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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 1st Session, 2017

Bill Number	<u>HB70</u>	Sponsor	<u>Representative Rehm</u>
Tracking Number	<u>.205343.1</u>	Committee Referrals	<u>HEC/HJC</u>
Short Title	<u>Local School Superintendent Criteria</u>		
Analyst	<u>Force</u>	Original Date	<u>1/27/17</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill.

House Bill 70 (HB70) amends a section of the School Personnel Act to create additional duties for local school boards to: screen, rank, and conduct background checks on applicants for the position of local superintendent; determine and change a superintendent's job duties to better serve the local school district; and supervise and evaluate the superintendent. The bill also creates a new section of the Public School Code detailing terms of employment contracts between school boards and superintendents, notwithstanding any other provision of the Public School Code, including salary, benefits, duties, and dates of employment, and provides for an appeal of a school board's employment decision to the Secretary of Public Education. Finally, the bill includes factors to be considered by local school boards when evaluating a superintendent's performance, as well as details regarding the potential termination of a superintendent's contract and severance pay. When a superintendent is terminated without cause, the severance packages would be limited to eight weeks' salary; when terminated for just cause as defined, a superintendent would receive no severance pay.

FISCAL IMPACT

HB70 does not contain an appropriation

According to a Public Education Department analysis of a substantially similar bill, HB41 (2016), the provisions in the bill would ensure that fewer public funds are used for superintendent severance packages. In Albuquerque Public Schools alone, two superintendents recently received more than \$450,000 in contract buyouts and severance pay. The provisions in this bill would significantly decrease this amount to a total of eight weeks of superintendent salary (estimated at approximately \$20,000).

Provisions in the bill barring any severance pay for a superintendent who is terminated with cause may likewise save an indeterminate sum of public dollars.

SUBSTANTIVE ISSUES

HB70 would resolve ambiguities in the School Personnel Act and general provisions of the Public School Code by creating a new process for hiring and firing superintendents, notwithstanding other provisions in the Public School Code. Under the bill, certain provisions would no longer be applicable to superintendents, including those provisions for the termination and discharge of school employees. These sections currently appear to be applicable to superintendents both as school employees, and in their capacity as administrators. The pertinent language in these provisions may require a superintendent, for example, to provide written reasons for their own termination or discharge, creating a conflict of interest. By removing superintendents entirely from these provisions, HB70 removes any potential conflicts of interest.

According to the School Personnel Act and the general provisions of the Public School Code, a superintendent is the chief executive officer of a school district, and the only employee hired directly by a local school board. It is unclear, however, how superintendents fall under provisions detailing hiring, termination and discharge of school employees. Also unclear is whether local superintendents are already exempted from certain provisions of the School Personnel Act. For instance, the following employees are exempt from the “termination” provisions in Section 22-10A-22 through Section 22-10A-25 NMSA 1978:

- a certified school instructor employed to fill the position of a certified school instructor entering military service;
- a person who is employed as a certified school administrator; or
- a non-certified school employee employed to perform district-wide management functions.

These exceptions do not apply to the parallel provisions for “discharge” decisions, in Section 22-10A-27 NMSA 1978 through Section 22-10A-30 NMSA 1978. “Discharge” is defined the act of severing the employment relationship with a certified school employee prior to the expiration of the current employment contract.

TECHNICAL ISSUES

It is unclear if the background check mentioned in the bill is the same as or in addition to background checks required of all licensed public school employees in the School Personnel Act, and whether the potential superintendent bears financial responsibility for the background check.

RELATED BILLS

Relates to HB130, School Program Units for School Employers (Identical to SB 200)

Relates to HB134, School Personnel Minimum Salaries

Relates to HB190, School District Employee Background Checks

Relates to SB200, Certified School Employee Program Units (Identical to HB 130)

SOURCES OF INFORMATION

- LESC Files
- Educational Retirement Board

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