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FISCAL IMPACT REPORT

SPONSOR Soules ORIGINAL DATE 2/08/18
 LAST UPDATED _____ HB _____

SHORT TITLE State Board of Education, CA SJR 10

ANALYST Liu

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

| | FY18 | FY19 | FY20 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------|---------------------|------|----------------------|------------------------------|------------------|
| Total | | \$50.0 - \$100.0 | | | Nonrecurring | |

(Parenthesis () Indicate Expenditure Decreases)

Relates to SB 33

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

Secretary of State (SOS)

SUMMARY

Synopsis of Bill

Senate Joint Resolution 10 amends Article XII, Section 6, of the Constitution of New Mexico, to replace the Public Education Commission (PEC) and PED secretary with a nine-member state board of education (SBE). SBE will consist of four members appointed by the governor, with the consent of the senate, and five elected members, who will appoint a superintendent of education. Through December 31, 2020, the SBE will consist of the members of PEC. SBE would be tasked with determining public school policy, distributing public school funds and managing and directing PED and the administration, operation, and finances of public schools.

FISCAL IMPLICATIONS

Under Section 1-16-13 NMSA 1978, SOS is required to print the full text of each proposed constitutional amendment, in both Spanish and English, in an amount equal to 10 percent of the registered voters in the state. SOS is also constitutionally required to publish the full text of each proposed constitutional amendment once a week for four weeks preceding the election in newspapers in every county in the state. In 2016, SOS spent \$245.9 thousand for the required newspaper publications, however, the cost is dependent upon the number and length of the

constitutional amendments that are passed. For planning purposes, an estimate of \$47.60 per word may be used to represent the likely costs of publishing each constitutional amendment for the 2018 general election.

The number of constitutional amendments that pass may also impact the page size of the ballot, or if the ballot size is caused to become greater than one page, front and back, which may increase the cost of producing the ballots for the general election. In addition to the cost of the ballot, there may be time added to the voting process, which would require additional ballot printing systems in order to ensure a smooth and efficient voting process within the bounds of national best practices. An analysis of costs to meet constitutional amendment printing requirements in 2017 indicated expenditures would be between \$50 thousand and \$100 thousand.

According to PED, the fiscal implications of the bill would likely be significant. Annually, the PEC costs approximately \$75 thousand to operate, despite a limited scope of authority, duties, and responsibilities under the constitution and the Public School Code. The duties and responsibilities of SBE are expansive and would be expected to lead to a sizable increase in public expenditures. In FY18, PED's operating budget was \$43.3 million, nearly double the amount budgeted for SBE in FY03 (\$24.5 million), the last year of the board's operation.

SIGNIFICANT ISSUES

Prior to the 2003, a 15 member State Board of Education determined public and vocational educational policies; controlled, managed and directed the distribution of school funds and financial accounting for all public schools; and appointed the superintendent of public instruction. The superintendent, subject to the policies established by the boards, was the chief administrative officer directing the operation of the State Department of Public Education. Board members served staggered four-year terms. Ten members were elected from geographic districts, and five members were appointed by the governor with the consent of the senate. This arrangement was overturned by the voters, who passed a constitutional amendment supported by the governor, to eliminate the superintendent of public instruction and establish a cabinet level Public Education Department.

The following analysis is provided by PED:

The department has been recognized by several entities for the state's federal Every Student Succeeds Act (ESSA) plan. This plan contemplates, (though does not strictly require), that PED will be administered by a cabinet level executive with the authority and the flexibility to develop, administer, and direct the work of the department, as indicated under the terms of the ESSA plan. The United States Department of Education expects compliance with the state ESSA plan.

When the position of the Secretary of the Public Education Department was established, a primary argument for creating the cabinet level position was to make the secretary accountable to the governor. A state board consisting of a combination of members, some appointed by the governor with the consent of the senate and some elected by geographic districts, would have less accountability than an at-will employee of the governor, who is elected by all state residents.

Substantial risk would be carried by students, teachers, principals, and central

office staff because of constantly changing expectations created by a board comprised of individuals with very diverse goals, and no required expertise in education. A centralized administration, led by a qualified expert in education, as a cabinet level position, (the system now in place), is able to consider the needs of the education system of the entire state, as well as geographic and cultural diversity, all while focusing on the health of the education system as a whole. In addition, there are many provisions of the Public School Code that would require amendment in order to create a statutory scheme that would be consistent with and align to, the structural change created by the resolution.

Within the past few years, PED has intervened in the operation of several dysfunctional school boards that were unable to successfully perform their statutory responsibilities due to political conflicts among and between board members. A similar structure at the state level, with the possibility of similar and compounded political dissension, could impede the ability of the state board to make efficient decisions.

The current national and state educational environment require a state department of education that can quickly measure the efficacy of new and innovative programs, and adapt such programs accordingly and efficiently in order to meet the needs of students in a progressive, uniform, and equitable manner. PED notes New Mexico's ESSA plan and the educational health of the students in New Mexico is dependent on the ability to innovate and respond in a way that promotes the provision of the best and most effective educational programs to students and teachers in the most efficient and timely way possible.

The following analysis is provided by SOS:

The proposed legislation eliminates the PEC and PED secretary and replaces them with a nine member SBE, beginning January 1, 2021. If this legislation passes, conforming amendments will be required in the New Mexico Election Code during the 2019 legislative session. The nine member board consists of five elected members and four members appointed by the governor.

Proposed language establishes that public education commissioners elected in 2016 and 2018 shall serve as SBE members through December 2020, after which all 10 terms would end. Then beginning with the general election of 2020, five members of the state board of education shall be elected for staggered terms of four years and that those elected at the first general election after the adoption of this amendment shall immediately classify themselves by lot to establish the initial terms of office and set up staggered terms for future elections.

The resolution establishes that SBE districts will be the same district boundaries as the Public Regulation Commission's district boundaries. It is anticipated that these district boundaries will change as a result of redistricting efforts conducted in 2021, which may impact a new member elected in 2020 to the board depending upon district line adjustments.

ADMINISTRATIVE IMPLICATIONS

If the proposed amendment passes, SOS will need to update administrative rules, websites, guides, training materials, and political subdivisions regarding elected positions and district boundaries that impact candidacy and statewide ballots. Additionally, SOS will need to be notified of the initial drawing by lot in order to establish the staggered terms of SBE members and prepare future statewide election ballots for elections conducted in 2022 and beyond.

The bill would require extensive restructuring within PED.

RELATIONSHIP

This bill relates to Senate Bill 33, which transfers one quarter of the 2 percent withholding of state-chartered charter schools' funding from PED to PEC for administrative support.

SL/sb