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

Bill Number	<u>SJR11</u>	Sponsor	<u>Soules</u>
Tracking Number	<u>.204499.3</u>	Committee Referrals	<u>SRC/SJC</u>
Short Title	<u>Elected & Appointed Board of Education, CA</u>		
Analyst	<u>Force</u>	Original Date	<u>2/10/17</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

Senate Joint Resolution 11 (SJR11) proposes to amend Article XII, Section 6 of the Constitution of New Mexico, to create an elected and appointed State Board of Education (SBE) that shall appoint a Superintendent of Public Instruction, determine public school policy, distribute public school funds, and manage the Public Education Department (PED) and the administration, operation and finances of public schools. The newly created board will comprise nine members, five of whom are to be elected from the districts of the Public Regulation Commission for staggered terms, and four to be appointed by the governor, with the advice and consent of the Senate, to serve for staggered terms. Initially elected members must determine by lot which two members will serve for two years and which three will serve for four years. Similarly, upon appointment, the governor must determine which two of the appointed members will serve for two years, and which for four years. The Secretary of Public Instruction appointed by SBE must be a qualified, experienced, and licensed educational administrator.

The joint resolution strikes all references to the Public Education Commission (PEC) and the Secretary of Public Education.

FISCAL IMPACT

SJR11 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.

SJR11 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 the 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.

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 SBE 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 SBE 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 SJR2, Public Education Board & Superintendent, CA

SOURCES OF INFORMATION

- LESC Files
- Secretary of State

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