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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 1st Session, 2017

Bill Number	<u>SJR2</u>	Sponsor	<u>Padilla</u>
Tracking Number	<u>.205183.3</u>	Committee Referrals	<u>SRC/SJC</u>
Short Title	<u>Public Education Board & Superintendent, CA</u>		
Analyst	<u>Force</u>	Original Date	<u>2/2/17</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

Senate Joint Resolution 2 (SJR2) proposes to amend Article XII, Section 6 of the Constitution of New Mexico to create an elected State Board of Education (SBE) that shall appoint a Superintendent of Public Instruction. The newly created state board will comprise 10 members elected for staggered terms of four years, each of which must be a resident of their district, which will be the same as the Public Education Commission (PEC) districts until the next federal decennial census. The first board will consist of the members of the PEC last elected in 2014 and 2016, until the end of their respective terms. Members will be entitled to receive per diem and mileage, but no other compensation.

The joint resolution strikes all references to the PEC and the Secretary of Public Education. Beginning December 15, 2018, SBE, or its qualified designee, will have the authority of the former secretary to determine school policy, distribute funds, and manage the Public Education Department (PED). July 1, 2019, SBE will appoint the first superintendent of public instruction to manage PED, who must be a qualified, experienced, and licensed educator.

If passed by the Legislature, the constitutional amendment proposed by SJR 2 would be submitted to the people for approval at the next general election or any special election prior called for that purpose prior to the general election.

FISCAL IMPACT

The joint resolution does not contain an appropriation.

Section 1-16-13 NMSA 1978 requires the Secretary of State (SOS) to print the full 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. The SOS is also constitutionally required to publish the full text of each proposed constitutional amendment once a week for four weeks preceding the election in newspapers in every county in the state. LFC staff estimate each constitutional

amendment may cost up to fifty thousand dollars (\$50,000) in printing and advertising costs based on 2016 actual expenditures.

SUBSTANTIVE ISSUES

The proposed joint resolution would return the operation and management of public education in New Mexico to a structure similar to that which was in place prior to the 2003 constitutional amendment that created the state's current system of a cabinet-level department of public education presided over by a secretary of public education. A constitutional amendment making such a fundamental change to a cabinet-level agency, if approved by the voters, would necessitate extensive statutory and regulatory revision, with regard to the agency's powers, duties, and organization.

SJR2 also removes the constitutional provision creating the PEC, the authorizer of state-chartered charter schools. Statutory provision reassigning the PEC's powers and duties will also be required, most extensively affecting the Charter Schools Act. Another body, presumably SBE, will be required to assume the PEC's duties. The existing administrative relationship between PED and PEC, where Charter Schools Division staffs the PEC to assist the commission in its work to authorize state-chartered charter schools, should mitigate some of the issues associated with this transfer of authority and responsibility.

Education governance models vary throughout the country. According to the Education Commission of the States, state education governance structure generally falls within one of four different models:

1. The governor appoints the majority or all of the members of the state board of education, which in turn appoints the chief state school officer. The exact number of board members, and whether those members' appointments must be confirmed by either or both of the houses of the state legislature, varies among jurisdictions. Fourteen states fall within this category.
2. Most or all of the state board members are elected by the voters, either on a partisan or nonpartisan ballot, with the board then appointing the chief officer. Seven states use this model.
3. The governor appoints most or all of the members of the state board of education; again, with legislative confirmation requirements varying among the states, while the chief state school officer is elected, either on a partisan or nonpartisan ballot. Nine states fall within this model.
4. The governor appoints the chief officer, as well as most or all of the board members, with confirmation requirements varying among jurisdictions. Eleven states use this method.

Nine states, including New Mexico, fall precisely into none of the above models, but rather utilize a modified version of one of these formats.

There appears to be no cause-and-effect relationship between governance structures and student performance. For example, examination of National Assessment of Educational Progress (NAEP) test scores shows no relationship between a state's governance structure and student performance on the NAEP.

The Southwest Regional Education Cooperative notes the possibility that passage of the constitutional amendment proposed by the joint resolution might impede education progress by

returning the state public education governance model to one that is more directly political than the current cabinet-level agency and appointed secretary.

ADMINISTRATIVE IMPLICATIONS

As mentioned in the discussion of substantive issues, returning to operation of public education to a model similar to that which existed before the education reforms of 2003 may require substantial amendment to both statute and public education administrative rule. Given the number and volume of statutes and rules implicated by public education, this would be a significant task. Extensive reorganization of the department itself may be necessary with the installation of the state board and superintendent of public instruction.

The reassignment of PEC's powers and duties, most likely to SBE, would also require statutory and regulatory change. It is unclear if current staffing levels at PED will be sufficient to cover all of the commission's former duties.

OTHER SIGNIFICANT ISSUES

Powers and duties were transferred from the State Board of Education to PED upon adoption of constitutional amendment, effective September 23, 2003, by a vote of 101,542 in favor and 83,155 against.

Prior to this time, the members of the State Board of Education were elected through districts, with incumbents from the board becoming public education commissioners upon approval of the amendment, with duties limited to strategic planning and policy advisement for local school boards. The PEC's current responsibility for chartering schools was established in 2006. Statutory implementation of the constitutional amendment began in 2004 with the passage of the Public Education Department Act, which made several significant changes to law including:

- Provision for the organization of the new department, granting the newly appointed secretary "every power expressly enumerated in the law" unless expressly exempted by law;
- Provision for the secretary for "all of the duties, responsibilities and authority of that office" during the time before the secretary was confirmed by the senate;
- Explicit notice that the legal duties of the former superintendent of public instruction be deemed references to the new secretary of education, and that all references to the former state board be deemed references to the public education department;
- Establishment of PED as the sole educational agency for purposes of distributing aid made available through federal statute; and
- Provision for delayed repeals of the authority of the state board of education.

RELATED BILLS

Relates to SB193, Support & Oversight of Charter Schools
Conflicts with SJR11, Elected & Appointed Board of Education, CA

SOURCES OF INFORMATION

- LESC Files
- Secretary of State
- Southwest Regional Education Cooperative

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