

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: HB 166a

51st Legislature, 1st Session, 2013

Tracking Number: .191413.1

Short Title: Charter School Audit Finding Reporting

Sponsor(s): Representative Jimmie C. Hall and Others

Analyst: Sarah Amador-Guzman

Date: March 7, 2013

AS AMENDED

The House Floor Amendments require that the audit subcommittee of a charter school report quarterly to the charter school authorizer on “the creation of corrective action plans to resolve” outstanding financial and compliance audit findings, until they are resolved, without requiring confirmation by a subsequent audit.

Original Bill Summary:

HB 166 amends the *Public School Finance Act* to require the audit subcommittee, appointed by the governing authority of the charter school, to:

- report to the governing authority on a quarterly basis, on financial and compliance audit findings; and
- provide quarterly updates until the findings are cleared by a subsequent audit.

Fiscal Impact:

HB 166 does not contain an appropriation.

Substantive Issues:

According to the bill analysis by the Office of the State Auditor (OSA):

- the inclusion of a finding in an audit report indicates deficiencies in:
 - internal controls;
 - instances of fraud;
 - illegal acts; or
 - abuse; and
- additionally, audit findings can be violations of:
 - provisions of laws;
 - regulations;
 - contracts;
 - grant agreements; and
 - other matters.

The OSA analysis also notes that the resolution of a prior-year audit finding is not indicated by a “finding” in a subsequent audit. Rather, the auditor will follow-up on the prior year audit findings and conduct appropriate procedures to determine whether the finding is resolved. If so, the audit report will list only the prior year audit finding and indicate that the finding has been resolved.

Technical Issues:

According to the OSA bill analysis, pursuant to government auditing standards, HB 166:

- does not address corrective action plans; and
- perhaps could specify that charter schools shall provide corrective action plans for each audit finding it receives to the audit subcommittee.

Background:

HB 166 addresses audit-related issues of charter schools that the Legislative Education Study Committee (LESC) examined during the 2010 interim. At that time, the LESL heard a report from staff of the Legislative Finance Committee (LFC) about a program evaluation of charter schools that the LFC had conducted.

- Among the objectives of this review were to analyze the oversight of charter schools (the application and renewal processes, monitoring of schools, and their governance) and to analyze the resource allocation of charter schools (state funding, expenditures, and spending practices).
- Among the fiscal concerns with charter schools that the LFC identified were (1) the lack of oversight to ensure that the lease payments made to private landlords are at fair market rates, and (2) the possibility of conflicts of interest when, as was the case with some schools, the school founder is also the lease holder. To address these and similar concerns, LFC recommended that authorizers conduct site visits at least annually and request quarterly performance reporting when necessary.

Another part of this presentation in 2010 was a report by LESL staff about fiscal issues that have arisen in charter schools in other states.

- In March 2010, this LESL staff report noted, the Office of Inspector General (OIG) with the US Department of Education released a report stating that charter executives, officials, and politicians accused in fraud cases have inflated student enrollment figures and changed student grades to increase the amount of funding they receive, and then used the money for personal expenses.
- According to this report, more than 40 criminal investigations of embezzlement have been opened against charter school officials since 2005, resulting in 18 indictments and 15 convictions.
- The OIG places much of the responsibility for these violations on inadequate oversight by the charter authorizers.

Additionally, during the 2010 interim, the LESC formed the LESC School Finance Work Group to examine public school finance issues in collaboration with the Public Education Department (PED) and in consultation with the OSA. At the December LESC meeting in 2010, the work group presented its final report, which included a number of recommendations derived from the interim work. LESC incorporated some of these recommendations into legislation that the committee endorsed for the 2011 session, but the legislation did not pass.

Currently in school year 2012-2013, PED reports 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.

Committee Referrals:

HEC/ HAFC/SEC/SFC

Original Related Bills:

None as of March 7, 2013.