



LFC Requester:	Liu
-----------------------	------------

**PUBLIC EDUCATION DEPARTMENT
BILL ANALYSIS
2023 REGULAR SESSION**

SECTION I: GENERAL INFORMATION

Check all that apply:

Original Amendment
 Correction Substitute

Date Prepared: 03/04/23
 Bill No: HB143/HGEICS

Sponsor: HGEIC

Agency Name and Code
 Number: PED - 924

Short Title: SCHOOL BOARD GOVERNANCE REQUIREMENTS

Person Writing Analysis: Gregory Frostad
 Phone: (505) 470-5752 Email: gregory.frostad@ped.nm.gov

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	N/A	N/A	NFA

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Relates to Appropriation in the General Appropriation Act: None.

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: The House Government, Elections and Indian Affairs Committee Substitute for House Bill 143 (HB143/HGEICS) proposes several changes to charter school governance and operations in areas such as facilities and conflicts of interest.

The bill contains no specific effective date nor an emergency clause, meaning that the bill will become effective June 16, 2023. The bill contains an applicability clause, noting the provisions of the bill will apply beginning with the 2023-2024 school year.

FISCAL IMPLICATIONS

CS/HB143 does not contain an appropriation.

SIGNIFICANT ISSUES

The legislature may consider adding an emergency clause or a delayed effective date because charter schools will begin entering into their leases prior to the bill becoming effective and the Public School Capital Outlay Council (PSCOC) will not have sufficient time to review these leases prior to the start of the 2023-2024 school year.

Conflicts of Interest. HB143/HGEICS proposes to expand restrictions and oversight on potential charter school governing body conflicts of interest to also include school employees. . Under the bill, a person may not be employed by a charter school if they or their immediate family members is an owner, agent, contractor, or otherwise has a financial interest in an entity with whom the charter school contracts for goods or services. A violation of this section would render such a contract voidable by the chartering authority, the Public Education Department (PED), or the school's governing body.

Potential sanctions would be stricter, however, when an employee or governing body member actively participates in the selection, awarding, or administration of a contract where such a conflict already exists. In that case, the bill proposes to immediately void the contract, rather than allow it to be voidable at the discretion of the authorizer, PED, or the governing body.

HB143/HGEICS also proposes to require all chartering authorities to annually review and approve all charter school conflict-of-interest disclosure statements and report them to PED.

Charter School Facilities. HB143/HGEICS proposes several amendments related to public school facilities. Section 1 would amend the Charter Schools Act to require that an agreement for the use of a school district's facilities may provide for reasonable lease payments that have been approved by the PSCOC at the local market rate. Previously, there was no requirement of PSCOC approval, nor of adherence to the local market rate. Potentially, this requirement could limit the imposition of payment terms that are unduly burdensome or usurious, but the amendment does add another layer of bureaucratic review.

Section 2 proposes to amend charter school facilities standards, at Subsection C of Section 22-8B-4.2 NMA 1978. Currently, a charter school must receive a condition rating equal or better than the average condition for all public schools for that year on the weighted New Mexico Conditions Index (wNMCI) in order to open a new facility or move into an existing one, or the school demonstrates within 18 months of occupancy or relocation the way in which a facility will achieve an appropriate wNMCI rating. The proposed amendment strikes the reference to the 18-month window for demonstration of how the new facility will achieve an appropriate wNMCI

rating; instead, a school may not move into a new facility *until* that facility receives the appropriate wNMCI score, effectively eliminating the 18-month period during which a facility may not yet have achieved the necessary score.

Section 5 addresses distributions from the public school capital outlay fund, which can include distributions for facility lease payments, and proposes to require PSCOC and a charter school's authorizer to review those payments made with assistance from the fund for any lease, amendment, or lease renewal executed after July 1, 2023. HB143/HGEICS prohibits those lease payments from being used for operational expenses, including property taxes, utilities, custodial fees, insurance, and repairs, which are often written into lease agreements. Beginning in FY24, operational funds would need to be expended for those costs, rather than state assistance.

PERFORMANCE IMPLICATIONS

None.

ADMINISTRATIVE IMPLICATIONS

None.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to SB60, Photovoltaic Systems in Public Schools, which proposes to amend Section 22-24-4 of the Public School Capital Outlay Act to require any new public school to be constructed after July 1, 2023, with grant assistance from the public school capital outlay fund to include a photovoltaic system sufficient to meet the energy needs of the school.

Relates to SB131, Public School Funding Changes, which proposes to amend Section 22-24-4 of the Public School Capital Outlay Act to strike current Subsections N and O, two outdated provisions whose applicability and effectiveness ended in 2022.

TECHNICAL ISSUES

None.

OTHER SUBSTANTIVE ISSUES

None.

ALTERNATIVES

None.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

None.

AMENDMENTS

None.