

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

HOUSE BILL 70

53RD LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2017

INTRODUCED BY

William "Bill" R. Rehm

AN ACT

RELATING TO PUBLIC SCHOOLS; PROVIDING LOCAL SUPERINTENDENT
EMPLOYMENT CRITERIA.

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. screen, conduct comprehensive background checks
on and rank applicants for the position of local
superintendent; employ a local superintendent for the school
district; ~~and~~ fix the superintendent's salary; determine or
change the superintendent's job duties to serve the needs of

underscored material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 the school district; supervise the superintendent; and conduct
2 performance evaluations of the superintendent;

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

5 D. acquire, lease and dispose of property;

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

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

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

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

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

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

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

22 L. accept or reject any charitable gift, grant,
23 devise or bequest. The particular gift, grant, devise or
24 bequest accepted shall be considered an asset of the school
25 district or the public school to which it is given;

.205343.1

underscoring material = new
[bracketed material] = delete

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

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

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

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

17 A. For a local superintendent whose employment
18 contract is executed or renewed after July 1, 2017, the terms
19 of employment and termination of the local superintendent shall
20 comply with the provisions of Section 22-5-4 NMSA 1978 and this
21 section, notwithstanding any contrary provision in the Public
22 School Code. The employment contract shall be a written public
23 record.

24 B. An employment contract with a local
25 superintendent shall include at least the following terms:

.205343.1

underscored material = new
~~[bracketed material] = delete~~

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

3 (2) the minimum duties and performance
4 requirements expected of the local superintendent; and

5 (3) the dates of the employment period, not to
6 exceed two years.

7 C. A performance evaluation of a local
8 superintendent shall:

9 (1) be conducted by the local school board at
10 least twice during the first year of a new local
11 superintendent's employment and at least once during each
12 subsequent year; and

13 (2) include a review of:

14 (a) the quality of performance of job
15 duties; and

16 (b) the alignment of the local
17 superintendent's job performance to the needs of the school
18 district.

19 D. If a local school board chooses to renew a local
20 superintendent's employment contract, the renewal shall be
21 executed no earlier than six months prior to the end of a
22 contract period and shall include the terms itemized in
23 Subsection B of this section. The term of a renewed contract
24 shall not exceed two years. A renewed contract is contingent
25 upon a local superintendent's successful completion of the

.205343.1

underscoring material = new
[bracketed material] = delete

1 terms of an existing contract.

2 E. Termination of a local superintendent's
3 employment may occur at the end of the contract period, with no
4 severance pay.

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

7 (1) upon the provision of at least eight
8 weeks' notice of resignation by the local superintendent, with
9 no severance pay; or

10 (2) by a decision of a majority of the members
11 of the local school board at a public meeting that the
12 employment contract be terminated:

13 (a) without cause, with a determination
14 of the amount of severance pay, if any, not to exceed eight
15 weeks' salary. Severance pay shall not be provided before the
16 local superintendent executes a release of claims agreement; or

17 (b) for just cause, with no severance
18 pay.

19 G. Just cause:

20 (1) shall be determined by the local school
21 board; and

22 (2) may include:

23 (a) inadequate performance or
24 nonperformance of job duties;

25 (b) incompetence;

.205343.1

underscored material = new
~~[bracketed material] = delete~~

- 1 (c) insubordination;
- 2 (d) falsification or deliberate omission
3 of material information during application for employment or on
4 a school district document or record;
- 5 (e) breach of fiduciary duties;
- 6 (f) misappropriation or personal use of
7 school district funds, property or resources;
- 8 (g) creating a hostile working
9 environment;
- 10 (h) sexual harassment;
- 11 (i) discrimination against or harassment
12 of a person on the basis of race, national origin, gender, age,
13 sexual orientation or other legally protected status;
- 14 (j) substance abuse;
- 15 (k) moral turpitude;
- 16 (l) gross or willful misconduct;
- 17 (m) conviction of a felony or
18 misdemeanor;
- 19 (n) violation of confidentiality or
20 release of confidential information; or
- 21 (o) conduct or behavior that causes
22 damage to the school district or its reputation, programs,
23 property, employees or students.

24 H. A local superintendent terminated for cause may
25 request a hearing conducted by the local school board to review

.205343.1

underscored material = new
~~[bracketed material] = delete~~

1 its determination. Within thirty days of the local school
2 board's decision, a local superintendent may appeal to the
3 secretary."

4 - 7 -
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25