

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 67

49th Legislature, 2nd Session, 2010

Tracking Number: .180373.1

Short Title: Extend Educational Testing Contract Lengths

Sponsor(s): Representative Rick Miera and Others

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FOR THE LEGISLATIVE EDUCATION STUDY COMMITTEE

Bill Summary:

HB 67 amends the *Procurement Code* to extend from four to 12 years the period of contracts for services related to development and implementation of standardized tests for students in kindergarten through twelfth grade and of teacher tests required to obtain licensure.

Fiscal Impact:

HB 67 does not contain an appropriation.

Fiscal Issues:

According to the Public Education Department (PED) bill analysis, allowing extended terms for statewide testing contracts would significantly limit cost increases due to new procurements. PED cites examples of the recurring negative fiscal impact on school district budgets from the new assessment contracts executed in 2010 after previous contracts expired:

- state standards-based assessments and high school competency exam costs to school districts increased by more than 50 percent; and
- English language proficiency assessment costs increased by 30 percent.

PED also notes that the department's costs increased by 120 percent from new four-year assessment contracts executed in 2010; and that costs to teachers taking the teacher licensure assessment will escalate when those contracts need to be re-bid.

Substantive Issues:

Costs of Assessments

The costs associated with educational assessments are both nonrecurring and recurring.

- Nonrecurring costs, which PED generally pays, include initial test development and periodic updating of assessments.
- Recurring costs include school district administrative costs such as printing, distribution, scoring, and reporting.

During the 2009 interim, the Legislation Education Study Committee heard testimony regarding the implementation of assessments required by state and federal law.

- The presentation included an outline of requests for proposals issued by PED for new assessment contracts in spring 2009 in anticipation of the expiration of existing contracts due to expire on June 30, 2009.
- PED staff provided the committee with initial estimates of the cost to school districts and the state under the new contracts. The committee learned that those costs would be significantly higher than previously and heard testimony from school district representatives indicating the potential for budget shortfalls of up to \$1.0 million as a result of those higher costs.

In its analysis of HB 67, the Office of Education Accountability (OEA) of the Department of Finance and Administration states that one challenge to maintaining this assessment system under the *Procurement Code* is the need to put assessment contracts out to bid every four years. In addition to raw cost increases such as those noted above in “Fiscal Issues,” OEA points to other hidden costs:

- delays in implementing the assessment cycle, including training of district staff, due to the contract negotiation process;
- delays related to negotiation to transfer intellectual property (that is, test items) from one vendor to another;
- changes in data formats that lead to delays in analyzing student data; and
- changes in test form layouts and report formats that require adjustment by students, teachers, administrators, and parents.

OEA notes that HB 67 does not appear to preclude termination of assessment contracts if the performance of the contractor is unsatisfactory.

Extension of Multi-term Contracts Under the New Mexico Procurement Code

The *Procurement Code* establishes different terms for extending various types of state contracts, including:

- four years for contracts for tangible personal property, construction, or services except for professional services, under \$25,000;
- eight years for contracts for tangible personal property, construction, or services except for professional services, in amounts of \$25,000 or over;
- 25 years for contracts entered into pursuant to the *Public Facility Energy Efficiency and Water Conservation Act*; and
- four years for most contracts for personal services, except contracts for:
 - services required to support or operate management information or payment systems for federally certified Medicaid, financial assistance, and child support enforcement;
 - services required to design, develop, or implement taxation and revenue information management services;
 - services of certain fiscal fiduciaries, excluding bond attorneys, underwriters, and financial advisors in matters related to public securities, which may be for the life of the securities or as long as they remain outstanding;

- services related to the implementation, operation, and administration of the *Education Trust Act*; and
- services related to measurement and verification of conservation-related and utility cost savings pursuant to the *Public Facility Energy Efficiency and Water Conservation Act*.

HB 67 would create a new exception to the provision limiting extensions of personal services contracts to four years.

Background:

The OEA analysis of HB 67 notes that over several years, New Mexico has built a nationally ranked comprehensive assessment system that educators have begun using to make better informed decisions to improve student outcomes.

OEA notes that the development of an educational assessment such as the state standards-based assessments required for state and federal school accountability is an intensive, extended process, particularly when a Spanish translation is involved. The process involves:

- in Year One:
 - development of English-language items by a development team of teachers, PED staff, and vendor employees;
 - field-testing to a large sample of students to correct non-functioning items;
 - determination of cut points for performance levels (such as Beginning Step, Nearing Proficiency, Proficient, and Advanced); and
 - development of formats for data files and reports;
- in Year Two:
 - implementation of the English-language version; and
 - development of the Spanish-language version; and
- in Year Three:
 - continued administration of both versions of the assessment;
 - correction of poorly functioning items, field-testing of new items, and refinement of the scoring scale; and
 - a comprehensive scientific study to demonstrate comparability of the two versions for the US Department of Education.

Related Bill(s):

- HB 72 *Suspend Certain School Assessments*
- HB 160 *Unnecessary Standardized School Tests*
- SB 75 *Suspend Certain School Assessments*
- SB 106 *Education Dept. Pays for Standard-based Tests*
- SB 130 *Suspend Certain School Assessments*