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LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS
53rd Legislature, 1st Session, 2017

Bill Number	<u>HB46</u>	Sponsor	<u>Trujillo, CH</u>
Tracking Number	<u>.205445.1</u>	Committee Referrals	<u>HCPAC/HEC</u>
Short Title	<u>Moratorium on New Charter Schools</u>		
Analyst	<u>Terrazas</u>	Original Date	<u>2/2/17</u>
		Last Updated	<u></u>

BILL SUMMARY

Synopsis of Bill

House Bill 46 (HB46) places a moratorium on the opening of any new charter school from June 1, 2017 through January 1, 2020. The bill prohibits a chartering authority from accepting or approving any new applications during this time period.

FISCAL IMPACT

HB46 does not contain an appropriation.

The authorization of new charter schools would further dilute limited funding available for public schools. Unless the Legislature explicitly includes funding in public school support appropriations for new charter schools – which has happened only once in six years – funding for existing traditional school district programs and other existing charter schools would be further diluted. The Public Education Department (PED) has never requested money specifically for new charter schools.

HB46 may affect how the state equalization guarantee (SEG) distribution, instructional materials and transportation allocations, and public school capital outlay funds are distributed. Since FY08, 35 charter schools have been authorized – from 64 in FY08 to 99 in FY17. Charter schools now enroll 7 percent of students statewide. This growth and increased enrollment at charter schools has resulted in almost 50 percent of new money appropriated to public schools that is directed to charter schools, at a time when state revenue growth has been limited. During this time period, the Legislature allocated \$8.2 million in new money specifically to support new charter schools.

Authorization for new charter schools generally happens outside of the regular budgeting process. This means charter schools receive state funding independent of the Legislature evaluating the new programs. Even though the Legislature may not appropriate new funding to the SEG distribution for newly authorized charter schools, once authorized by the Public

Education Commission (PEC), PED, or local school districts, charter schools open and receive general fund support.

HB46 could also reduce out-year lease assistance reimbursement requests. By statute, the Public School Capital Outlay Council (PSCOC) is required to make lease assistance grants to school districts and charter schools for the lesser of (1) at a rate of \$700 per student adjusted for inflation or (2) the actual annual lease cost. For FY17, the PSCOC set the per-student reimbursement rate at \$736.25 per student. In FY16, the PSCOC provided funding to 102 charter schools in the amount of \$15 million. The PSCOC states in their analysis that in FY05 they provided lease assistance to 51 charter schools in the amount of \$2 million, a 750 percent increase from 2005 to 2016. In FY16, lease assistance awards covered 66.1 percent of charter school lease costs. As of now lease assistance covers 60 percent of actual lease costs, and it may rise to 65.9 percent if pending additional leases are approved. Assuming all charter schools that applied for lease assistance funding were eligible for a full award, FY17 lease assistance awards would cover 74.3 percent of charter school FY17 lease costs. However, some schools are not receiving full lease cost coverage because they are not in compliance with the requirements of Section 22-8B-4.2 NMSA 1962, which addresses the standards charter school facilities must meet. The PSCOC asserts that if HB46 is not enacted and new charter schools continue to open, the PSCOC lease assistance award funding would continue to rise and funding for school capital outlay projects would be reduced.

The Legislative Finance Committee (LFC) notes HB46 may result in a decrease in charter school enrollment growth units and small school size adjustment units, as newly opened charter schools tend to generate a significant portion of their funding from these units. A decrease in units would increase the unit value, or per unit SEG allocation, for all existing school districts and charter schools, assuming the total SEG appropriation remains constant. Similarly, any school closures during the moratorium would decrease units and increase the unit value.

SUBSTANTIVE ISSUES

Several concerns have led to the consideration of a moratorium on authorizing new charter schools, including charter school finance, governance, and student performance. In FY16, 40 percent of New Mexico charter schools received a letter grade of D or F while 35 percent of traditional public schools received a D or F. In FY15 31 percent of charter schools and 37 percent of traditional public schools received Ds or Fs. Freezing the authorization of new charter schools would give the Legislature, PED, PEC, and education stakeholders time to improve accountability before any new charter schools are approved. This could help to establish consistent expectations for any newly authorized charter schools.

A 2016 LFC evaluation of six charter schools highlighted differences between traditional public schools and charter schools in New Mexico. Results showed traditional public schools served a higher percentage of Hispanic, economically disadvantaged, and English learners compared with charter 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, the LFC found oversight by state and local authorizers was inconsistent and revocations of charters were rare, despite poor charter school performance. LFC also found selected charter schools had more experienced teachers, lower teacher turnover rates, and higher average teacher salaries than the statewide average.

A National Association of Charter School Authorizers (NACSA) review of state-chartered charter school authorizing practices in New Mexico raised two main issues. First, the application of the PEC authorizing and renewal standards was found to be inconsistent and less effective than it could be, echoing conclusions found in a recent LFC report. NACSA recommended revision and better application of the authorization rubric. Second, the report noted the dysfunctional relationship between PEC and PED, which further exacerbates problems with the appropriate authorization and oversight of state-chartered charter schools. Although PEC is responsible for authorizing state chartered charter schools in the state, the secretary can overrule the commission's decision to approve or deny a charter – which has happened in the past. PEC appealed the secretary's decision once, which was denied; statute gives the secretary the final say. This relationship has made it unclear for some stakeholders which body has final authority over charters. NACSA recommended third-party arbitration to help resolve existing conflicts, but representatives of both PEC and PED stated such intervention unnecessary. Nearly two-thirds of the state's charter schools are authorized by PEC.

OTHER SIGNIFICANT ISSUES

In December 2016 the PEC held hearings for the renewal applications of 13 charter schools. Three charter schools were denied renewal: Sage Montessori Charter School in Albuquerque, Uplift Community School in Gallup, and Estancia Valley Academy in Moriarty. Also in December, Albuquerque Public Schools (APS) voted to reject a charter school application from La Resolana Leadership Academy and Farmington Municipal Schools voted to deny reauthorization for New Mexico Virtual Academy. Both PEC and APS have closed schools for mismanagement and poor academic performance.

The New Mexico Coalition for Charter Schools opposes a charter school moratorium, but supports the creation of a “closure policy” that fairly assesses public schools for closure. The American Federation of Teachers New Mexico and Albuquerque Teachers Federation recommend pausing and analyzing the impact of increasing charter school enrollment on the state's budget. Regional Education Cooperatives note a moratorium may limit options for rural communities working to establish a charter school.

ALTERNATIVES

An alternative to HB46 could be to make current charter school authorization and accountability standards more rigorous. Chartering authorities would need to effectively oversee charter school operations and hold charter schools accountable when student performance or other performance indicators are poor.

RELATED BILLS

Relates to HB273, Charter School Changes

Relates to SB135/SECS, Charter Schools in School Districts

Relates to SB193, Support & Oversight of Charter Schools

SOURCES OF INFORMATION

- LESC Files

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