

Fiscal impact reports (FIRs) are prepared by the Legislative Finance Committee (LFC) for standing finance committees of the NM Legislature. The LFC does not assume responsibility for the accuracy of these reports if they are used for other purposes.

Current FIRs (in HTML & Adobe PDF formats) are available on the NM Legislative Website (legis.state.nm.us). Adobe PDF versions include all attachments, whereas HTML versions may not. Previously issued FIRs and attachments may be obtained from the LFC in Suite 101 of the State Capitol Building North.

FISCAL IMPACT REPORT

ORIGINAL DATE 2/20/07
LAST UPDATED 3/1/07

SPONSOR Ortiz y Pino HB _____

SHORT TITLE Election of Certain School District Boards SB 928

ANALYST Wilson

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY07	FY08		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

Relates to HJR 10, HB 146, HJR 3 and SJR 18

SOURCES OF INFORMATION

LFC Files

Responses Received From
Public Education Department (PED)

SUMMARY

Synopsis of Bill

Senate Bill 928 provides that school districts with a population of more than 200,000 shall hold a special election prior to June 30, 2008 to submit to the voters the question of whether the district should have a local school board consisting of four members elected from single-member districts plus three members appointed by the mayor of the largest municipality of the district. The bill provides further that if the voters decide in favor of the question that the school board shall, no later than December 1, 2009; divide the district into four single-member districts. The current board members would serve until March 1, 2011.

The bill also calls for the secretary of education to appoint three residents of the district to an advisory selection committee, which would in turn recommend residents of the school district to the mayor for appointment to the school board.

FISCAL IMPLICATIONS

NFI

SIGNIFICANT ISSUES

PED provided the following:

This bill implicates serious constitutional issues of taking away a person's franchise i.e., right to vote, and conflicts with Article XII, Section 15 of the New Mexico Constitution, which provides that:

In those local school districts having a population of more than 200,000, as shown by the most recent decennial census, the qualified electors of the districts may choose to have a local school board composed of seven members, residents of and elected from single member districts.

If a majority of the qualified electors voting in such a district election vote to have a seven-member board, the school district shall be divided into seven local school board member districts which shall be compact, contiguous and as nearly equal in population as possible. One school board member shall reside within, and be elected from each local school board member district. Change of residence to a place outside the district from which a school board member was elected shall automatically terminate the service of that school board member and the office shall be declared vacant.

The school board member districts 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.

The elections required under this amendment shall be called and conducted as provided by law for other local school board elections. The state board of education shall, by resolution, establish the terms of the first board elected after the creation of such a seven-member board.

As the New Mexico Constitution specifically states that if a district with a population of more than 200,000 votes to have a seven-member board, those members would be elected from seven single-member districts, this bill is in direct conflict with the New Mexico Constitution; accordingly the Constitution would need to be amended prior to enacting this legislation, which would in actuality have no effect on the bulk of the communities in New Mexico, due to the population requirement.

Public Law 94-171, enacted in 1975, governs the federal census, which occurs at 10-year intervals. The last federal census was in 2000.

SJR 18 proposes an amendment to the state constitution, which is aimed at remedying the conflict with the state constitution. However, unless SJR 18 is approved, and unless and until the proposed amendment is voted on favorably by the public, the conflict remains. Furthermore, the resolution only addresses Albuquerque and the bill speaks more broadly to districts with populations over 200,000, which could encompass additional districts, both now and in the future. As it only addresses Albuquerque, the resolution also implicates Article IV, Section 24 of the New Mexico Constitution, which provides that the Legislature shall not pass local or special laws pertaining to elections or many other areas.

ADMINISTRATIVE IMPLICATIONS

The Secretary of State and the local county clerks will have additional items on the ballots, but this could be handled as part of their ongoing responsibilities.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

This bill relates to HJR 10, School Board Recall Election Voters, HB 146, School Board Recall Petitions & Elections, and HJR 3, School Elections with General Elections.

The bill also has a companion joint resolution, SJR 18, which proposes an amendment to the state constitution possibly aimed at remedying the conflict with the state constitution discussed above in Significant Issues. However, the timeframe for putting the question to the public conflicts in the two; the resolution calls for that to occur at the first general election following adoption of the amendment; the bill calls for that to occur no later than June 30, 2008 at a special election.

DW/mt