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**LEGISLATIVE EDUCATION STUDY COMMITTEE**  
**BILL ANALYSIS**  
**56th Legislature, 1st Session, 2023**

<b>Bill Number</b>	<u>HB143</u>	<b>Sponsor</b>	<u>Sariñana</u>
<b>Tracking Number</b>	<u>.223743.2</u>	<b>Committee Referrals</b>	<u>HGEIC/HEC</u>
<b>Short Title</b>	<u>School Board Governance Requirements</u>		
<b>Analyst</b>	<u>Estupiñan</u>	<b>Original Date</b>	<u>1/25/2023</u>
		<b>Last Updated</b>	<u></u>

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**FOR THE LEGISLATIVE FINANCE COMMITTEE**

**BILL SUMMARY**

Synopsis of Bill

House Bill 143 (HB143) would amend several sections of statute to increase reporting requirements from the Public Education Department (PED), clarify training requirements for both school board and charter school governing board members, require the webcasting and archiving of district and charter school governing board meetings, require the creation of a standardized leasing form for use by all charter schools, increase prohibitions on conflicts of interest in the governance and employment of charter schools, and require that lease payments be approved by the Public School Capital Outlay Council at the local market rate.

The provisions of the bill would be effective at the beginning of the 2023-2024 academic year and would apply in all subsequent academic years.

**FISCAL IMPACT**

The bill does not contain an appropriation.

**SUBSTANTIVE ISSUES**

**Current Training Requirements for School Board Members.** New Mexico Administrative Code § 6.29.1.9 requires that school board members receive a total of five hours of training on an annual basis. For new school board members, three of those five hours must be earned through a training developed by the department, with the remaining two hours completed through training sponsored by the New Mexico School Boards Association.

**Current Training Requirements for Charter School Governing Board Members.** New Mexico Administrative Code § 6.80.5.8 requires that new charter school governing board members receive a total of ten hours of training in the first fiscal year of their service. That training must include a seven hour training program provided by PED along with three additional hours provided

by an external entity approved by PED. The department recommends each governing board provide a three hour “onboarding” training that includes information on integrating a new governing body member into the school by familiarizing the new governing body member with the school’s governance structure and requirements, other governing body members, financial status, history, contract, goals, model, staff, strengths and challenges, and current academic, financial, and organizational performance.

Continuing charter school governing board members are required by New Mexico Administrative Code § 6.80.5.9 to complete eight hours of training by an external entity approved by the department. That training should include:

- One hour on public official/charter school governing body ethics and responsibilities;
- Three hours on fiscal requirements;
- Two hours on understanding and evaluating academic data;
- One hour on open governing and requirements regarding free public school education along with understanding and overseeing organizational performance;
- One hour on equity & culturally and linguistically responsiveness.

Section 1. This section strikes language that defines a “covered office” as a school board member serving at a school district with a student enrollment greater than 12 thousand.

Section 2. This section adds a section to the Public School Code that would require PED to report data on attendance, whether students are on track to graduate, educator vacancies, educator retention, educator caseloads, and any other data the department believes is necessary. Those reports would be required on a quarterly basis and would be provided to each local school board.

Section 3. This section amends statute by allowing PED to suspend an individual school board member whereas current statute only allows the department to suspend a school board in its entirety. Additional language in this section clarifies suspended school board members can also participate in the appeal process that is currently only intended for school boards suspended in their entirety as well as suspended superintendents and principals.

Section 4. This section amends statute to require PED to report student performance data on standards-based assessments to school districts on a rolling basis. Current statute requires the department report that data by August 5 of each year.

Section 5. This section amends statute by striking the word “annual” from assessment data reporting requirements and clarifies that data is to be reported by the department to school districts on a rolling basis.

Section 6. This section amends statute by clarifying that local school boards are empowered with the authority and duty to establish an annual evaluation process for their superintendents. However, that annual evaluation process must use guidelines and evaluation metrics established by PED.

Section 7. This section amends statute by adding performance-based budgeting to the areas of training PED must incorporate in school board member training sessions. Statute would be further amended to clarify the subtopics that school board member training must incorporate, including:

- (1) laws and department policies and procedures affecting local school boards or public schools;

- (2) public school finance, budgeting and fiduciary responsibilities of local school boards;
- (3) a local school board's role in evaluating and improving student academic achievement and using data to set individual school goals for student academic achievement in each of the school district's public schools;
- (4) a local school board's role in providing a safe learning environment conducive to improving student outcomes;
- (5) legal concepts pertaining to local school boards and school districts, including the Open Meetings Act and the Inspection of Public Records Act;
- (6) effective governance practices and effective methods of supporting and supervising the local superintendent; and
- (7) other matters deemed relevant by the department.

