 2012 indicated that, with a caveat that some of the data were preliminary, strong and statistically significant outcome effects of the Start Smart K-3 Plus Project were found in broad reading, broad writing, basic math, and expressive vocabulary. In terms of kindergarten readiness, the evaluator noted that participants in the intervention group had received higher percentile ranks than those in the control group. USU testimony in 2012 also identified several lessons that the research staff had learned, among them that:

- early notification of families helps because in the second year the sample size was doubled by sending information to families sooner; and
- student participation requires student and family interest and availability, schools that offer the program, and resources to run the program.

More recently, noting that the results remain preliminary for several reasons, including incomplete attendance data, a USU evaluator explained during the 2014 interim that, in terms of readiness for kindergarten, the K-3 Plus program has shown statistically significant increases for:

- expressive vocabulary by approximately 5.0 percentile points;
- letter-word identification by approximately 11 percentile points;
- applied problems by approximately 4.0 percentile points; and
- basic writing by approximately 12 percentile points.

For beginning-of-first-grade effects, the evaluator noted statistically significant increases for:

- expressive vocabulary by approximately 4.0 percentile points;
- letter-word identification by approximately 12 percentile points;
- applied mathematical problems by approximately 6.0 percentile points; and
- basic writing by approximately 11 percentile points.

The findings further indicate evidence that K-3 Plus boosts student achievement in a variety of areas in kindergarten and grade 1 at the beginning of the school year; however, if the study ended now, it would still be unknown whether:

- the program is as effective in grades 2 and 3 as in kindergarten and grade 1;
- end-of-year comparisons show the same effects as these beginning-of-year results;
- the effectiveness of K-3 Plus varies across students of certain types and settings of certain types; and
- complete attendance data would yield different results.

FY 15 K-3 Plus Legislative Appropriations

With regard to the FY 15 legislative appropriation for K-3 Plus, the program is currently funded as an appropriation to the statutorily created K-3 Plus Fund, administered by PED. The *General Appropriations Act of 2014* included:

- \$21.28 million appropriated for the K-3 Plus program; and
- language requiring that PED use the final unit value set for school year 2013-2014 as the basis for funding 2014 K-3 Plus programs in June, July, and August.

Provisions in current statute require K-3 Plus programs to be funded at no less than 30 percent of the unit value per student based on enrollment at each individual school program on the 15th instructional day of the program. Based on a final unit value for school year 2013-2014 of \$3,817.55, each participating student would generate at least \$1,145.26.

Committee Referrals:

SEC/SFC

Related Bills:

SB 640 *New Public School Funding Formula*
SJR 12 *Land Grant Fund for Longer School Time, CA*
*HB 479 *Continue K-3 Plus Program for Some Schools*