

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 354a

51st Legislature, 1st Session, 2013

Tracking Number: .190444.6

Short Title: Charter School Facility Conditions

Sponsor(s): Representative Jim R. Trujillo and Others

Analyst: Sarah Amador-Guzman

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FOR THE PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE

AS AMENDED

The House Education Committee amendments removes the requirement for a new or relocated charter school to submit a plan on achieving a facilities rating equal to or better than the average New Mexico Condition Index (NMCI) within eighteen months of occupying the facility, and instead adds that a charter school must now attain the prescribed rating within the given time frame. The committee also restructured a section and added that the council in providing grant assistance be required to recommend “approval or denial of a new charter school” without specifically tying the recommendation to a charter school’s failure to meet the required NMCI within the given time frame.

Original Bill Summary:

HB 354 amends the *Public School Code* to:

- prohibit a charter school from occupying a facility that does not receive a condition rating equal to or better than the average condition for all public schools in New Mexico unless that charter school submits, within 18 months of occupancy or relocation, a plan by which the facilities will achieve the required rating;
- require the Public School Capital Outlay Council (PSCOC) to recommend to a chartering authority the suspension, nonrenewal, or revocation of a charter based on the charter school facility condition index ranking; and
- require the Public School Facilities Authority (PSFA) to advise the PSCOC regarding the New Mexico condition index ranking of a new or renewing charter school.

Additionally, the bill removes the administrative duties of the PSFA with regard to outstanding deficiencies in projects funded by the PSCOC.

Fiscal Impact:

HB 354 does not make an appropriation.

Substantive Issues:

The *Charter Schools Act* currently requires a charter school whose facilities do not meet the required condition rating to *demonstrate*, within 18 months of occupancy or relocation, *the way in which* the facilities will achieve the required rating.

According to the PSFA bill analysis, the amendments do not:

- provide a specific time requirement for achieving the acceptable facility condition level and may allow a charter school to lease and occupy a facility in poor conditions beyond 18 months while repairs or renovations are completed; and
- include specifics on procedures or consequences for charter schools that do not submit the plan within the deadline.

The PSFA also believes the bill should clarify that the PSCOC's duty to recommend a suspension, nonrenewal, or revocation extends to situations in which schools do not meet the 18 month deadline.

Background:

According to the PSFA bill analysis, the Public School Capital Outlay Oversight Task Force (PSCOOTF) is charged by statute to monitor the progress and effectiveness of programs administered by the PSCOC and PSFA. As part of its 2012 Interim Work Plan, the Task Force examined a number of issues related to the lease assistance program and charter school facilities. Charter schools are the primary recipients of the lease-assistance program.

According to the PSFA bill analysis, PSCOOTF identified the following issues for consideration with the lease-assistance programs and charter school facilities:

- costs of the program have increased over 20 percent per year, and are now at \$13.5 million;
- over 50 percent of the program funds are used to pay leases for privately owned facilities;
- the majority of charter schools are not in public buildings and there is a possibility that the 2015 statutory deadlines to be in public buildings will be extended, thus extending the high cost of the program;
- the statutory allowance for school districts to receive lease payments from charters for underutilized space has been ineffective, resulting in charters leasing from private entities and other public entities;
- the annual adjustment of the disbursement rate by the Consumer Price Index (CPI) is a concern because the CPI may not be an appropriate adjustment for commercial property rents whose prices do not move in concert with consumer prices;
- there is generally insufficient facility knowledge and experience to support effective acquisition and operation of facilities;
- there are no state-issued standard lease documents suitable for public education providers available to public school districts or charter schools for leasing facilities or land; and
- the lack of a standardized lease document results in a lack of consistency and transparency.

During the 2012 interim, the Legislative Education Study Committee (LESC) heard testimony about the status of 11 charter schools that the Public Education Commission had approved to

open in school year 2012-2013. As late as August 2012, four of those 11 were still trying to resolve facilities issues in order to be cleared to open.

Committee Referrals:

HEC/SEC/SJC

Related Bills:

HB 314 *Charter School Facility Procedures*

SB 333aa *School Leases & Interest Conflicts*