

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 344a

50th Legislature, 1st Session, 2011

Tracking Number: .183711.1

Short Title: NM State Fairgrounds Charter Renewal Site

Sponsor(s): Senator Mark Boitano and Representative Al Park

Analyst: David Harrell

Date: February 23, 2011

AS AMENDED

The Senate Education Committee amendment replaces the word “renewal” in the title of the bill with the word “schools” to clarify that the bill applies to new charter schools as well as schools renewing their charters (see “Technical Issues,” below).

Bill Summary:

SB 344 amends the *Charter Schools Act* to allow charter schools to be housed in buildings owned by “a state governmental instrumentality, including the New Mexico state fair” as a means of satisfying this requirement in the act: that, on or after July 1, 2015, a new charter school not open or an existing one not be renewed unless it is housed in a public building or a nonpublic building that meets certain criteria (see “Background,” below).

Fiscal Impact:

SB 344 does not contain an appropriation.

Technical Issues:

Because it is not defined, the phrase “a state governmental instrumentality” may be applied to other facilities beyond those contemplated by SB 344. As employed in common usage and as defined in another bill introduced during the 2011 session, the word “including” is “not [a term] of limitation or exclusive enumeration” (see HB 184, *Statutory Use Includes & Including*).

The short title of the bill – *NM State Fairgrounds Charter Renewal Site* – is misleading because, as noted under “Bill Summary,” above, SB 344 would apply to new charter schools as well as schools renewing their charters.

Substantive Issues:

The grounds of the New Mexico State Fair in Albuquerque comprise a wide variety of structures, from corrals to performing arts centers. Presumably, any facility used by a charter school would be required to meet the same adequacy standards applied to charter school facilities in other locations. On this point, the analysis by the State Fair Commission says that the administration would work “with all necessary parties in order to comply with the Public School Capital Outlay Act.”

The analysis by the Public Education Department indicates that the bill is unnecessary because the State Fair already meets the criteria for public buildings established in the *Charter Schools Act*.

- As noted under “Background,” below, charter schools may be housed in buildings owned by the state or an institution or political entity of the state.
- According to the General Services Department, Expo New Mexico (or the New Mexico State Fair) is a state entity.

Background:

The *Charter Schools Act* currently requires that, on or after July 1, 2015, a charter school not open and the charter of an existing school not be renewed unless the charter school is housed in:

- a building owned by the charter school, the school district, the state, an institution of the state, another political subdivision of the state, the federal government or one of its agencies, or a tribal government; or
- a building that is subject to a lease-purchase arrangement pursuant to the *Public School Lease Purchase Act*.

In addition, however, the *Charter Schools Act* allows certain exceptions to this requirement. If it is not housed in a public building:

- the charter school must demonstrate that the facility meets the statewide adequacy standards; and
- the owner of the facility must be contractually obligated to maintain those standards at no additional cost to the charter school or the state: and
 - either public buildings are not available or adequate; or
 - the owner of the facility is a nonprofit entity specifically organized for the purpose of providing the facility for the charter school.

Related Bills:

None as of February 23, 2011.