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FISCAL IMPACT REPORT

ORIGINAL DATE 1/23/19
LAST UPDATED 3/04/19 **HB** 47/aHEC/aHF1#1

SPONSOR Roybal Caballero

SHORT TITLE School Employee & Assistants Probation Time **SB** _____

ANALYST Liu

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		See Fiscal Implications				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)
 Educational Retirement Board (ERB)
 Public School Insurance Authority (PSIA)
 Regional Education Cooperatives (REC)

SUMMARY

Synopsis of HF1#1 Amendment

The House Floor #1 Amendment to House Bill 47 strikes two House Education Committee amendments to House Bill 47 to clarify that local school boards and governing authorities may terminate any licensed school employee, excluding licensed educational assistants who have not been offered and accepted their third consecutive contract, for any reason deemed sufficient. The House Floor #1 amendment also clarifies that licensed school employees who have been offered and are accepting a third-year contract (and nonlicensed school employees or licensed educational assistants employed more than one year) cannot be terminated without just cause.

Synopsis of HEC Amendment

The House Education Committee Amendment to House Bill 47 allows local school boards and governing authorities of state agencies to terminate any school employee (rather than just licensed school employees) with less than 3 years of consecutive service for any reason it deems sufficient. Likewise, the amendment expands protection to all school employees with more than 2 consecutive years (and licensed educational assistants with more than 1 year) from termination without just cause.

Synopsis of Original Bill

House Bill 47 amends the Public School Code to reduce the probationary period for nonlicensed school employees and licensed educational assistants to one year.

FISCAL IMPLICATIONS

The bill would allow local school boards or governing authorities to terminate nonlicensed employees and licensed educational assistants for just cause after one year.

In FY18, public schools employed about 5,006 instructional, library, and media assistants and 7,430 non-certified personnel. The average salary for these school personnel was \$37.5 thousand, bringing the total salary cost statewide to \$465.8 million. It is unclear how many of these employees would be terminated within their first year; however, it is likely that vacated positions would be filled eventually, resulting in minimal fiscal impacts. If 1 percent of these employees were terminated, the fiscal impact would be \$4.7 million in cost savings.

SIGNIFICANT ISSUES

Currently, the probationary period for all school employees is three years. A local school board or governing authority of a state agency may terminate a nonlicensed school employee or a licensed educational assistant with less than one year of employment for any reason it deems sufficient.

Prior to terminating a nonlicensed school employee or licensed educational assistant, the local school board or governing authority would serve the employee or assistant with written notice of termination. The terminated employee or assistant would be entitled to submit a written request for the reasons for termination and receive the reasons within 10 working days.

According to PED, the bill allows employees to claim property on positions that fluctuate often from year to year and are considered non-essential positions in school settings. While these employees currently obtain property rights after three years of satisfactory service, providing those rights after one year promote non-renewals for first year employees, as districts may not want to commit to these positions long-term. As a result, this places a severe restriction on superintendents and charter school directors in determining staffing from year to year based on student needs. Educational assistants have varied roles and training, and their placement in schools can be necessary based on certain needs of students for individual supervision, support for certain classrooms, etc. Depending on the fluctuation of students and population within districts and schools, having educational assistants and other support personnel obtain property rights will place an undue burden on the district when the specific service is no longer needed.

PED cites research indicating districts have struggled to enhance their teaching force by exiting low-performing early career teachers quickly enough, thus allowing low-performers to matriculate through the school system, often underserving at-risk populations at higher rates than students that do not share risk factors. Emphasizing property rights for non-teachers may only exacerbate this issue by forcing districts to have financial commitments that do not serve the primary mission of the school district.

OTHER SUBSTANTIVE ISSUES

REC notes reducing the probationary period to one year for non-licensed school employees and licensed educational assistants may cause school districts to modify their contracts to six-month contracts or will allow districts to terminate an employee for any reason deemed necessary during the middle of an existing contract.

PED notes proactive districts around the country have looked at the paraprofessionals within their districts as likely candidates to support through teacher certification programs. One year of placement is not a sufficient amount of time to systemically create a pipeline of teachers from the paraprofessional workforce. Once these paraprofessionals gain such property rights, they can choose to stay in their district without regard to essential need. This would limit districts in supporting the right paraprofessionals in ascending the career ladder to the teaching administrative ranks.

Over the past few years, some of New Mexico school districts have had trouble filling vacancies before the school year begins. Despite an increase in the state equalization funding, there are fewer teachers in New Mexico's public schools. While teacher shortages are not unique to New Mexico, declining enrollment in educator preparation programs has forced New Mexico school districts to compete with other states to both recruit new teachers and retain experienced teachers.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

ERB notes there would be no change in the three-year probationary period which currently applies to nonlicensed school employees and licensed educational assistants.

SL/gb/al