

**LEGISLATIVE EDUCATION STUDY COMMITTEE  
BILL ANALYSIS**

**Bill No: HB 292**

**49th Legislature, 1st Session, 2009**

**Short Title: School Chartering Authority Transfers**

**Sponsor(s): Representative James Roger Madalena and Others**

**Analyst: David Harrell**

**Date: February 12, 2009**

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**Bill Summary:**

HB 292 amends the *Charter Schools Act* to allow the chartering authority of a school chartered by a local school board to be transferred to the Public Education Commission (PEC) at any time after the charter has been renewed if the local school board, the governing body of the charter school, and the PEC agree to the transfer. The bill further provides that the charter may be amended as agreed to by all three parties; and that, after the transfer, the charter shall be a contract between the charter school and the PEC.

**Fiscal Impact:**

HB 292 makes no appropriation.

The analysis by the Public Education Department (PED) notes that the transfer of chartering authority under HB 292 would also require the transfer of the administrative funds (2.0 percent of the school's SEG) to the PEC.

The analysis by the Public School Facilities Authority suggests a fiscal impact on local school districts through modifications to their planning and capital priorities and direction, as well as updates to their five-year facilities master plans.

Finally, the Fiscal Impact Report by the Legislative Finance Committee says that the fiscal impact of HB 292 is difficult to determine but that it may be "considerable" on PED because of the "increased monitoring and oversight activities as well as providing increased support to the [PEC]."

**Issues:**

While the application and renewal processes are essentially the same, a state-chartered charter school has certain responsibilities that a locally chartered school does not. One of the most significant is that a state-chartered charter school must qualify to be its own board of finance. Among other differences, state-chartered charter schools:

- submit their budgets directly to PED;
- receive their own state and federal funds;
- have the authority to request supplemental funds on their own behalf; and
- bear the responsibility of providing special education services.

Presumably, a locally chartered charter school whose charter is transferred according to the provisions in HB 292 would become a state-chartered charter school and its charter would then address the additional responsibilities of a state-chartered charter school.

The New Mexico Coalition for Public Charter Schools supports HB 292 because of the increased flexibility it affords charter schools and authorizers; however, agency analyses identify certain concerns:

- According to the PED analysis, “introducing an additional review process into the PEC calendar would add to the logistical preparations necessary to complete its prescribed duties.”
- Both the PED analysis and the analysis by the Office of Education Accountability (OEA) note the absence of an appeals process in the event that either the local school board or the PEC refuses to agree to the requested transfer of chartering authority; and the OEA analysis adds, “there may be a problem associated with due process.”

### **Background:**

As enacted in 2006 (though not effective until July 1, 2007), the *Charter Schools Act* allows a charter school applicant to choose whether to apply to the local school board to become a locally chartered school or to the PEC to become a state-chartered school. In addition to allowing this choice of authorizers, the *Charter Schools Act* allows a locally chartered school to apply to the PEC to renew its charter, at which time it would become a state-chartered charter school. Charters may be renewed for successive periods of five years each.

During school year 2008-2009, 63 charter schools are operating throughout New Mexico. Four are chartered by the PEC and the rest by their respective local school boards. Six more PEC-chartered charter schools have been approved to open in the fall of 2009, and one more locally chartered school has been approved for fall 2009.

Legislation identical to HB 292 was introduced during the 2008 legislative session, but it did not pass.

### **Related Bills:**

HB 289 *Charter School Authority Subcommittees*  
SB 27 *Charter School Application Time Period*  
SB 148 *Charter School Governing Body Training*