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HOUSE BILL 41

52ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2016

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING LOCAL SUPERINTENDENT
EMPLOYMENT CONTRACT CRITERIA; PROVIDING THAT THE SCHOOL
PERSONNEL ACT DOES NOT APPLY TO A SUPERINTENDENT, ASSISTANT
SUPERINTENDENT OR ANY SCHOOL DISTRICT OR SCHOOL EMPLOYEE WHOSE
ANNUAL SALARY EXCEEDS ONE HUNDRED FIFTY THOUSAND DOLLARS
(\$150,000).

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 22-5-4 NMSA 1978 (being Laws 1967,
Chapter 16, Section 28, as amended) is amended to read:

"22-5-4. LOCAL SCHOOL BOARDS--POWERS--DUTIES.--A local
school board shall have the following powers or duties:

A. subject to the rules of the department, develop
educational policies for the school district;

B. employ a local superintendent for the school

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1 district and fix the superintendent's salary pursuant to a
2 written employment contract in accordance with the provisions
3 of Section 2 of this 2016 act;

4 C. review and approve the annual school district
5 budget;

6 D. acquire, lease and dispose of property;

7 E. have the capacity to sue and be sued;

8 F. acquire property by eminent domain pursuant to
9 the procedures provided in the Eminent Domain Code;

10 G. issue general obligation bonds of the school
11 district;

12 H. provide for the repair of and maintain all
13 property belonging to the school district;

14 I. for good cause and upon order of the district
15 court, subpoena witnesses and documents in connection with a
16 hearing concerning any powers or duties of the local school
17 board;

18 J. except for expenditures for salaries, contract
19 for the expenditure of money according to the provisions of the
20 Procurement Code;

21 K. adopt rules pertaining to the administration of
22 all powers or duties of the local school board;

23 L. accept or reject any charitable gift, grant,
24 devise or bequest. The particular gift, grant, devise or
25 bequest accepted shall be considered an asset of the school

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1 district or the public school to which it is given;

2 M. offer and, upon compliance with the conditions
3 of such offer, pay rewards for information leading to the
4 arrest and conviction or other appropriate disciplinary
5 disposition by the courts or juvenile authorities of offenders
6 in case of theft, defacement or destruction of school district
7 property. All such rewards shall be paid from school district
8 funds in accordance with rules promulgated by the department;
9 and

10 N. give prior approval for any educational program
11 in a public school in the school district that is to be
12 conducted, sponsored, carried on or caused to be carried on by
13 a private organization or agency."

14 SECTION 2. A new section of the Public School Code is
15 enacted to read:

16 "[NEW MATERIAL] LOCAL SCHOOL BOARDS--LOCAL SUPERINTENDENT
17 EMPLOYMENT CONTRACTS.--

18 A. Starting July 1, 2016, an employment contract or
19 a renewal of an employment contract executed between a local
20 school board and a local superintendent shall comply with the
21 provisions of this section. The contract shall be a written
22 public record.

23 B. A local superintendent is:

24 (1) an at-will employee of a local school
25 board;

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1 (2) subject to the provisions of a written
2 employment contract executed with a local school board; and

3 (3) not subject to the provisions of the
4 School Personnel Act.

5 C. An employment contract shall include at least
6 the following terms:

7 (1) the amount of the local superintendent's
8 salary and a list of benefits included as compensation;

9 (2) the minimum duties and performance
10 requirements expected of the local superintendent; and

11 (3) the dates of the employment period not to
12 exceed two years.

13 D. If a local school board chooses to renew a local
14 superintendent's employment contract, the renewal shall be
15 executed no earlier than six months prior to the end of a
16 contract period and shall include the terms itemized in
17 Subsection C of this section. A renewed contract is contingent
18 upon a local superintendent completing the terms of an existing
19 contract.

20 E. Termination of a local superintendent's
21 employment may occur at the end of the contract period, with no
22 severance pay.

23 F. Termination of a local superintendent's
24 employment may occur during the contract period:

25 (1) upon the provision of at least four weeks'

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1 notice of resignation by the local superintendent, with no
2 severance pay; or
3 (2) by a decision of a majority of the members
4 of the local school board at a public meeting that the
5 employment contract be terminated:

6 (a) without cause, with a determination
7 of the amount of severance pay, if any, not to exceed four
8 weeks' salary. Severance pay shall not be provided before the
9 local superintendent executes a release of claims agreement; or

10 (b) with cause, with no severance pay.
11 Cause shall be determined by the local school board. A local
12 superintendent terminated for cause may request a hearing
13 conducted by the local school board to review its
14 determination. Within thirty days of the local school board's
15 decision, a local superintendent may appeal to the secretary."

16 SECTION 3. A new section of the School Personnel Act is
17 enacted to read:

18 "[NEW MATERIAL] APPLICABILITY.--The School Personnel Act
19 does not apply to:

- 20 A. a local superintendent;
- 21 B. an assistant superintendent; or
- 22 C. a school district or school employee who earns
23 an annual salary greater than one hundred fifty thousand
24 dollars (\$150,000)."