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FISCAL IMPACT REPORT

ORIGINAL DATE 02/25/11

SPONSOR SEC _____ LAST UPDATED _____ HB _____

SHORT TITLE New School District Development Methods SB 351/SECS

ANALYST Haug

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		NFI	NFI			

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

SUMMARY

Synopsis of Bill

The Senate Education Committee Substitute for Senate Bill 351 would amend 22-4-2 NMSA 1978 of the Public School Code governing the creation of a new school district to change the authority to create a new district after complying with specific requirements from the Public Education Department (PED) to the Public Education Commission (PEC). The petition method of creating a new school district would be revised to require 10% of registered voters within the existing school district rather than 60% of registered voters within the geographic area “desiring creation of a new” district. The bill adds a requirement that should the PEC receive a verified petition and orders the creation of a school district the order of creation would be submitted to the voters of the existing school district for approval or rejection.

FISCAL IMPLICATIONS

The Senate Education Committee Substitute for Senate Bill 351 contains no appropriation and has no fiscal implication for state government. However, as the PED has pointed out the splitting of a school district for the purpose of creating a new school district has significant, and possibly unintended, financial consequences. Those are discussed below.

SIGNIFICANT ISSUES

The PED states:

The Attorney General of New Mexico issued a formal opinion on January 7, 2010, (AG Opinion 10-01), determining the current law for the creation of a new school district to be constitutional. Creation of new school districts have unintended consequences in addition to any perceived benefits since, according to Section 22-4-15 NMSA 1978:

Any outstanding school district bonds or other indebtedness of a school district shall not be affected by consolidation. Whenever a school district included within a consolidation has outstanding school district bonds or certificates of indebtedness, the school district shall retain its identity for the purpose of paying any debt service until the bonds or certificates are paid in full. No school district included within a consolidation shall become responsible for the debt service of any other school district included within the consolidation.

According to the referenced Attorney General opinion, indebtedness on transferred property remains with the school district that created the debt. In short, any debt on school construction projects would remain with the original district even though the creation of a new district would require the transferring of school buildings to the new district.

The PED comments further that it may be difficult to create a new district by petition. According to the Albuquerque Journal for February 2, 2011 regarding a school board election for Albuquerque Public Schools (APS), “Turnout in special elections is historically low. According to the Clerk's Office, school board turnout has been on a slide over the past decade, from about 8 percent in 2003 to less than 2 percent in 2009.” For the 12,800 people who voted, the referenced election cost APS and Central New Mexico Community College a total of \$385,000.

The procedure of a petition from 10% of the registered voters residing within the geographic area of the existing school district would effectively limit the expression of interest in creating a new district to the desires of voters in the existing district. Areas to be included in the new district outside the boundaries of the current district would be excluded from expressing any positive desire for inclusion in or exclusion from a new district through the petition method.

GH/bym