

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: CS/SB 352

50th Legislature, 2nd Session, 2012

Tracking Number: .189438.1

Short Title: Charter School Facilities Task Force

Sponsor(s): Senator Cynthia Nava

Analyst: David Craig

Date: February 9, 2012

Bill Summary:

CS/SB 352 makes an appropriation to the Public Education Department (PED) to:

- establish a charter school facilities task force; and
- contract with a statewide public policy organization to assist the task force in developing solutions on how charter schools, including state-chartered charter schools, may acquire needed buildings.

Among its provisions, the bill requires the task force to:

- review existing laws, policies and procedures and develop recommendations and best practices based on research; and
- present a final recommendation to the Legislative Education Study Committee (LESC), the Public School Capital Outlay Council (PSCOC), the Public School Capital Outlay Oversight Taskforce (PSCOOTF), and other pertinent legislative committees or executive agencies.

Fiscal Impact:

\$35,000 is appropriated from the General Fund to PED for expenditure in FY 13. Any unexpended or unencumbered balance remaining at the end of FY 13 reverts to the General Fund.

Substantive Issues:

Each interim, the LESL receives staff reports about charter schools.

During the October 2011 interim meeting, the LESL heard that the Public Education Commission requires a state-chartered charter school to demonstrate to PED that, prior to beginning operations, the Public School Facilities Authority (PSFA) has certified that:

- the facility the school intends to occupy will receive a condition rating equal to or better than the average for all public schools in the state; or

- the charter school can demonstrate that within 18 months of occupancy it has a plan for achieving the weighted New Mexico Condition Index.¹

During the 2010 interim, the committee heard a report outlining the capital outlay provisions in current law as they pertain to charter schools (see “Background,” below).

Among the topics discussed were:

- the number of charter schools receiving lease assistance;
- concerns about a lack of uniformity in how property tax revenues are distributed to charter schools;
- school districts’ compliance with the provisions in law requiring distribution of SB-9 and HB-33 funds; and
- consequences for noncompliance with current provisions in law.

Testimony by PSFA staff also raised concerns that many capital planning decisions would be made more manageable if all charter schools were to go through an educational specification process to determine a charter school’s student population, the type of curriculum, and the type and quantity of spaces needed to meet the needs of the charter.

Background:

Capital outlay provisions affecting charter schools are found in several places in the *Public School Code*:

Charter Schools Act – This section of law:

- makes locally chartered charter school facilities eligible for state and local capital outlay funds;
- requires that they be included in the school district’s five-year facilities plan;
- requires that the facilities of an charter school whose charter has been renewed at least once be evaluated, prioritized, and made eligible for grants in the same manner as all other public schools; and
- allows money in the Charter School Capital Outlay Fund to be used to assist state-chartered charter schools with the local match for a public school capital outlay project; and
- requires that, on or after July 1, 2015, a new charter school may not open and an existing charter may not be renewed unless the charter school is housed in a public facility; is subject to an approved lease-purchase arrangement; or meets certain other criteria.

Public School Capital Outlay Act – This section of law:

- requires that a school district make a lease assistance application for a charter school located in the school district;

¹ The New Mexico Condition Index is the metric by which all schools are compared relatively against each other, including facility condition, educational adequacy, and key priorities such as life, health and safety. This facilities assessment model, widely regarded as a national best practice, is the primary tool by which New Mexico allocates state capital funding to school facilities needs.

- permits the charter school to submit its own application if the school district fails to make an application on its behalf; and
- allows charter schools to use lease assistance grants to make payments toward lease-purchase arrangements that have been approved pursuant to the *Public School Lease Purchase Act*.

Public School Capital Improvements Act (SB-9), and Public School Buildings Act (HB-33)
– Amendments made in 2007 to the *Public School Buildings Act* and in 2009 to the *Public School Capital Improvements Act*:

- require the capital improvements needs of charter schools to be included on district resolutions to impose property taxes for capital improvements if the charter school provides the necessary information to the school district for inclusion on the resolution; and
- the statutes governing both SB-9 and HB-33 require that the revenue raised by these property levies be distributed to each charter school on the resolution in the proportion of the charter school's enrollment to the district's enrollment.

Related Bills:

HB 100 *Repeal Charter School Capital Outlay Fund*