

LFC Requester:	Liu
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**AGENCY BILL ANALYSIS
2023 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

Check all that apply:

Original **Amendment**
Correction **Substitute**

Date Prepared: 02/20/23
Bill No: SB466

Sponsor: Maestas
Short Title: CHARTER SCHOOL &
 CHARTERING AUTHORITY AUDITS

Agency Name and Code Number: Agency Name and Code Number: PED - 924
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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		
None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		
None	None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	None	None	None	None	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Senate Bill 466 (SB466) would require that locally-chartered charter schools qualify as boards of finance, and that all charter schools would have their audits conducted separately from their chartering authorities.

The bill contains no explicit effective date or emergency clause, meaning, if passed and signed by the Governor, the bill will become effective on June 16, 2023.

FISCAL IMPLICATIONS

SB466 does not contain an appropriation.

SIGNIFICANT ISSUES

Locally-chartered charter schools are attached administratively to school districts; state-chartered charter schools are authorized by the Public Education Commission (PEC). The PEC is supported by the Public Education Department (PED) Charter Schools Division, and that support is governed by a Memorandum of Understanding between PED and the PEC. Charter schools are considered component units of their authorizer for financial audit purposes; audit findings for charter schools are reflected in the school districts' audits or PED's agency audit.

SB466 would require that all charter schools have audits conducted separately from their chartering authorities. Charter schools would have to pay for their own audits and could select a separate auditor, but the audits would be included with the chartering authority's audit.

State-chartered charter schools are currently required to be designated as boards of finance. The bill would require that locally chartered charter schools also qualify as boards of finance by July 1, 2024. Charter school applicants, charter schools in their planning stage, or charter schools seeking renewal would be required to qualify as boards of finance prior to their final charter contracts being signed or charters renewed. The bill specifies that the chartering authority would still maintain oversight of the charter schools.

Because the Public School Finance Act requires that all public school funds be distributed directly to boards of finance, SB466 would require that all funding flow directly to locally chartered charter schools, as well as state charters.

According to the Public School Finance Act, boards of finance must:

- show to the satisfaction of the department that it has trained personnel properly to keep accurate and complete fiscal records;
- consult with the department on any matters not covered by the manual of accounting and budgeting before taking any action relating to funds held by it as a board of finance;
- ensure the persons handling these funds are adequately bonded to protect the funds entrusted to them from loss; and
- have not been suspended and not reinstated as a board of finance within the past year.

The subject of charter schools' audits being included in the chartering authority's audit has been an issue for many years, especially in situations when charter schools' negative findings significantly impact the audits of school districts or PED.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

School districts and PED would have an increased administrative responsibility to collect the charter schools audits. Charter schools would experience an increase in administrative responsibility for identifying and hiring an audit firm, in accordance with state expectations.

PED would need to review and amend rules dealing with local boards of finance, including:

- 6.20.3 NMAC, Procedures for the Payment of Settlement Agreement
- [6.21.2 NMAC, Audit Resolution Process, Application Hearing Process, Enforcement Process](#)
- [6.80.4 NMAC, Charter School Application and Appeal Requirements](#)

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

[HB375, Charter School Expenditure Plan](#), which would amend the Charter Schools Act to allow a charter school’s chartering authority to withhold “up to” two percent of the school-generated program cost for its administrative support of a charter school and that the chartering authority must provide an expenditure plan for the funds withheld and a final accounting of the expenditure of the funds in the prior year.

TECHNICAL ISSUES

Section 2 of the bill, amending Section 22-8-38 NMSA 1978 in Subsection D indicates that locally chartered charter schools must qualify as boards of finance by July 1, 2024, and goes on to note that, “[a]pplicants, charter schools, in their planning stage or charter schools seeking renewal shall qualify as boards of finance prior to final charter contracts being signed or charters renewed.

However, Section 4 of the bill, amending Section 22-8B-6 NMSA 1978 at Subsection K notes that a charter schools “*existing on the effective date of this 2023 act shall not be approved* for operation unless its governing body has qualified to be a board of finance by July 1, 2024.

The language in Section 4 is contradictory and does not align with the corresponding provisions in Section 2. First, an “existing” charter school has *already been approved for operation*, or it would not be “existing”. Second, the provision in Section 2 is much clearer, explicit, and precise in its requirement, and the two amended subsections should match.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

The findings of charter school audits will continue to reflect on their chartering authority’s audits.

AMENDMENTS

The sponsor may wish to consider amending Section 4, Subsection K of the bill so that the language matches the corresponding language in Section 2, such as: “A charter school existing on the effective date of this 2023 act shall qualify as a board of finance by July 1, 2024. Charter schools in their planning stage or charter schools seeking renewal shall qualify as boards of finance prior to final charter contracts being signed or charters renewed.”