

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 100

50th Legislature, 2nd Session, 2012

Tracking Number: .188084.1

Short Title: Repeal Charter School Capital Outlay Fund

Sponsor(s): Representative Ray Begaye

Analyst: David Craig

Date: February 7, 2012

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

Bill Summary:

HB 100 repeals the July 1, 2012 sunset date of the:

- Charter School Capital Outlay Fund (CSCOF); and
- provisions in the *Public School Capital Outlay Act* relating to a program for assisting charter school to be located in public buildings or in buildings being acquired by charter schools pursuant to a lease-purchase agreement.

Fiscal Impact:

HB 100 does not make an appropriation.

Fiscal Issues:

In the 2007 regular legislative session, two pieces of legislation were enacted relating to charter schools:

- Laws 2007, Chapter 214 (SB 634, *Charter School Facilities Needs*) added new sections of the *Public School Capital Outlay Act* that among its provisions:
 - require the Public School Capital Outlay Council to develop a program for assisting charter schools to be located in public buildings or in buildings being acquired by charter schools pursuant to a lease-purchase agreement; and
 - create the CSCOF; and
 - included a repeal date of July 1, 2012 for the program provisions and the CSCOF with the unencumbered fund balance reverting to the Severance Tax Bond Fund.
- Laws 2007, Chapter 334 (House Bill 936, *Capital Outlay Projects*) that among its provisions:
 - made a \$4.5 million appropriation from Severance Tax Bond proceeds to the CSCOF; and

- included a reversion date of June 30, 2011 for projects funded with Severance Tax Bond proceeds.

According to the Public School Facilities Authority (PSFA):

- the State Board of Finance requested reversion of any unexpended dollars in the CSCOF on June 30, 2011 based on the provisions of Laws 2007, Chapter 334;
- of the \$4.5 million appropriated to the fund:
 - \$3.14 million has been expended; and
 - \$1.36 million will revert to the Severance Tax Bonding Fund.

Finally, PSFA states that reversion of the unexpended balance in the CSCOF will result in having active projects in 12 charter schools (at a cost of \$112,084) being completed with dollars from the Public School Capital Outlay Fund.

Substantive Issues:

If HB 100 is not enacted, a fund will not exist to provide assistance to charter schools for locating in a public building or in a building being acquired by charter schools pursuant to a lease-purchase agreement.

According to the PSFA bill analysis:

- the principal reason for the un-awarded/un-expended amount reverting is due to the prerequisite of eligibility for a standards-based award that charter schools be renewed at least once pursuant to provisions in the *Charter School Act*;
- renewal of a school's charter occurs five years after initial authorization (six including the planning year) and every five years thereafter; and
- due to this requirement, state-chartered charter schools that were only recently created were ineligible for a standards-based award.

In 2013, four state-chartered charter schools will meet the renewal requirement; in 2014, 12 state-chartered charter schools will meet the renewal requirement; and 18 state-chartered charter schools have charters that end on June 30, 2015.

Technical Issues:

The short title of HB100, *Repeal Charter School Capital Outlay Fund*, suggests an effect opposite of that intended by the bill.

Background:

PSFA also says that “money available in the fund may be used for these purposes in this order:

- making grants to a state-chartered charter school for its share of a PSCOC project;
- making grants to locally or state-chartered charter schools;
- providing grants to a locally chartered school for its share of a PSCOC project; and
- providing the state share of a project from the Charter School Capital Outlay Fund instead of from the Public School Capital Outlay Fund.”

PSFA has the ability to use this money in the above order, in part, for the following reasons:

- state-chartered charter schools do not have access to funds for their “local share” for participation in Public School Capital Outlay Council standards-based grant awards;
- by July 1, 2015, all charter schools are either to be in public buildings, leasing from lessors that meet state adequacy standards, or to have a facility owned by a nonprofit that was created to provide a facility for the charter school; and many charter schools still do not meet these requirements; and
- many locally chartered charter schools also have limited access to their share of the “local share,” as districts may not have bond funds available for their use.

With future anticipated costs associated with state-chartered charter schools regarding eligibility for PSCOC standards-based awards and the public buildings requirement applicable to all charter schools, HB 100 leaves the existence of the CSCOF in place for possible future needs related to charter schools with regard to capital outlay.

Related Bills:

None as of February 7, 2012.