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**PUBLIC EDUCATION DEPARTMENT
BILL ANALYSIS
2023 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

Check all that apply:

Original Amendment
 Correction Substitute

Date Prepared: 02/22/23

Bill No: [HB325/HGEICS](#)

Agency Name
and Code

Sponsor: Figueroa

Number: PED - 924

Short SCHOOL BOARD

Person Writing Gregory Frostad

Title: GOVERNANCE CHANGES

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
None	None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	None	None	None	N/A	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in the General Appropriation Act: None

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: The House Government Elections and Indian Affairs Committee Substitute for House Bill 325 (HB325/HGEICS) allows the Public Education Department (PED) to:

- (1) provide a waiver for superintendents of small school districts to employ qualified family

- members when unable to recruit others who are qualified;
- (2) provide for a penalty for nepotism in violation of the statute that would discharge the employee and remove from office the board member to whom the employee was related;
 - (3) expand and make mandatory training for school board and charter school governing body members to include topics consistent with improving student outcomes, student safety, effective and legal governance practices, and financial responsibility; and
 - (4) require live webcasting and archiving of local school board and charter school governing body meetings.

HB325/HGEICS expands campaign reporting requirements to include all candidates for school board office, not just those running for office where student enrollment is equal to or greater than 12,000.

The bill does not provide an effective date. Laws go into effect 90 days after the adjournment of the Legislature enacting them, unless a later date is specified. If enacted, this bill would become effective June 16, 2023.

FISCAL IMPLICATIONS

The bill does not include an appropriation.

The Executive Budget request for FY24 includes \$5 million for school leader professional development. This increase may support the expanded PED responsibilities and corresponding increase in personnel for training members of local school boards and charter school governing bodies.

SIGNIFICANT ISSUES

Nepotism Prohibitions. HB325/HGEICS permits a local superintendent of a school district with a membership of fewer than 500 students to apply to PED for a waiver from the nepotism prohibition of [Section 22-5-6 NMSA 1978](#), to permit a qualified family member of a school board member to apply for a job for which the district has been unable to recruit a suitable candidate with no relationship to a schoolboard member. However, when a violation of the nepotism prohibition implicates an employee who is a family member of a school board member, and no waiver has been granted, the bill proposes to remove that member from office.

An alternative approach to this issue may be to make a violation of the sort prohibited by the bill grounds for recall as malfeasance under the Recall Act (Chapter 1, Article 25 NMSA 1978). The Attorney General's Office also notes this preemptory removal may violate constitutional provisions, because Article XII, Section 14 of the New Mexico Constitution provides for removal from office of school board members via recall election. The bill would also require that the employee be "discharged". The term, "discharge" carries a specific definition in the School Personnel Act, and initiates procedures found in other sections of the Act, including Section 22-10A-27 NMSA 1978 (Discharge hearing; licensed school employees; procedures) and Section 22-10A-28 NMSA 1978 (Discharge appeals; licensed school employees; independent arbiter; qualifications; procedure; binding decision).

Local School Authority Training Requirements. HB325/HGEICS establishes new training requirements for local school boards and charter school governing bodies, including:

- Performance-based budgeting for local school boards;

- Laws and PED policies affecting local school boards, public schools, and governing bodies;
- Public school finance, budgeting and fiduciary responsibilities of local school boards and charter school governing bodies;
- Local school boards' and governing bodies' roles in evaluating and improving student achievement and using data to set individual student academic achievement;
- Local school boards' and governing bodies' roles in providing a safe learning environment conducive to improving student outcomes
- Legal concepts pertaining to local school boards and governing bodies, including the Open Meetings Act (OMA) and the Inspection of Public Records Act (IPRA);
- Effective governance practices and effective methods of supporting the superintendent.

Current training requirements for local school boards are established by 6.29.1.9 NMAC, and require members receive a total of five hours of training, annually, three hours of which must be in PED-developed training and two of which may be in training sponsored by New Mexico School Boards Association.

Current requirements for governing bodies are established by 6.80.5. NMAC, and require new members to receive a total of 10 hours of training in the first year of services, to include seven hours offered by PED, and three hours from an external source approved by the department. Currently serving members must complete 8 hours of annual training

PERFORMANCE IMPLICATIONS

ADMINISTRATIVE IMPLICATIONS

The local school board and charter school governing body training requirements would require rulemaking to adopt the changing provisions for school board and charter school training at [6.29.1.9 NMAC](#) and [6.80.5. NMAC](#), respectively.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to [HB143/HGEICS, School Board Governance Requirements](#), which amends Section 22-8B-5.2—Governing Body Conflicts of Interest.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

The PED [2022 Strategic Plan](#) includes several strategies and initiatives to “develop school, district, and school board leaders who foster collaborative, trusting learning environments where students and teachers thrive.” Research from the [National School Boards Association](#) has identified indicators of school board effectiveness that relate to higher levels of student achievement, such as maintaining a focus on learning and instruction, setting goals for improvement, aligning resources, and using data to support continuous improvement. The Strategic Plan describes PED initiatives to develop school board effectiveness that aim to increase the stability of school leadership, provide support and oversight to school boards, develop their skills in addressing issues of equity, and ensure that they are adhering to their role as outlined in statute, rule, and standards of conduct, “creating a culture of knowledgeable support and high expectations” that will benefit all students, including those identified by the Martinez-Yazzie educational sufficiency law suit.

HB325/HGEICS proposes several substantial changes to areas of public education law impacting the department, local school boards and governing bodies of charter schools. The bill requires these changes to apply to the 2023-2024 school year and take effect on June 16, 2023.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None.

AMENDMENTS

The sponsor may wish to consider amending the bill so that a violation of nepotism by school board members may lay grounds for a recall election under the Recall Act, rather than automatically removing an elected official from office without any procedures, possibly violating Article XII, Section 14 of the state constitution.