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FISCAL IMPACT REPORT

ORIGINAL DATE 01/29/09
 LAST UPDATED 03/18/09 HB 332/aHAFC

SPONSOR Miera

SHORT TITLE Public School Facility Insurance Coverage SB _____

ANALYST Archuleta

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Non-Rec	Fund Affected
FY09	FY10		
	None		

(Parenthesis () Indicate Expenditure Decreases)

Duplicates Senate Bill 226

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY11	3 Year Total Cost	Recurring or Non-Rec	Fund Affected
Total	Estimated \$50.0 - \$100.0	Estimated \$50.0 - \$100.0	Recurring	PSIA Risk Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Public School Insurance Authority (PSIA)

Public Education Department (PED)

SUMMARY

Synopsis of HAFC Amendment

The House Appropriations and Finance Committee Amendment to House Bill 332 provides that the policy shall relate only to liability and risk issues and shall not affect the rights and responsibilities of local school boards to determine how and when school district facilities are used.

Secondly, the amendment inserts a new section of the Public School Code requiring that local school boards that are not participants under the Public School Insurance Authority Act to establish policies related to the use of volunteers and the use of school facilities by private persons to be distributed to each school in the school district and posted on the school districts website. Also, they may insure against claims of bodily injury, personal injury or property damage related to the use of school facilities by private persons limited to \$1,000,000 per occurrence.

Lastly, the amendment deletes the appropriation.

Synopsis of Original Bill

House Bill 332 amends Section 22-29-7 NMSA 1978 of the Public School Insurance Authority Act by authorizing PSIA to establish policies regarding the rulemaking authority to cover volunteers and private persons using school facilities. These policies would be distributed to participating members covered under PSIA and posted on PSIA's website.

According to PSIA, the bill resolves the issue regarding whether or not PSIA can insure against claims related to the use of school facilities by private persons. The bill also limits liability to \$1 million per occurrence and excludes coverage for PSIA members who fail to follow PSIA policies with respect to the use of school facilities by private persons. Currently, schools may allow building use by outside groups and coverage is provided in one of two ways: (1) the school district is named as an additional insured on the user's policy, (i.e., Boy Scouts, Lions Club) or (2) limited additional premises liability insurance is provided through NMPSIA and billed to the user (called TULIP, or Tenant User Liability Insurance Policy). Examples of TULIP purchasers are private individuals requesting to use school facilities for wedding receptions or pot luck dinners.

FISCAL IMPLICATIONS

According to PSIA, historical losses incurred for use of school premises by outside groups have averaged \$100,000 annually. Premiums for this additional coverage are estimated to cost between \$50,000 and \$100,000. It is difficult to accurately project the exact cost, as not all after-school use has been reported to PSIA by the districts and participation in the TULIP program has low. There are a limited number of insurance companies interested in writing this coverage.

The bill includes a \$200 thousand appropriation for purposes of purchasing additional coverage. This amount is an estimate, but if statewide usage increases as a result of this bill, this amount may be inadequate. This amount is also the "PSIA only" estimate, yet the bill requires coverage for "public schools", which would include Albuquerque Public Schools (APS).

PERFORMANCE IMPLICATIONS

PSIA must amend its Memorandum of Coverage (MOC). Public hearings must be held to amend PSIA's Rules and Regulations with respect to policies governing volunteers and use of school facilities by private persons. This additional work would be absorbed by current staff. An estimate of \$5,000 is included in operating budget to cover any legal expenses involved in the Rule change and MOC change.

ADMINISTRATIVE IMPLICATIONS

Additional training on the change would be communicated via regional trainings and web-site updates.

TECHNICAL ISSUES

If the Legislature desires to use the annual appropriation method in the bill as introduced, then paragraph G of the new material should read as follows:

“G. if the legislature appropriates to the Authority sufficient funds, insure, by negotiated policy, self-insurance or any combination thereof, participating members against claims of bodily injury, personal injury or property damage related to the use of school facilities by private persons; provided that the coverage shall be subject to the following conditions:

- (1) no more than one million dollars (\$1,000,000) shall be paid for each occurrence; and
- (2) the coverage shall only apply if the participating member was following the policy adopted by the authority pursuant to Subsection F of this section;”

OTHER SUBSTANTIVE ISSUES

PSIA expressed concern regarding the cost of insurance for the use of school buildings after hours being paid for with taxpayer money or should this cost be paid by private users.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Private use of public school facilities may still occur under the School Board policy and subject to the purchase of Tenant User Liability Coverage obtained by the user.

DA/mt:svb