

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 622

51st Legislature, 1st Session, 2013

Tracking Number: .192323.1

Short Title: Charter Schools as Local Agencies

Sponsor(s): Representative Mimi Stewart

Analyst: Sarah Amador-Guzman

Date: March 19, 2013

Bill Summary:

HB 622 amends the *Charter Schools Act* to:

- make the Public Education Commission (PEC) the sole authorizer of charter schools;
- require the PEC to submit to the Public Education Departments (PED) an annual performance report on each charter school;
- require charter schools to meet the PED educational standards, fiscal requirements, and areas pertaining to educating students with disabilities by complying with all federal and state laws;
- require members of the governing body of a charter school to be residents of New Mexico;
- require that no member of a local school board be employed in any capacity by a charter school;
- classify a charter school as an “independent local educational agency for purposes of the federal *Individuals with Disabilities Education Act*”;
- prohibit a charter school from entering into a contract that would not make the administration responsible for the day-to-day operations or the governing body responsible for the development and implementation of school and educational policies;
- make charter schools subject to the provisions in the *Audit Act*;
- require that, upon termination of a charter school, all assets revert to the state, except for any facilities financed with proceeds from general obligation bonds issued by a local school board, which revert to the school district;
- disallow nonprofit entities from applying for or receiving a charter;
- allow a charter school to appeal the final decision of the PEC in district court;
- transfer the Charter Schools Division (CSD) from PED to the PEC, administratively attach the CSD to the PED, require PED to provide administrative services to the CSD, require the CSD to continue using PED’s information technology resources, and require the PEC and PED to enter into data-sharing agreements;
- transfer, in a temporary provision, the functions, appropriations, records, equipment, and other property of the CSD to the PEC; and transfer all contractual obligations of the CSD to the PEC; and
- repeal provisions in the *Charter Schools Act* that allow appeals to the Secretary of Public Education.

Fiscal Impact:

HB 622 does not contain an appropriation.

Substantive Issues:

According to the National Alliance for Public Charter Schools, charter school students represent 4.6 percent of the total number of students in New Mexico public schools. Currently in school year 2012-2013, PED reported a total of 95 charter schools operating in 24 districts throughout New Mexico. Of those 95 schools, 44 are locally chartered and 51 are state-chartered charter schools.

According to the National Association of Charter School Authorizers (NACSA), the number of school district authorizers has grown rapidly, resulting in 90 percent of all charter school authorizers being school district authorizers. Nationally between school year 2007-2008 and school year 2010-2011, a total of 233 new authorizers were added. According to NACSA, there are six types of charter school authorizers:

1. higher education institutions (HEIs);
2. independent chartering boards (ICBs);
3. school districts, or local education agencies (LEAs);
4. mayors/municipalities (MUNs).
5. not-for-profit organizations (NFPs); and
6. state education agencies (SEAs).

The table below summarizes the number of schools that each authorizer oversaw during school year 2010-2011:

TYPE	HEI	ICB	LEA	MUN	NFP	SEA	TOTAL
Number of Authorizers, 2010-2011	49	8	857	2	20	19	955
Number of charter schools; 2010-2011 ¹	438	695	2,804	27	213	1,091	5,268
Percentage of charter schools Overseen, by Authorizer Type, 2010-2011	8%	13%	53%	<1%	4%	21%	100%

Background:

Created through a constitutional amendment adopted in 2003, the PEC comprises 10 members elected from districts throughout the state. The statutory duties of the PEC include authorizing state-chartered charter schools, advising the Secretary of Public Education on the strategic plan for education, and overseeing certain federal funds. In its role as a chartering authority, the PEC works closely with the CSD; and staffing to support all of its functions is provided by PED.

Committee Referrals:

HEC/HJC

Related Bills:

HB 166a *Charter School Audit Finding Reporting*

HB 314 *Charter School Facility Procedures*

HB 354a *Charter School Facility Conditions*

HB 453a *School Chartering Authority to State*

HB 553a *Charter Schools Transportation Funding*

*CS/SB 338 *Define Virtual Charter School & Moratorium*

SB 358 *School Districts Governing Charter Schools*

SB 476a *Public Education Commission As Independent*