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FISCAL IMPACT REPORT

ORIGINAL DATE 03/08/13

SPONSOR HJC LAST UPDATED _____ HB 460/HJCS

SHORT TITLE School Management Contracts and Charter Boards SB _____

ANALYST Roberts

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

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

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Attorney General's Office (AGO)

Public Education Department (PED)

SUMMARY

Synopsis of Bill

House Bill 460 amends the Public School Code (Section 22 NMSA 1978). Amendments include disallowing certain management contracts for the administration of public schools; management must remain with the local school board or governing board of a charter school; and developers of a new school and members of a governing board must be residents of New Mexico. Specific provisions are as follows:

- Section one disallows school districts or charter schools to enter into any contract with a private entity to manage or administer a public school or school district or its educational program.
- Section two adds "New Mexico residents who are" to the "start-up school" definition.
- Section three adds a provision that applicants for governing boards of charter schools must reside in New Mexico.
- Section four provides that applicants for chartering must reside in New Mexico; and strikes "nonprofit" and "for profit" from section F.
- Section five amends the section in which authority's duties, to the charter school liabilities of the chartering authority, are referenced to be Section 22-8B-5.3 NMSA 1978.

FISCAL IMPLICATIONS

The PED notes:

There is no appropriation contained in this bill. However, it appears that language contained in this bill could possibly affect a number of schools statewide that use technology based systems to deliver education services. This could include the E-Academy located in the Albuquerque Schools and the Rio Rancho Cyber Academy. These schools use computer based educational systems provided by private companies. It appears these companies manage the delivery of education programs in conjunction with the district.

If this is the case and provisions of this bill are implemented, a number of programs would no longer be allowed to operate, requiring students to return to traditional schools or local charter schools requiring additional teachers and potentially additional facilities. It is unclear how many schools would fall under this scenario; however the cost could be significant.

SIGNIFICANT ISSUES

The AGO notes that the intention of the bill, seems to, disallow contracts with private entities for the management or administration of public schools. However, the change made in Section 3 of the bill, at 22-8B-4(D), seems to disallow such contracts with entities such as schools districts, the state and political subdivisions that are not private entities.

The PED further notes:

The bill provides that only New Mexico residents or a New Mexico public post secondary institution, are eligible to apply for a charter to open a school. The bill eliminates nonprofit organizations from applying for a charter as well as any business entity. These restrictions appear to work to limit competition, may violate interstate commerce, and could violate the procurement code.

It appears this bill is focused on one particular group of schools in the state, being virtual schools, which work closely with providers of computer-based educational programs. It appears that while focused on virtual schools, the provisions of this bill will also affect any school that contracts for the procurement of educational systems that require constant interaction with the vendor to ensure services are provided on a continuous basis.

PERFORMANCE IMPLICATIONS

The PED notes that this bill does not align with the department's strategic lever #5 to provide effective options for parents. This bill attempts to limit opportunities for students to achieve success by restricting a number of effective educational programs from being implemented in the state.

MIR/blm