

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 113a

50th Legislature, 1st Session, 2011

Tracking Number: .183685.2

Short Title: Charter School Expenditure Reports

Sponsor(s): Representatives Jimmie C. Hall and Rick Miera

Analyst: Peter B. van Moorsel

Date: March 1, 2011

**FOR THE PUBLIC SCHOOL CAPITAL OUTLAY OVERSIGHT TASK FORCE
AND
THE LEGISLATIVE EDUCATION STUDY COMMITTEE**

AS AMENDED

The House Education Committee amendment requires that the reports to the Public Education Department required in HB 113 also be submitted to a charter school's chartering authority.

Original Bill Summary:

HB 113 creates new sections of the *Public School Capital Improvements Act* (commonly referred to as SB-9) and the *Public School Buildings Act* (commonly referred to as HB-33) that require charter schools to report anticipated and actual expenditures of distributions made pursuant to those acts. Specifically, the bill creates sections in each of the above sections of law to require that:

- No later than December 1 of each year, each locally chartered or state-chartered charter school that expects a state distribution (for SB-9 only) or a distribution of property taxes pursuant to that act during the next calendar year must submit a report to the Public Education Department (PED) showing the purposes for which the expected distribution will be expended.
- PED must:
 - review the report;
 - within 20 days of receiving the report, advise the charter school if, in its opinion, the proposed expenditures are consistent with law; and
 - provide a copy of the advice to the local district.
- No later than January 31 of each year, each locally chartered or state-chartered charter school that received a state distribution (for SB-9 only) or a distribution of property taxes pursuant to the act during the preceding calendar year must submit a report to PED showing the purposes for which the distribution was expended and the amount expended for each purpose.

Fiscal Impact:

HB 113 does not contain an appropriation.

The PED analysis of HB 113 reports that the bill will have no fiscal implications for the department, as it states that it will be able to absorb any additional workload created by the legislation.

Substantive Issues:

- PED's analysis of HB 113 notes that the annual submission of reporting may provide greater transparency regarding the processes, procedures, and accountability of the use of state and local funds.

The department adds that because the submission of reports is only required annually, it does not consider the reporting requirement to be excess bureaucracy, adding that the reporting requirements may protect charter schools from inappropriately spending SB-9 and HB-33 funds.

- During the 2010 interim, the Legislative Education Study Committee (LESC) heard a staff report relating to the provisions in law concerning capital outlay for charter schools, including the election status for both the SB-9 and HB-33 mill levies for districts with charter schools. The staff report addressed which school districts included charter schools on their resolutions, and noted that some charter schools had expressed concerns about: (1) a lack of uniformity in how property tax revenues are distributed to charter schools; (2) a school district's noncompliance with provisions in law requiring distribution of SB-9 and HB-33 funds; and (3) a lack of consequences for such noncompliance. However, staff also noted that other charter schools reported no issues with access to bond proceeds.

Finally, LESG staff testimony cited Albuquerque Public Schools' policy concerning charter schools, which states that the district must include a charter school in its capital master plan and queue it in the district's prioritization needs assessment if it has had its charter renewed at least once and has been in operation for five years.

- Considering the above issues, the enactment of HB 113 may enable more efficient communication between charter schools and the districts in which they are located pertaining to facility needs and the SB-9 and HB-33 funds needed to address them. In addition, the information contained in the required reports may facilitate the master planning process and, as a result, give charter schools greater access to SB-9 and HB-33 funds.

Background:

Commonly referred to as SB-9 or the "two-mill levy," the funding mechanism authorized by the *Public School Capital Improvements Act* allows school districts to ask local voters to approve a property levy of up to two mills for a maximum of six years to generate funds for capital improvements. In order to be able to expend SB-9 proceeds for a certain purpose, that purpose must be included in the school district's resolution to impose the tax.

Beginning in FY 10, statute requires that a resolution to impose the two-mill levy include funding for a locally chartered or state-chartered charter school located within the school district if the charter school provides the school district with the necessary information that identifies the capital improvements of the charter school for which the revenue will be used. Authorized purposes for the use of SB-9 funds include:

- erecting, remodeling, making additions to, providing equipment for, or furnishing public school buildings;
- purchasing or improving public school grounds;
- maintaining public school buildings or public school grounds, including purchasing or repairing maintenance equipment, participating in the Facility Information Management System (FIMS) as required by the *Public School Capital Outlay Act*, and making payments under contract with regional education cooperatives (RECs) for maintenance support services and expenditures for technical training and certification for maintenance and facilities management personnel, but excluding salary expenses of school district employees;
- purchasing activity vehicles for transporting students to extracurricular activities; and
- purchasing computer software and hardware for student use in classrooms.

Commonly referred to as HB-33, the *Public School Buildings Act* allows districts to impose a tax not to exceed 10 mills for a maximum of six years on the net taxable value of property upon approval of qualified voters. Authorized uses of SB-9 funds include:

- erecting, remodeling, making additions to, providing equipment for or furnishing public school buildings;
- making lease-purchase arrangement payments;
- purchasing or improving public school grounds;
- purchasing activity vehicles for transporting students to and from extracurricular activities (excepting school districts with membership greater than 60,000); or
- expending up to 5.0 percent of the total project costs on project administration, including expenditures for facility maintenance software, project management software, project oversight and district personnel specifically related to administration of projects funded by proceeds of the HB-33 levy.

The act provides that the authorized tax rate made under the *Public School Buildings Act*, when added to the tax rates for servicing the debt of the school district and the rate authorized under the *Public School Capital Improvements Act*, cannot exceed 15 mills. If a district's total tax rate does exceed this statutory limit, the HB-33 tax rate must be adjusted downward to compensate.

The act further provides that a resolution for the imposition of an HB-33 levy submitted to voters include capital improvements funding for a locally chartered or state-chartered charter school located within the school district if:

- the charter school timely provides the necessary information to the school district for inclusion on the resolution that identifies the capital improvements of the charter school for which the revenue proposed to be produced will be used; and
- the capital improvements are included in the school district's¹ or the charter school's² five-year facilities plan.

Related Bills:

None as of February 4, 2011.

¹ For locally chartered charter schools.

² For state-chartered charter schools.