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FISCAL IMPACT REPORT

ORIGINAL DATE 2/23/17

SPONSOR Munoz LAST UPDATED _____ HB _____

SHORT TITLE School Board Vacancy & Candidacy Requirements SB 302

ANALYST Esquibel

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		Significant	Significant	Significant	Recurring	School Districts' Budgets

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Secretary of State's Office (SOS)

Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Bill 302 (SB302) proposes amending the existing procedures for special elections to fill vacancies on local school boards. The bill would add a new section requiring a special election to fill a vacancy on a school board. Any language referring to an appointment process to fill a school board member vacancy is removed.

The proposed legislation prescribes timelines for the conduct of the election specifying that a school board must issue a proclamation within 10 days and calling for the election to be held within 30 days of the proclamation. Section 1-22-7 is amended such that candidate filing day for the special election would occur seven days from the issuance of the proclamation and, at the time of filing, the candidate is required to provide the county clerk proof that primary residence is located within the school district they intend to run for.

FISCAL IMPLICATIONS

The Secretary of State's Office (SOS) notes current school board vacancies are filled by appointment. If the SB302 is enacted, it would require a special election be held resulting in

additional costs to the school board. Typical costs include: publication, poll workers, ballots and election programming. This cost will vary widely depending upon the size and population of the school district.

The Secretary of State's Office (SOS) notes, under the provisions of the bill, the county clerks could experience a significant administrative and fiscal impact as the legislation could result in one or more special school elections each year, in addition to the other elections already administered by the counties.

SIGNIFICANT ISSUES

The Attorney General's Office (AGO) notes the timeframes proposed in the bill to hold a special election to fill a school board vacancy are shorter than existing timeframes for other school special elections.

The bill's requirement that a vacancy be filled by a special election held within 30 days of the vacancy is not consistent with paragraph C, Section 1 which requires the proclamation to be issued within 10 days of the occurrence of the vacancy, and the election to follow within 30 days thereafter, for a potential period of 40 days.

SB302 proposes reducing the qualifications of a candidate for a school board position to proof of primary residence in the school district, but does not appear to require the candidate be a qualified elector registered to vote in the district on the date of the issuance of the proclamation.

SB302 does not seek to repeal NMSA 1978, §22-5-12D relating to vacant or vacated offices on local school boards, which specifies "Any vacancy of an office on a local school board created pursuant to this section shall be filled in the same manner as other vacancies on a local school board are filled."

ADMINISTRATIVE IMPLICATIONS

The Secretary of State's Office (SOS) notes depending on whether the school board is defined as a 'covered office' in the School District Campaign Reporting Act, they may be required to file campaign finance reports with the SOS.

TECHNICAL ISSUES

The Secretary of State's Office (SOS writes) SB302 has significant conflicts with the timing and conduct of elections as outlined in the election code and the following items should be clarified:

1. The bill does not allow enough time to comply with the provisions for absentee voting (beginning 28 days prior) or early voting at the clerk's office (25 days prior) as set forth in Section 1-22-19.
2. The bill does not allow for timely withdrawal of candidates pursuant to Section 1-22-9 which is 35 days prior to Election Day.
3. The bill does not allow for timely filing for write-in candidates which is set at 35 days prior to Election Day pursuant to Section 1-22-18.
4. The bill does not allow for sufficient time to recruit and retain poll workers.
5. Depending upon the timing of the special election, a conflict could arise pursuant to Section 1-12-71 such that no school or special election shall be held within 50 days prior

to, or following, any statewide election.

6. The bill does not allow sufficient time for election officials to program the election, certify the voting systems, and prepare and print ballots.
7. The bill does not specifically define what constitutes proof of primary residence as required by the proposed amendment to Section 1-22-7.

OTHER SUBSTANTIVE ISSUES

The Public Education Department (PED) notes existing law states school board vacancies may be filled with a qualified elector appointed by the existing school board members. If the school board fails to appoint a qualified elector, the responsibility will fall to the Public Education Department to appoint a qualified elector to fill the vacancy until the next regular school district election. SB302 would require a special election eliminating PED's responsibility and allowing PED to remain separate of school board leadership. This separation maintains a necessary balance and lends itself to local control.

ALTERNATIVES

The SOS suggests amending current law such that qualifications and residency of appointments must be verified before they are official.

RAE/al/jle