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FISCAL IMPACT REPORT

SPONSOR McQueen **ORIGINAL DATE** 02/08/15
LAST UPDATED _____ **HB** 187

SHORT TITLE Public Education Nepotism Rule Waiver **SB** _____

ANALYST Gudgel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY15	FY16		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public Education Department (PED)

SUMMARY

Synopsis of Bill

House Bill 187 amends the Public School Code prohibition against employing a family member of a school board member (nepotism rule) to allow the Public Education Department to waive the nepotism rule for a family member of a school board member upon request by the superintendent if the superintendent can show the family member is qualified for the position and other good cause.

FISCAL IMPLICATIONS

PED notes that depending on the number of waivers submitted, the department's operating budget could be negatively impacted. However, at this time, it is unknown how many individuals would seek a waiver from the rule and what, if any, impact it will have on PED's operating budget.

SIGNIFICANT ISSUES

Current law prohibits a local superintendent from employing or approving the employment of a person who is the spouse, father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, or sister-in-law of a school board

member or the local superintendent. Law provides that the school board may waive the nepotism rule for family members of a superintendent.

PED's analysis cites a Supreme Court case, noting that the state Supreme Court applied the nepotism law only to initial hires, finding that restrictions did not apply to continued employment of an Alamogordo teacher when the teacher's family member was later elected to the school board. N.M. State Bd. of Educ. v. Bd. of Educ., 1981-NMSC-031, 95 N.M. 588, 624 P.2d 530 (1981). The Court discussed the purposes of the nepotism prohibition, "The hiring of a teacher closely related to a member of the school board justifiably arouses public suspicion that the teacher was hired on the basis of relationship rather than merit." The purposes of anti-nepotism laws are to promote employment on the basis of merit and to avoid inefficiency in public office by preventing officials from favoring their relatives and appointing those who may not be qualified to serve.

PED's analysis states "The purpose of the prohibition on hiring school board family members is to prevent the appearance of favoritism over merit or actual favoritism." However, PED notes allowing a superintendent to apply to PED to waive the restriction on grounds of merit or for other reasons aligns with this purpose.

ADMINISTRATIVE IMPLICATIONS

If enacted, PED will be required to establish a system for considering waiver requests consistent with this bill and consider all waiver requests submitted.

TECHNICAL ISSUES

The bill does not define "good cause" as used on page 2, line 7, and may be overly broad. PED's analysis suggests the term should be eliminated, only allowing waivers for family members of school board member when candidates are qualified.

RSG/aml/je