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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
54th Legislature, 1st Session, 2019

Bill Number	<u>SJR9</u>	Sponsor	<u>Soules</u>
Tracking Number	<u>.211707.2</u>	Committee Referrals	<u>SRC/SJC</u>
Short Title	<u>Public Education Commission, CA</u>		
Analyst	<u>Force</u>	Original Date	<u>2/11/19</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

Senate Joint Resolution 9 (SJR9) proposes to amend Article XII, Section 6 of the Constitution of New Mexico, to create an elected and appointed nine-member State Board of Education (SBE) that must appoint a Superintendent of Public Education, determine public school policy, distribute public school funds, and manage the Public Education Department (PED) and the administration, operation and finances of public schools. Until January 1, 2023, following the general election in 2022, the elected members of the Public Education Commission (PEC) would compose SBE. At the time of the 2022 general election, five members of the SBE would be elected, and the governor would appoint the remaining four members at-large, with the advice and consent of the Senate. The five elected members are to be elected for staggered terms of four years, although those elected at the 2020 general election are to classify themselves by lot, so that two will serve two-year terms, and two will serve four-year terms. When the governor appoints the remaining four at-large members, two members will be appointed for two-year terms, while the other two would be appointed for four-year terms. The proposed Superintendent of Public Education would be required to be a qualified, experienced, and licensed New Mexico school administrator or superintendent.

SBE districts would have the same boundaries of the Public Regulation Commission (PRC), and members would be required to be residents of their respective districts, and board members who permanently remove their residence from their district, or who maintain no residence in that district, shall be deemed to have resigned.

The joint resolution strikes all references to the PEC and the secretary of public education.

If the joint resolution successfully passes the Legislature, it will be submitted to the people for approval at the next general election, or any special election called for that purpose.

FISCAL IMPACT

SJR9 does not contain an appropriation.

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 constitutional amendment, in both Spanish and English, in an amount equal to 10 percent of the registered voters in the state. SOS is also required to publish them once a week for four weeks preceding the election in newspapers in every county in the state. If the ballot size is greater than one page, front and back, it would increase the cost of conducting the general election. In addition to the cost of the ballot, there will be added time for processing voters to vote and would mean additional ballot printing systems would be required to avoid having lines at voting convenience centers. SOS estimates the cost per constitutional amendment to be between \$50 thousand and \$100 thousand based on 2016 actual expenditures.

SUBSTANTIVE ISSUES

State Board of Education. 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.

SJR9 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, would 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 in its work to authorize state-chartered charter schools, could mitigate some of the issues associated with this transfer of authority and responsibility.

Education Governance Models. 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.

Several 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 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 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 education.

The reassignment of PEC's powers and duties, possibly 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.

RELATED BILLS

SB407, which makes numerous amendments to various state election laws.

SB416, which would enact the Redistricting Act, and includes redistricting procedures for both PEC and PRC districts.

SOURCES OF INFORMATION

- LESC files
- Legislative Finance Committee (LFC)
- Secretary of State (SOS)
- New Mexico Attorney General (AG)

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