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FISCAL IMPACT REPORT

LAST UPDATED _____
ORIGINAL DATE 2/17/23

SPONSOR Stewart

BILL
NUMBER Senate Bill 422/ec

SHORT TITLE School District Membership Limitation

ANALYST Liu

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	See Fiscal Implications				Recurring	General Fund
Total	See Fiscal Implications				Recurring	Public School Capital Outlay Fund

Parentheses () indicate expenditure decreases.
 *Amounts reflect most recent analysis of this legislation.

Relates to HB85, HB143, HB375, SB466

Sources of Information

LFC Files

No Response Received

Because of the short timeframe between the introduction of this bill and its first hearing, LFC has yet to receive analysis from state, education, or judicial agencies. This analysis could be updated if that analysis is received.

SUMMARY

Synopsis of Senate Bill 422

Senate Bill 422 prohibits new charter schools from applying for authorization in any school district where the new charter school’s proposed enrollment would cause the total charter school population within a school district to exceed 10 percent of the funded student enrollment (MEM). This bill contains an emergency clause and would become effective immediately on signature by the governor.

FISCAL IMPLICATIONS

The bill does not contain an appropriation but prohibits new charter schools from opening in school districts where the charter school population would exceed 10 percent of the district’s MEM. Current statute places this charter school MEM limitation in school districts with less than

1,300 students. Provisions of this bill would expand the MEM limitation to apply in all school districts.

District	District MEM	Local Charters		State Charters		Total MEM	Charter School Percent
		MEM	Schools	MEM	Schools		
Albuquerque	71,461	8,960	31	8,697	24	89,117	19.8%
Aztec	2,293	179	1			2,471	7.2%
Carlsbad	6,520	234	1	1,900	1	8,653	24.6%
Central Cons.	4,860	48	1			4,907	1.0%
Cimarron	314	61	1			375	16.3%
Deming	4,980	151	1			5,131	2.9%
Espanola	2,906			607	2	3,513	17.3%
Gallup	11,750			746	4	12,496	6.0%
Jemez Valley	295	55	1	40	1	389	24.3%
Las Cruces	23,111			891	7	24,001	3.7%
Los Lunas	7,953			499	1	8,452	5.9%
Moriarty-Edgewood	2,216			600	1	2,815	21.3%
Questa	284			115	2	398	28.8%
Rio Rancho	16,779			777	2	17,556	4.4%
Roswell	9,236	196	1			9,431	2.1%
Santa Fe	11,191	393	1	3,296	7	14,879	24.8%
Silver City	2,254			163	1	2,416	6.7%
Socorro	1,264	170	1			1,434	11.9%
Taos	1,860	407	2	722	4	2,989	37.8%
West Las Vegas	1,370	80	1			1,450	5.5%
Grand Total	278,285	10,931	43	19,049	57	308,265	9.7%

Note: Red highlights are school districts with a charter school population over 10 percent.
Source: PED

Based on FY23 preliminary MEM counts, provisions of this bill would prevent new charter schools from opening in 10 out of the 89 school districts (highlighted in red above). Additionally, the bill would effectively cap total charter school enrollment to 44.4 thousand MEM statewide (i.e. 14 thousand new MEM) if charter schools chose to open in the 79 other school districts.

The bill may slow or halt the growth of new charter schools, causing less funding to be diverted away from existing school districts and charter schools in the state equalization guarantee (SEG) distribution. Additionally, the Public School Capital Outlay Council would likely see fewer additional requests for charter school lease payment assistance and make fewer awards from the public school capital outlay fund for this purpose.

SIGNIFICANT ISSUES

Provisions of this bill would prevent new charter schools from opening in 10 school districts. Since the Great Recession, the number of charter schools has increased, from 64 schools in FY08 to 100 schools in FY23. In FY23, charter school enrollment represented 9.7 percent of total public school students, up from 3 percent in FY08. Authorization for new charter schools generally happens outside of the regular budgeting process required of all other state agencies and entities. In contrast with state agencies that must request funding from the Legislature for new programs, new charter schools can be authorized by a local school district governing board or the Public Education Commission (PEC). If the Legislature does not appropriate additional

funding to cover the costs of new charter schools, overall funding is diluted for all other existing schools.

Altogether, charter schools in New Mexico currently enroll 30 thousand students—larger than Las Cruces Public Schools, the district with the second largest enrollment in the state. Charter schools received over \$334 million, or 9.7 percent, of the FY23 SEG distribution and are primarily located in Albuquerque, Santa Fe, Las Cruces, and Taos. Overall enrollment trends in recent years suggest students in New Mexico are increasingly moving into urban areas and transferring from school districts to charter schools.

PEC has nine notices of intent to apply for a new charter school in 2023, including two charters in Albuquerque, two charters in Santa Fe, and one charter in Moriarty-Edgewood. These five charters would not be able to apply under provisions of this bill due to those school districts exceeding the 10 percent MEM limitation.

PERFORMANCE IMPLICATIONS

A 2019 Stanford University study by the Center for Research on Education Outcomes (CREDO) on New Mexico charter schools found:

- In a year's time, the typical charter school student in New Mexico made similar progress in both reading and math compared to the educational gains that the student would have made in a traditional public school.
- Enrollment in online charter schools is associated with substantially weaker learning gains in both reading and math. The inferior performance of online charter schools offsets the positive impact of brick-and-mortar charter schools on student growth in reading.
- The outlook for a large proportion of charter schools with below-average growth and low achievement is a source of great concern in New Mexico. Students in these schools will fall further behind their traditional public school peers in the state academically over time if their negative growth persists.

The 2019 CREDO study updated an earlier study in 2009 that found New Mexico charter school student make weaker growth in reading and math than identical peers in traditional public schools.

A 2016 LFC evaluation of six selected charter schools found little difference in student performance between charter schools and traditional public schools in New Mexico. The report noted charter schools tended to serve a lower percentage of Hispanic, economically disadvantaged, and English learners compared with traditional public schools. Challenges existed with school grading, as some charter school missions were unique and did not align well with criteria set by PED. In FY15, selected charter schools had more experienced teachers, lower teacher turnover rates, and higher average teacher salaries than the statewide average. Oversight by state and local authorizers was inconsistent and revocations of charters were rare, despite poor charter school performance. The report recommended additional guidance for authorization and accountability of charter schools and separate funding formulas for charter schools. The report also recommended new formula funding and accountability structures to address virtual schools, due to issues of cost-effectiveness and learning outcomes.

RELATIONSHIP

This bill relates to House Bill 85, which limits school districts to 40 thousand or fewer students; House Bill 143, which restricts the use of charter school lease assistance, raises facility relocation requirements, and requires conflict of interest disclosures; House Bill 375, which requires charter school authorizers to provide an expenditure plan for oversight funds; and Senate Bill 466, which separate charter school audits from the chartering authority's audit.

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