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FISCAL IMPACT REPORT

ORIGINAL DATE 1/31/18

SPONSOR Smith/Ivey-Soto LAST UPDATED _____ HB 41

SHORT TITLE Charter School Facility Ownership SB _____

ANALYST Liu

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY18	FY19	FY20	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total			(\$0.0 - \$1,849.7)	(\$0.0 - \$1,849.7)	Nonrecurring	Public School Capital Outlay Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Legislative Education Study Committee (LESC) Files

Responses Received From

Attorney General’s Office (NMAG)

Public Education Department (PED)

Public School Facilities Authority (PSFA)

SUMMARY

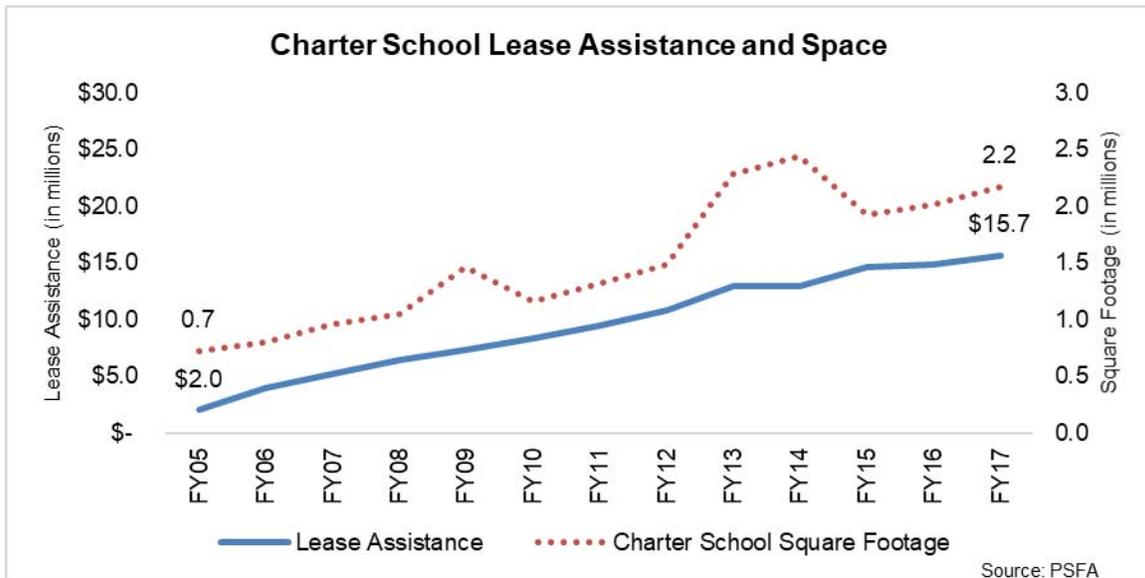
Synopsis of Bill

House Bill 41 amends the Charter School Act, requiring charter schools to be housed in facilities that meet statewide adequacy standards and facility owners to maintain those standards at no additional costs to the charter school or state. If a charter school makes lease payments to a nonprofit entity specifically organized for the purpose of providing a facility to the charter school, the bill requires the nonprofit entity to transfer the title to the facility to the charter school immediately after the nonprofit entity’s acquisition of title to the facility. The bill makes this title transfer provision an eligibility requirement for lease assistance from the public school capital outlay fund (PSCOF). House Bill 41 is endorsed by the Public School Capital Outlay Oversight Task Force.

FISCAL IMPLICATIONS

The bill does not contain an appropriation. Provisions of the bill requiring nonprofit entities to transfer title to their facility to the charter school as a requirement for lease assistance from PSCOF may impact funding awards made by the Public School Capital Outlay Council

(PSCOC). Lease assistance awards have increased in recent years, along with the expansion of charter school space (see graph below). PED notes lease assistance in FY18 is approximately \$14.4 million.



Data from 2017 PSFA charter school leases shows that 12 charter schools are housed in a facility where the owner is a nonprofit entity specifically organized for the purpose of providing the facility for the charter school (see table below). Six of the charter schools would be subject to the new title transfer requirement for lease assistance eligibility in 2020. It is likely that most, if not all, of the charter schools would comply with the new provisions to maintain eligibility for lease assistance funding if this bill is enacted. In the event any charter school does not meet these requirements, awards for lease assistance may decrease accordingly. Total lease assistance for the six charter schools with renewal dates in 2020 amounts to \$1.8 million.

Charter School	Charter Renewal Date	FY17 PSCOF Lease Assistance Award (at \$736.25/MEM or adjusted lease)
Academy of Trades and Technology	2018	\$87,246
Amy Biehl High School	2020	\$220,136
Alice King Community School	2020	\$426,167
Coral Community Charter School	2022	\$147,802
Cottonwood Classical Preparatory School	2018	\$514,271
East Mountain High School	2020	\$266,523
La Promesa Early Learning Center	2020	\$277,566
The GREAT Academy	2021	\$120,377
Estancia Valley Classical Academy	2022	\$331,681
The ASK Academy	2020	\$337,571
Monte del Sol Charter School	2020	\$250,696
Taos Municipal Charter School	2020	\$71,054
TOTAL		\$3,051,090

LESC notes charter schools are typically renewed on a five-year cycle. Charter schools that are renewed before the effective date of this bill may not be subject to the requirements of the public building deadline for another five years. The amendment in the Public School Capital Outlay Act ensures charter schools leasing from a nonprofit organized to provide a facility for the charter school will be immediately subject to these requirements to be eligible for lease assistance funding.

SIGNIFICANT ISSUES

Section 22-8B-4.2 NMSA 1978 requires all charter schools to be housed in a building that is subject to a PED-approved lease-purchase arrangement or owned by the charter school, a school district, the state or state institutions, the federal government or federal agencies, or a tribal government. If the charter school is not housed in a manner as aforementioned, due to a lack of educationally-appropriate public buildings or a circumstance where the owner of the facility is a nonprofit entity specifically organized for the purpose of providing the facility to the charter school, the charter school must be housed in a building that meets statewide adequacy standards, and the owner of the facility must maintain those standards at no additional cost to the charter school or the state. This section of the Charter Schools Act is commonly referred to as the “public buildings deadline,” because noncompliant charter schools cannot have their charters renewed and new charter schools must meet these requirements to be chartered after July 1, 2015.

The proposed language ensures that, as a result of making lease payments to the nonprofit entity and through a legally binding agreement, a facility provided by a nonprofit entity specifically organized for the purpose of providing the facility for the charter school becomes the property of (titled to) the charter school in lieu of the nonprofit once the title has been acquired. As a result of the facility title being transferred to the charter school, without exception, the building will be owned by the charter school.

ADMINISTRATIVE IMPLICATIONS

No administrative implications are noted by PSFA, as the agency current reviews compliance with Subsection D of Section 22-8B-4.2 NMSA 1978 as it relates to lease payment awards.

TECHNICAL ISSUES

PSFA notes the bill does not address ownership of the facility if the charter school is closed by its authorizer. Additionally, the bill does not specify if demonstration of the charter school entering into a legally binding agreement will include PED approval of the agreement similar to the requirements of the Public School Lease Purchase Act, Section 22-26A-4 NMSA 1978.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

According to PSFA, transfer of title to the charter school will not be a requirement for receipt of lease assistance payments and nonprofits may continue to own the facilities instead of the charter schools.

SL/sb/al