

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HJR 27

50th Legislature, 2nd Session, 2012

Tracking Number: .189140.1

Short Title: Albuquerque School Election Districts

Sponsor(s): Representatives Antonio “Moe” Maestas, Eleanor Chávez, and Miguel P. García

Analyst: David Harrell

Date: February 9, 2012

Bill Summary:

Noting that Article 12, Section 15 of the Constitution of New Mexico requires legislative approval of school board member districts established by a local school board with seven members in districts with a population greater than 200,000, HJR 27 resolves that the Legislature approve the resolution establishing new school board member districts for Albuquerque Public Schools (APS), which the APS board approved on January 23, 2012.

Fiscal Impact:

HJR 27 makes no appropriation.

Substantive Issues:

In pertinent part, Article 12, Section 15 of the state constitution provides as follows:

The school board member districts [comprising seven board members and a population in excess of 200,000] shall be established by resolution of the local school board with the approval of the state legislature, and may be changed once after each federal decennial census by the local school board with the approval of the state legislature.

It would seem, then, that HJR 27 is a response to the second part of that clause, the reference to the districts being changed “by the local school board with the approval of the state legislature” once after each federal decennial census; and that the joint resolution assumes that legislative approval is required.

- In fact, according to the analysis by the Attorney General’s office, “If the legislature does not approve HJR 27, implementation of the changes in the election districts approved by the Albuquerque School Board will be delayed until the legislature approves the changes as required by the state constitution.”
- Likewise, the analysis by the Public Education Department (PED) says, “Without legislative approval, APS’s January 23, 2012 change in redistricting would not be effective and the current APS districting would remain.”

Other observations, however, suggest that the issue may not be so simple or straightforward.

- Noting that HJR 27 does not provide any details of the January 23, 2012 resolution of the APS board, the PED analysis says, “it is not clear what the Legislature would be approving under this measure.”
- The fiscal impact report by the Legislative Finance Committee questions the consequences if the Legislature approves, disapproves, or takes no action on the APS resolution, including the effect not only on the APS district but also the next APS board election.
- APS raises several concerns:
 - The state constitutional language is ambiguous. That is, does it require the Legislature to approve the actual redistricting map or merely the act of redistricting? APS suggests the latter, in part because the Legislature has not considered approval of the district’s redistricting at any time in the past and partly because state law, enacted after the constitutional provision in question, requires each local school board “following every federal decennial census . . . [to] divide the school district into a number of election districts equal in number to the number of members on the school board.”
 - In its recent redistricting, APS has complied with provisions of the federal *Voting Rights Act*, which supersedes state law.
 - Finally, APS notes the potential effect of HJR 27 on the next board election in February 2013, for which candidates must file in November 2012:

If the legislature does not approve the current redistricting plan, or establishes a precedent that APS redistricting requires legislative approval, than [sic] the school board districts will not be redrawn and approved in time for the 2013 election. This means that there would be unequal representation on the APS Board of Education until 2015

Technical Issues:

Currently, HJR 27 has only one committee referral: to the House Education Committee; however, considering the constitutional and legal questions that the joint resolution has raised, an additional referral to the House Judiciary Committee may be in order.

Background:

Article 12, Section 15 of the state constitution was adopted in 1980. It applies only to APS, as none of the other 88 school districts in New Mexico have populations in excess of 200,000.

Related Bills:

SJR 16 *Albuquerque School Election Districts* (Identical)