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FISCAL IMPACT REPORT

ORIGINAL DATE 03/15/11
LAST UPDATED 03/17/11 **HB** _____

SPONSOR Sapient

SHORT TITLE Charter School Contracts **SB** 446/aSEC/aSJC/aHEC

ANALYST Gudgel

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY11	FY12		
	NFI		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	FY12	FY13	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total		See Fiscal Implications				

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From
Public Education Department (PED)

SUMMARY

Synopsis of HEC Amendment

House Education Committee Amendment to Senate Bill 446 strikes Subsection F, on pages 16 and 17, which reads, "multiple charter schools operating under a single charter contract shall report each school's performance as a separate, individual school, and each school shall be held independently accountable for its performance." This section is being stricken because multiple charters are not allowed to operate under a single charter contract.

Synopsis of SJC Amendment

The Senate Judiciary Committee Amendment to Senate Bill 446 makes several technical corrections, and several changes to the conflicts of interest section contained in Section 7. The conflict section is limited to those individuals that are currently included in the nepotism provisions of Section 22-5-6 of the Public School code and any other relative who is financially

supported by a member of a governing body. The amendment also clarifies that a person who knowingly violates the conflicts of interest section may be individually liable to the charter school for any financial damage caused by the violation.

Synopsis of SEC Amendment

The Senate Education Committee Amendment to Senate Bill 446 makes the following changes to the bill:

- Inserts language in Section 1 that prohibits a school board member from being on the governing body of a charter school or employed by a charter school that the school board has authorized.
- Amends Section 3 to give the Secretary authority, in the event of an appeal, to finalize the terms of a charter contract if the authorizer and the applicant can't agree to contract terms or fail to enter into a contract.
- Amends Section 3 to eliminate Paragraph 18 of Section B that allowed the charter contract to include agreements between the governing body and the authorizer to open and operate another charter school under the existing contract. If a governing body wants to open another charter school they will be required to apply for a new charter.
- Amends Section 3 to allow an appeal to the Secretary in the event the authorizer and charter school cannot agree on a revision or amendment of a charter contract.
- Amends Section 4 to clarify that a charter school will be required to provide data to the authorizer and the authorizer shall review that data to support ongoing evaluations.
- Amends Section 7 to eliminate Section D, which states the conflict-of-interest provisions do not apply to compensation paid to a teacher employed by the charter school who also serves as a member of the governing body. Section 22-21-1A NMSA 1978 currently prohibits a teacher from being a member of the governing body of a charter school the teacher is employed by.

Synopsis of Original Bill

Senate Bill 446 amends sections of the Public School Code and enacts new sections to establish charter school contracts, contract requirements, roles and responsibilities of both charter authorizers and charter schools, establishes conflict of interest procedures for charter school governing bodies and administration, and creates an annual evaluation process for charter schools.

FISCAL IMPLICATIONS

PED indicates that the Charter Schools Division will require additional staff to carry out the increased monitoring, technical assistance and reporting responsibilities. For FY12, PED has estimated the department will generate \$470 thousand from the 2 percent administrative set aside they receive from state-chartered charter schools.

All authorizers will likely have some increase in workload related to providing increased monitoring of those charter schools the authorizer has authorized.

SIGNIFICANT ISSUES

Section 1 – amends current language in statute to conform to the federal American's with Disabilities Act.

Section 2 – Amends the Charter Schools Act to clarify the contents of the charter school application. Performance “standards” are changed to performance “outcomes”.

Section 3 – Amends the Charter Schools Act to outline the contents of a charter school contract, a new contract that will be required after a charter school application is approved by a charter authorizer. The contract must be executed within 30 days of approval of the charter application and becomes the final authorization for the charter school. Either party may appeal to the Secretary for assistance in negotiating the terms of the contract. Appeal must be provided to Secretary in writing within 45 days of the approval of the charter application. Failure to enter into a contract or appeal to the Secretary precludes the chartering authority from chartering the school.

Section 4 – Enacts a new section of the Charter Schools Act establishing a performance framework in the charter contract that sets forth the academic and operations performance indicators - measures and metrics that will guide the chartering authority’s evaluation of each charter school, including student academic performance and growth, achievement gap, attendance, recurrent enrollment, post-secondary readiness, graduation rate, financial performance and sustainability and governing body performance. Annual performance targets will be set by the chartering authority in consultation with the charter school that are designed to help the charter school meet state, federal and charter contract expectations.

Section 5 – Enacts a new Section of the Charter Schools Act providing for increased oversight and monitoring of charter school fiscal, overall governance and student performance, by authorizers, including collecting and analyzing data to support ongoing evaluation according to the charter contract. Authorizers will be required to perform at least one site visit per year to provide technical assistance to the charter school and to help determine the progress of the charter school toward the performance framework goals and the charter contract. A process is established to notify a charter school of its unsatisfactory performance, including corrective actions or sanctions, so long as sanctions do not constitute revocation. The charter school is also provided an opportunity to remedy the deficiency. Charter authorizers will be required to submit an annual report to the charter school division of PED.

