

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 60

50th Legislature, 1st Session, 2011

Tracking Number: .183893.1

Short Title: No “Golden Parachute” for Some Employees

Sponsor(s): Representative William R. Rehm

Analyst: Eilani Gerstner

Date: February 1, 2011

Bill Summary:

Among its provisions, HB 60:

- in Section 1, amends the *Personnel Act* to prohibit public employers from providing any compensation, perquisite, allowance or other extraordinary benefit to a public employee who resigns or is terminated for cause other than what was due under the employment agreement in place prior to the separation;
- in Section 2, adds a new section to the provisions relating to state and private postsecondary educational institutions requiring that a state educational institution shall not pay any compensation, perquisite, or allowance to an employee who resigns, except for those due under the employment; and
- in Section 3, adds a new section to the *Public School Code* requiring that a state agency shall not pay any compensation, perquisite, or allowance to an employee who resigns, except for those due under the employment.

Fiscal Impact:

HB 60 does not contain an appropriation.

Technical Issues:

The Public Education Department (PED) analysis of HB 60 notes:

- that Section 3 of HB 60 restricts the provisions to “a state agency;”
- however, the *Public School Code* defines a “state agency” as the New Mexico Military Institute, New Mexico School for the Blind and Visually Impaired, New Mexico School for the Deaf, and other agencies responsible for educating resident children; and
- as a result, “[i]t is not clear whether this provision is intended to apply only to PED or to all school districts and charter schools or to the definition of ‘state agency’ currently in the *Public School Code*.”

Substantive Issues:

According to the PED analysis of HB 60, if the provisions in Section 3 of the bill apply to school districts and charter schools (rather than to PED or to those agencies defined in the *Public School Code* as “state agencies”):

- school districts and charter schools that wish to terminate an administrator’s or superintendent’s contract early will no longer be able to negotiate to “buy out” the remainder of the employee’s contract;
- PED rule currently requires that such “buy outs” be approved by both PED and a court of competent jurisdiction; and
- the bill’s provisions may reduce the ability of local school districts to negotiate the early termination of an employee’s contract, which could lead to districts entering into short-term contracts with administrators to guarantee they could change personnel without waiting months or years for a contract to expire.

Related Bills:

None as of January 31, 2011.