

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 280

49th Legislature, 2nd Session, 2010

Tracking Number: .179449.1

Short Title: Charter School Priority Enrollment

Sponsor(s): Representative Janice E. Arnold-Jones

Analyst: David Harrell

Date: February 12, 2010

Bill Summary:

House Bill 280 amends the *Charter Schools Act* in the *Public School Code* to grant priority for enrollment to the children of teachers at the charter school, during the first year of operation and during subsequent years.

Fiscal Impact:

HB 280 makes no appropriation.

Substantive Issues:

Noting that the bill will “help rural schools recruit and maintain teachers if their children can attend the charter school where they teach,” the New Mexico Coalition for Charter Schools has expressed support for HB 280.

Along the same lines, the analysis by the Office of Education Accountability (OEA) suggests that HB 280 “may serve as an incentive to individuals who may otherwise not be inclined to move to a charter school.”

In addition, a model charter school law drafted by the National Alliance for Public Charter Schools recommends “limited enrollment preferences . . . for the children of the school’s founders, governing board members, and full-time employees,” in addition to policies for open enrollment and for lotteries in case demand exceeds supply. Such preferences are reasonable, the alliance explains, because “these individuals often devote much of their energies into starting and operating a public charter school.” Even so, the model law recommends that no more than 10 percent of a school’s available seats be reserved for these individuals.

While these positions may have merit, the first-priority status of children of teachers may become problematic.

- For one thing, as suggested by the model law cited above, it might be argued that the founders, administrators, members of the governing board, and other supporters of the charter school have a personal investment in the school equal to or even greater than a teacher’s and that their children are equally entitled to priority enrollment.

- For another thing, this first-priority status during subsequent years of operation would mean that:
 - the children of a newly hired teacher would be enrolled ahead of students already enrolled in the school and of those students' siblings; and
 - the children of charter school teachers would take precedence in waiting lists, ahead of other students who may have been on those lists for months or even years. In testimony to the Legislative Education Study Committee during the 2009 interim, the New Mexico Coalition for Charter Schools reported that 67 percent of charter schools in New Mexico had waiting lists and that approximately 4,000 students statewide were on these lists.

Technical Issues:

The *Charter Schools Act* currently provides two methods for enrolling students:

- a first-come, first-served basis; or
- a lottery “if the total number of applicants exceeds the number of spaces available” at the school.

HB 280 retains these two methods unchanged, “provided that children of teachers at the charter school have priority enrollment under either selection process.”

While it may be possible to adapt the first method to the enrollment preference provided in HB 280, the lottery method would seem to preclude granting enrollment priority to any category of student because of the random nature of lotteries. It may be, however, as the analysis by the Public Education Department suggests, that the intent of the bill is to exempt the children of teachers from the lottery process altogether. If that is the case, the sponsor may wish to amend the bill to state that intent explicitly.

Background:

The OEA analysis cites federal guidelines, which recognize certain exemptions from the lottery process, children of founders and employees among them.

The OEA analysis also provides a sample of the variety in charter school enrollment policies among other states. North Carolina, for example, according to OEA, grants priority to children of principals and other administrators, teachers, and teacher assistants but not to children of other employees; and Missouri grants priority to children of teachers as long as the parent resides in the district in which the charter school is located.

Related Bills:

HB 21 *School Priority for Certain Students*
 HB 74 *Charter School Oversight for 1 Year*
 SB 124 *Repeal Charter School Limits*