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FISCAL IMPACT REPORT

ORIGINAL DATE 2/6/19

SPONSOR Lopez LAST UPDATED 2/26/19 HB _____

SHORT TITLE Charter School Nepotism & Monitoring SB 331/aSJC

ANALYST Hawker

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY19	FY20	FY21	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total		NFI				

Parenthesis () indicate expenditure decreases

SOURCES OF INFORMATION

LFC Files
 PED New Mexico Charter School List, 2018-2019

Responses Received From

New Mexico Attorney General (NMAG)
 Public Education Department (PED)

SUMMARY

Synopsis of SJC Amendment

The Senate Judiciary Committee amendment to Senate Bill 331 amends the bill as follows:

- provides a chartering authority has the authority to sanction a charter school governing body, sanctions may include corrective action and suspension
- language is added “including identifying who the supervisor of record will be” in the cases where a charter school has employed an immediate family member of the head administrator, member of the governing body, or a direct supervisor as the chartering authority is required to work with the charter school to alleviate or mitigate the effects of nepotism.
- Section 2G is struck, replaced with language that requires the chartering authority to “oversee the governing body’s compliance with federal and state laws and, if necessary, take action following the appropriate steps when the governing body is not operating pursuant to law or is violating policies and procedures in the charter.”
- Section 3, is struck in its entirety, removing Section 22-8B08 NMSA 1978, charter school application – contents -- from statute.
- SB 331/aSJC amends section 6 of SB 331, providing the chartering authority the power to sanction a governing body.

- A chartering authority shall supervise all charter schools and charter school officials under its jurisdiction. If a charter school’s performance or its legal compliance is unsatisfactory, the chartering authority shall promptly notify the charter school of the perceived problem and provide a reasonable timeframe to remedy the problem, unless revocation is warranted.
- Every chartering authority may exercise sanctions short of revocation in response to deficiencies in charter school performance or legal compliance. Sanctions may include requiring a school to develop and execute a corrective action plan within a specified time. The chartering authority shall follow its own policy on suspension, revocation or nonrenewal.
- Sections are renumbered accordingly.

Synopsis of Original Bill

Senate Bill 331 amends sections of the Charter School Act.

Section 1: Amends Section 22-8B-5.2 NMSA 1978, a head administrator or governing body of a charter school may not initially employ or approve for initial employment anyone who is an immediate family member of the head administrator, or a member of the governing body, or a charter school employee who would be a direct supervisor of the immediate family member. This provision shall not be waived for employments after the effective date.

Charter schools that have employed immediate family members of the head administrator, member of the governing body, or direct supervisor shall notify the chartering authority of the employees and the relationships. The chartering authority shall work with the charter school to alleviate or mitigate the effects of the nepotism.

Section 2: Section 22-8B-5.3 is amended to give the chartering authority oversight over the charter school governing body. The chartering authority can take action against the governing body if: (a) it is not operating pursuant to law, (b) it is not operating pursuant to the charter, or (c) if it is not carrying out its powers and duties for the best interest of the charter school.

Additionally the chartering authority is to develop and maintain chartering policies for governing body monitoring and intercession with the governing body.

Section 3: Section 22-8B-8 NMSA 1978 is amended to stipulate the charter school application shall include the actions the chartering authority may take when a governing body fails to do its duty or fails to act in the best interest of the charter school.

Section 4: Section 22-8B-9 NMSA 1978 amends the charter contract to include a detailed description of how the chartering authority will use the two percent school-generated program cost that can be withheld pursuant to Section 22-8B-13 NMSA 1978. These funds will be used to monitor and oversee the charter school and the governing body.

Section 5: Section 22-8B-10 NMSA 1978 is amended to remove the ability of the governing body to waive the nepotism rule. Additionally, the head administrator may not employ or approve for initial employment the immediate family of a “would-be direct supervisor”.

Section 6: A new section of the Charter Schools Act is implemented, allowing a chartering authority to suspend a governing body. The process is established.

FISCAL IMPLICATIONS

SB331 has no fiscal impact.

SIGNIFICANT ISSUES

Currently there are 96 charter schools in New Mexico *PED New Mexico Charter School List, 2018-2019*. All charter schools are governed by a governing body of at least five members. Currently the governing bodies can waive the nepotism rule. If SB331 is enacted, charter school governing bodies would not be permitted to waive the nepotism rule. If there is nepotism currently in a charter school, the chartering authority is directed to work with the charter school to mitigate or alleviate the nepotism.

SB331 provides direction on the purpose of the two percent allocated funding authorized by Section 22-8B-13 NMSA: “the school district or division may withhold and use two percent of the school-generated program cost for its administrative support of a charter school.” SB331 directs the chartering authority to utilize these funds to monitor and oversee the charter school and its governing body.

VKH/sb/al