

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill No: HB 136

49th Legislature, 1st Session, 2009

Short Title: Educational Assistant Licensing & Salaries

Sponsor(s): Representative Rick Miera and Others

Analyst: Kathleen Forrer

Date: February 11, 2009 (Revised)

FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

Bill Summary:

HB 136 amends the *School Personnel Act* to implement a four-level licensing and salary framework for educational assistants (EAs) as follows:

- A Level 1 license is a two-year provisional (nonrenewable) license for individuals not meeting the federal *No Child Left Behind Act of 2001* (NCLB) certification requirements. The minimum salary is \$13,000 to be implemented in FY 10.
- A Level 2 license is a nine-year renewable license for individuals not required to meet NCLB certification requirements. The minimum salary is \$14,000 to be implemented in FY 11.
- A Level 3 license is a nine-year renewable license for individuals who meet NCLB certification requirements but who do not have an earned academic degree from an accredited institution. The minimum salary is \$15,000 to be implemented in FY 12.
- A Level 4 license is a nine-year renewable license for individuals who meet NCLB certification requirements and who also have an earned associate or higher degree from an accredited institution. The minimum salary is \$17,000 to be implemented in FY 13.

In addition, HB 136:

- directs school districts to implement a “career salary framework” for educational assistants that supports the licensure system established in HB 136;¹
- specifies that the license and licensure level that an educational assistant holds on July 1, 2009 will remain in effect for the term of the license; after which time, in order to renew the license, the individual must meet the new requirements;
- requires the Public Education Department (PED) to promulgate rules to ensure that educational assistants who hold a Level 3 or a Level 4 license meet the NCLB paraprofessional standards; and
- appropriates funds to implement a \$13,000 minimum salary in FY 10 for Level 1 educational assistants.

¹ Current statute requires school districts to “initiate the implementation of a career salary framework that supports the licensure system in [PED] rules in fiscal year 2005.” PED rule 6-63-9 NMAC establishes a three-tiered licensure system for educational assistants.

Fiscal Impact:

\$2.613 million is appropriated from the General Fund to the Public School Fund for distribution through the State Equalization Guarantee (SEG) for expenditure in FY 10 to pay the cost of implementing a minimum salary statewide for educational assistants holding a Level 1 license.

Any unexpended or unencumbered balance remaining at the end of FY 10 reverts to the General Fund.

Fiscal Issues:

Both the Legislative Education Study Committee (LESC) staff and the Legislative Finance Committee (LFC) staff concur that, based on data provided by PED from the Student Teacher Accountability Reporting System (STARS) and the licensure database, the appropriation in HB 136 is sufficient to implement a \$13,000 minimum salary for educational assistants in FY 10.

The data provided by PED also show that some educational assistants now holding Level 2 and Level 3 licenses under the current PED licensure system have annual salaries below \$13,000; whereas, the appropriation language in HB 136 states that the funds are to be used to implement a minimum salary for educational assistants holding a Level 1 license.

LESC staff estimate that the total cost of implementing all four minimum salaries, including fringe benefits calculated at 19.35 percent, is approximately \$4.4 million.

As introduced, HB 3, *Education Appropriation Act*, includes sufficient funds in the appropriation to the SEG distribution “to increase the minimum annual salary for educational assistants to thirteen thousand dollars (\$13,000), contingent on the enactment of enabling legislation” by the Legislature.

Since 2005, the Legislature has made the following appropriations in order to increase salaries for educational assistants:

- \$1.9 million for school year 2005-2006 to raise the minimum annual salary for educational assistants to \$12,000;
- \$7.9 million for school year 2006-2007 to provide an average 9.5 percent salary increase for educational assistants;
- an average 5.0 percent salary increase for all school personnel, including educational assistants, for school year 2007-2008; and
- \$3.3 million to provide an additional 1.0 percent average salary increase for educational assistants and other low paid school personnel for school year 2008-2009. This increase was in addition to an average 2.0 percent salary increase appropriated for all school personnel.

Issues:

The NCLB requires that all educational assistants have at least a high school diploma and that educational assistants serving in schools that receive Title I funds meet one of the following qualifications (upon hire after January 8, 2002, or by January 8, 2006, if already working as an educational assistant):

- complete at least two years of postsecondary study; or
- earn an associate or higher degree; or
- meet a rigorous standard of quality and demonstrate, through a formal state or local academic assessment, knowledge of and the ability to assist in the instruction of reading, writing, and mathematics.

Although NCLB increased the training requirements for educational assistants, salaries for these individuals remained low. Data from PED showed that for school year 2003-2004, the weighted average salary for educational assistants in New Mexico was \$12,679. However, as noted in “Fiscal Issues” above, the Legislature has made a concerted effort since 2005 to raise salaries for educational assistants, resulting in a weighted average salary for school year 2008-2009 of \$16,172.

In its analysis, PED states that enactment of HB 136 would provide an incentive for educational assistants to pursue higher education, potentially resulting in “an increase in student achievement especially in the primary grades where extra help for students can be a determining factor.”

The analysis from the Department of Finance and Administration (DFA) notes that the current \$12,000 minimum salary for educational assistants is below the federal poverty level of \$14,000 for a two-person household and that the proposed \$13,000 minimum for Level 1 educational assistants is also below the federal poverty level.

Background:

As a consequence of the increased requirements of NCLB, coupled with the low levels of compensation for educational assistants, the LESC endorsed and the 2003 Legislature passed House Joint Memorial (HJM) 35, which requested that PED, in cooperation with the Commission on Higher Education (now the Higher Education Department), study the needs and resources related to improving the knowledge, skills, and status of educational assistants and substitute teachers. In response to the memorial, LESC staff established the HJM 35 Work Group, which recommended a four-level licensure and salary framework for educational assistants to be phased in over a four-year period. All of the licensure levels in this framework were designed to meet the paraprofessional requirements in NCLB.

In January 2004, the LESC endorsed legislation based upon the final recommendations of the HJM 35 Work Group. Subsequently, the 2004 Legislature enacted a career advancement initiative for educational assistants that:

- required PED to institute a licensure system through rules for educational assistants;
- established a \$12,000 minimum annual salary for licensed educational assistants beginning in FY 05, but authorized the Secretary of Public Education to adjust the minimum salary in accordance with appropriations for that purpose in each school year; and
- required school districts in FY 05 to initiate the implementation of a career salary framework that supports the licensure system in PED rules.

Because of testimony given in both the House Education Committee and the Senate Education Committee during the 2004 legislative session, the LESC requested that staff continue to study the issue. In July 2004 the Educational Assistants’ Career Ladder Work Group was reconstituted from the original HJM 35 Work Group with additional representation. The work group

participants again recommended four licensure levels with accompanying minimum salaries. The major difference between the recommendations of the HJM 35 Work Group in 2003 and those of the Educational Assistants' Career Ladder Work Group in 2004 was that the new recommendations included two licensure levels, Level 1 and Level 2, that were designed for educational assistants employed in positions that do not require them to meet NCLB requirements.

Related Bills:

HB 137a *Educational Assistant Minimum Salaries*

HB 356 *Educational Assistant Licensing & Salaries* (As introduced, HB 136 and HB 356 differ only with regard to the minimum salaries for levels 2, 3, and 4.)