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FISCAL IMPACT REPORT

ORIGINAL DATE 03/11/13

SPONSOR HJC LAST UPDATED 03/13/13 HB 567/HJCS/aHFI#1

SHORT TITLE Suspension of Local School Board Members SB _____

ANALYST Gudgel/Roberts

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY13	FY14	FY15	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of House Floor Amendment #1

The House Floor Amendment #1 to the House Judiciary Committee Substitute for House Bill 567 is as follows:

1. On page 3, line 6, after “court”, strike the remainder of the line and insert in lieu thereof “. The appeal shall be de novo.”.

This amendment provides for a new trial on the merits of the case.

Synopsis of Bill

The House Judiciary Committee Substitute for House Bill 567 (HB 567) enacts a new section of the Public School Code, establishing procedures for addressing individual school board members who violate a provision of the Public School Code, rules promulgated pursuant to the Public School Code, or an ethical standard of the local school board or the Public Education Department.

FISCAL IMPLICATIONS

Agency responses indicated no fiscal impact of the original bill. It is likely that the House Judiciary Committee Substitute will have minimal fiscal impact on local school boards in adopting policies and procedures to address the bill, and the district court in reviewing appeals.

SIGNIFICANT ISSUES

The Secretary of the Public Education Department (PED) currently has the authority to suspend a local school board; HB 567 gives the Secretary the option to suspend an individual board member, rather than having to suspend an entire school board. The PED states that only having the option to suspend an entire board results in responsible board members being suspended.

The bill establishes a process to remove single board members who are found to violate the Public School Code, any rules promulgated pursuant to the Public School Code, or an ethical standard of the local school board or the Public Education Department.

According to the PED’s analysis of the original bill, suspending board members is a last resort option the Secretary has to deal with problem situations. It is seldom exercised, but when necessary, the option to suspend an individual board member is more desirable than suspending an entire board.

According to the New Mexico School Boards Association (NMSBA), there is an avenue for individual school board members to be recalled. A recall petition process already exists and is provided for in the Local School Board Member Recall Act, which allows citizens to petition the district court to hear and render a decision on the matter, appealable only to the New Mexico Supreme Court. The NMSBA stated that removing one school board member for “any failure to meet requirements by any part of the school district under the control of the local school board” is an option that should be left to the voters, as it is now, not the Secretary of the PED.

The bill allows the school board to file a formal complaint with the Secretary of PED, who must, within 30 days commence an investigation into the violation. If the Secretary, after investigation, finds a violation, the Secretary must hold a public hearing on the suspension of the board member where the board member has an opportunity to respond. The bill requires the Secretary to consult with the Public Education Commission prior to rendering a decision. Any decision of the secretary is appealable to district court. Any suspension of a board member will remain in effect until the violation is corrected, or until the final year of the member’s term, unless the violation occurs in the member’s last year. A suspension of a majority of the board members is deemed suspension of the local school board and the department will act as the board.

ADMINISTRATIVE IMPLICATIONS

The bill requires local school boards to adopt and promulgate written policies and procedures for receiving and reviewing complaints about individual board members, and the procedures for deciding whether to file a complaint with the Secretary.

PERFORMANCE IMPLICATIONS

HB 567 could hold individual local school board members more accountable to the PED.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The PED’s analysis of the original bill noted a consequence of not enacting this bill is the Department will continue to require the suspension of an entire school board if there is a single school board member who is a bad actor.