

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: *SB 518

52nd Legislature, 1st Session, 2015

Tracking Number: .198965.1

Short Title: Charter School Enrollment Policies

Sponsor(s): Jacob R. Candelaria

Analyst: Kevin Force

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Bill Summary:

SB 518 proposes to amend the *Charter Schools Act* by:

- prohibiting discrimination in a charter school's enrollment policies on any basis that would be illegal if practiced by a public school or district, including:
 - the administration of tests to potential applicants in order to determine acceptance;
 - requiring attendance at informational meetings or interviews by applicants or their parents as a condition of acceptance; and
 - participation by parents as volunteers in the school as a condition of acceptance; and
- stipulating that the Public Education Commission (PEC) shall:
 - administer lottery processes used to determine admission to charter schools; and
 - centrally administer any waiting lists for admission to charter schools.

Finally, SB 518 declares an emergency.

Fiscal Impact:

SB 518 does not contain an appropriation.

Substantive Issues:

As noted in the analysis from the Public Education Department (PED), while SB 518 prohibits the administration of tests to applicants, or the use of test results to determine acceptance, the New Mexico School for the Arts, a state-chartered charter school, admits students through an annual application and audition process, according to the provisions of the *New Mexico School for the Arts Act*:¹

- Admissions criteria for the New Mexico School for the Arts shall be:
 - designed to admit students who show exceptional promise or aptitude in the arts, and a strong desire to pursue an arts career; and

¹ Section 22-15F-6 NMSA 1978

- conducted to provide equal opportunity for admission to each applicant regardless of his or her prior exposure to artistic training, or ability to pay residential costs; and
- the school's governing board shall ensure, to the greatest extent possible, without jeopardizing admissions standards, that an equal number of students is admitted to the school from each of New Mexico's congressional districts.

According to the New Mexico School for the Arts, students are admitted:²

- through the application and audition process, which begins in August and concludes in January of the following year; and
- only on the basis of blind auditions, with regardless of family income, prior academic standing or geographic location

The provisions of SB 518 would place the PEC in the position of administering all admissions lotteries and waiting lists used by any charter school in its admissions process. This provision would implicate not just state-chartered charter schools, but also locally chartered ones over which PEC lacks any authority, and with which the commission lacks any administrative relationship. Moreover, during the 2014 legislative interim, the Legislative Education Study Committee (LESC) convened a Charter Schools Subcommittee, which on several occasions heard testimony from members and other representatives of the PEC (see "Background," below). One frequently discussed issue was the commission's lack of dedicated staff, which members contend already taxes their resources, even with just their current responsibilities. It is unclear that the PEC would be able to assume such a potentially substantial administrative burden in addition to its current duties.

Background:

Since the enactment of the original legislation in 1993, the LESC has maintained an interest in charter schools, with hearings during every interim, frequent participation in work groups, and committee-endorsed legislation in virtually every session. During the 2014 interim, this interest led to the designation of charter schools as a focus area for the 2014 interim and to the creation of a subcommittee on charter schools, which heard extensive testimony on a range of issues and concerns, including:

- definitions of terms;
- audits, and the relationship between "parent" agencies and component units;
- charter school governance;
- transportation;
- fiscal issues, such as:
 - the disposition of the 2.0 percent "set-aside" of program cost for administrative support of charter schools by their authorizers; and
 - the small school size adjustment; and
- the role of the PEC and its relationship with PED.

² Please see, <http://www.nmschoolforthearts.org/attend>.

In general, subcommittee members realized that certain ambiguities or inconsistencies in law result from the inconsistent and sometimes contradictory definitions of terms, whether explicit or implicit. Further, subcommittee members found that not just the *Charter Schools Act* but also a number of other acts within the *Public School Code* blur the distinction between locally chartered and state-chartered charter schools, or between charter schools and school districts when prescribing duties or responsibilities of charter schools. LESC staff testimony suggested that most of these problems result from piecemeal amendment to statute and inconsistent application of the terms within programmatic statutes. Resolving these problems became a recurrent theme as the subcommittee members worked throughout the 2014 interim.

The Chair of the PEC reported on the commission's work and timeline of its activities:

- January: notices of intent to file an application for a new state-chartered charter school;
- January to May: performance contract negotiations for new schools that have successfully completed the planning year and performance contract negotiations for renewing schools that were approved the previous December;
- May to July: performance frameworks renegotiation for those first-year schools completing one year of the performance contract;
- August: community input hearings held around the state on new charter applications;
- September: PEC regular meeting to approve or deny new charter school applications;
- October: renewal applications submitted; and
- December: PEC regular meeting to approve or deny applications for renewal of a charter.

The PEC testimony also identified the following routine items on each month's meeting agenda:

- charter amendments;
- staff updates on schools of concern;
- staff report on school improvement plans;
- commissioner requests for information concerning complaints received;
- commissioner requests for schools to be placed under improvement plan or corrective action plan; and
- work with staff of the Charter Schools Division in PED and with attorneys to write improvement plans and/or corrective action plans.

Committee Referrals:

SEC/SJC

Related Bills:

*HB 74 Public Education Commission as Independent
SB 148a Charter School Responsibilities
SB 182 Incorporate Arts into K-12 Education
SB 273a Charter School Governance
SB 418a Charter School Governing Body Elections*