Section 8. This section would add language in the Public School Code requiring all school board meetings be webcast and archived for a minimum of five years on each school district's website. School districts would be required to have a user interface that enables members of the public to submit comments.

Section 9. This section would require PED to provide quarterly reports on the fiscal status of each school district or charter school using a standard report developed by the department. It would also strike language that required the local superintendent or designated fiscal manager of a charter school to compile and report on that information. Additionally, school districts and charter schools would be required to collaborate with PED in posting those reports to their respective website.

Section 10. This section would amend statute to indicate that charter schools may enter into an agreement for the use of school district facilities in exchange for lease payments that are approved by the public school capital outlay council at the local market rate. This would prevent a school district from charging leasing rates that could be considered excessive but it is unclear how that rate would be determined and which entity would make that determination.

Section 11. This section would amend statute by striking language that requires a charter school to, within 18 months of relocation or occupancy of a facility, demonstrate its plan for how its facility will achieve a condition rating equal to or greater than the state's average condition index. It would replace that language with a specification that a charter school must attain a condition rating equal to or greater than the state's average condition index within 18 months of relocation or occupancy of a facility.

Section 12. This section would amend statute by clarifying the areas of training that PED must incorporate in training courses for governing board members of charter schools. Those required areas of training would be:

- (1) laws and department policies and procedures affecting governing bodies or charter schools;
- (2) public school finance, budgeting and fiduciary responsibilities of governing bodies, in particular federal and state requirements for state-chartered charter schools to receive and maintain the schools' status as boards of finance;
- (3) a governing body's role in evaluating and improving student academic achievement and using data to set the school's goals for student academic achievement;
- (4) a governing body's role in providing a safe learning environment conducive to improving student outcomes;
- (5) legal concepts pertaining to governing bodies and charter schools, including the Open Meetings Act and the Inspection of Public Records Act;

- (6) effective governance practices and effective methods of supporting and supervising the head administrator; and
- (7) other matters deemed relevant by the department.

Section 13. This section would amend statute by prohibiting an individual from being employed by a charter school if that same person has a financial interest in a non-profit or for-profit entity that contracts with that charter school. Previously, statute only indicated that an individual could not serve on the governing board of a charter school while also having a financial interest in an external entity that contracts with that school. The bill would also require that contracts between the charter school and the external entities with which that individual has a financial interest be considered void, whereas statute currently indicates those contracts could be considered voidable by the chartering authority, PED, or the governing board. Additionally, contracts that are negotiated or agreed to by an employee, officer, or agent of a charter school who has a conflict of interest would be considered void by the provisions of the bill.

Section 14. This section would require a chartering authority to review and approve all conflict of interest disclosure statements on an annual basis.

Section 15. This section would require a charter school to webcast its governing board meetings and archive those recordings on its website for a minimum of five years. Charter schools would be required to have a user interface that enables members of the public to submit comments.

Section 16. This section would require that the capital outlay council create a standardized facility lease form for use by all charter schools that are creating, amending, or renewing lease agreements. The provisions of this section would be effective July 1, 2023. Statute would also be amended to specify that leasing agreements entered into, amended, or renewed after that date may only be reimbursed for base rent and be pre-approved by the capital outlay council using the newly created standardized leasing form.

## **ADMINISTRATIVE IMPLICATIONS**

HB143 may require considerable resources at PED to compile and report the wide range of fiscal information and student achievement data that it would be required to continuously submit to local school boards.

Currently, much of the training opportunities that are currently available to school board members are provided by the New Mexico School Boards Association, which is funded by dues paid by individual school districts, along with revenues from conferences and region meetings the association hosts throughout the year. Clarifying the content areas that school board members are required to receive training in may consequently not be an administrative nor fiscal burden on PED.

The training provisions for charter school governing board members may be an administrative burden on PED as New Mexico Administrative Code § 6.80.5.8 requires the department to provide a 7 hour training program to all new charter school governing board members. Although, administrative rule also allows continuing governing board members to receive training from an external entity that has been approved by the department. Thereby reducing the administrative burden of the bill's provisions on the department.

**SOURCES OF INFORMATION**

- LESC Files

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