The chartering authority is required to develop a process for suspension, revocation and non-renewal that provides timely notification to the charter school and allows the charter a reasonable time to respond.

Section 6 – Enacts a new section of the Charter Schools Act requiring charter authorizers to develop a charter school closure protocol.

Section 7 – Enacts a new section of the Charter Schools Act related to governing body conflicts of interest, prohibiting certain transactions between governing board members when the governing board member and other specified individuals have a financial interest in the transaction.

Section 8 – Enacts a new Section of the Charter Schools Act outlining the responsibilities of the chartering authority.

Section 9 – Enacts a new section of the Charter Schools Act that requires the charter schools division of PED to issue a report to the Governor, the Legislative Education Study Committee

and the Legislative Finance Committee.

ADMINISTRATIVE IMPLICATIONS

Charter authorizers will be required to provide increased monitoring and oversight of charter schools to ensure charter schools are meeting academic, financial and governing body performance outcomes. Authorizers will be required to develop charter school closure protocols.

TECHNICAL ISSUES

Page 25, lines 14-16: The statement regarding a teacher serving as a member of the governing body conflicts with current law (22-21-1A NMSA 1978) that does not allow a teacher to be a member of the governing body of the charter school by which he or she is employed.

OTHER SUBSTANTIVE ISSUES

Recent LFC program evaluation of select charter schools identified a number of concerns about charter authorizer practices and the rigor of the charter application process given the current cost of charter schools to the state.

Charter schools have high costs to the state and have similar levels of student performance as traditional public schools. Current costs to the state are driven by favorable education funding formula adjustments for charter schools that total \$34.7 million. The small school site format of charter schools means that less of the state's education funding is spent on instruction. Charter schools have to undergo an application process before opening and a charter renewal process every five years. The application process needs increased rigor to ensure only quality schools open; particularly in the areas of analysis of proposed budgets and cost assumptions, proposed facilities planning and inclusion of more objective and proposed objective performance measures that eliminate subjectivity from the charter authorizer renewal decisions. Charter authorizers need to play a greater role in determining charter schools' role in the larger education framework, preferably through a proactive process like requests for proposals for education programs that target specific populations or serve specific areas. Until the State can provide an application and renewal system that strengthens accountability for schools and ensures only quality schools open, charter authorizers should not approve new charters.

Charter authorizers need increased oversight and monitoring of charter schools to ensure the academic and financial performance of schools, and the use of academic and financial watch lists could help facilitate this increase in profile for authorizers. Charter school site visits showed issues with regard to untimely financial audits, overpaying or neglecting tax obligations, improper expenses, lacking oversight functions, an over reliance on external financial management organizations, conflicts of interest and other examples of resource mismanagement. Charter schools need guidance in the lease arrangements they enter and should be required to solicit help from the Public Schools Facilities Authority (PSFA). The mandate for charter schools to be in public buildings by 2015 (22-8B-4.2 NMSA 1978) is in conflict with the need to close poorly performing charters. Nonrenewal of charter schools is a difficult decision for charter authorizers, and the State needs to mandate closure of poor performing schools by formalizing "second chance" renewal charters with conditions. If closure of poorly performing charter schools is not a viable option, policy makers should strongly consider a hard cap on charter schools Statewide.

Key recommendations from the evaluation include:

- Charter authorizers should freeze approval of all new applications until the application and renewal process has increased rigor, monitoring and oversight and charter schools are closed on the basis of poor performance.
- Charter Authorizers should establish specific student performance criterion for new charters and those seeking reauthorization that is Specific, Measurable, Attainable, Realistic and Timely (SMART).
- Performance criteria should also include SMART metrics to assess any unique mission of the charter – such as improvements for severely at-risk students other than standardized test scores.
- Charter authorizers should consider the student populations of comparison schools when looking at snapshot student performance data of charter schools, particularly schools that serve large populations of economically disadvantaged or at risk students.
- PED should identify and disseminate through web site any best practices found at top performing charter schools to promote innovation transfers.
- Increase the rigor with which charter school authorizers review charter school applications so that applicants demonstrate competence in *each* area of the application. Require that charter schools have measurable performance objectives, both academic and financial, to minimize ambiguity in renewal decisions. More attention should also be paid to the governance mechanisms in the re-authorization process.
- Charter authorizers should exercise their responsibility to close or not approve schools for lack of demonstrated competence in *any* section of the start-up or renewal application.
- Charter school governing body members should have a conflict of interest disclosure form on file with the school or charter authorizer.

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