LFC Requester:	S. Liu

AGENCY BILL ANALYSIS - 2025 REGULAR SESSION

WITHIN 24 HOURS OF BILL POSTING, UPLOAD ANALYSIS TO
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(Analysis must be uploaded as a PDF)

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Date Prepared: *2/5/25*
Bill Number: *SB245*

Check all that apply:
Original *X* Correction __
Amendment __ Substitute __

Sponsor: Antonio Maestas
Short Title: **CHARTER SCHOOLS AS BOARDS OF FINANCE**

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SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY25	FY26		

(Parenthesis ( ) indicate expenditure decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY25	FY26	FY27		

(Parenthesis ( ) indicate revenue decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY25	FY26	FY27	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis:

SB 245 amends the Audit Act, the Public School Code and the Charter School Act to require that locally chartered charter schools qualify as their own boards of finance and pay for independent audits separately from financial audits of their school district chartering authority.

FISCAL IMPLICATIONS

Creating boards of finance for administratively attached entities of a local school district may create issues with the designation of school districts as local education agencies (LEA's). How federal funds flow to locally chartered charter schools and school districts may need to change, as would federal reporting by school districts and the locally chartered charter schools.

Additionally, the state would need to determine if it would still keep the process of oversight for boards of finance that envision a board of finance only being awarded to a state level entity For example, 22-8-39 NMSA 1978 allows the Public Education Department (PED) to suspend the board of finance (or "takeover" a school's finances) if the school has mismanagement, improper recording or improper reporting of public school funds. It is unclear if the same oversight of locally chartered charter schools would exist if the provisions of SB 245 were to pass. If PED were to obtain the authority to takeover a locally chartered charter school, it places the state in an untenable position of oversight of an entity they did not approve.

SIGNIFICANT ISSUES

SB 245 requires locally-chartered charter schools to qualify with school districts in a similar manner that state-chartered charter schools qualify with the Public Education Commission (PEC) for purposes of assuming primary responsibility for and authority over their own finances.

Qualifying as an independent board of finance would provide independence to locally chartered charter schools from school districts for the use of federal funds, and may remove oversight of these federal funds by the school district putting such oversight on the locally chartered charter school governing body and the PED. It is unclear how the provisions of SB 245 would impact capital outlay agreements made by the locally chartered charter school with the local school district or future deals like those state chartered charter schools make with private equity entities or other state authorities (like the Public School Capital Outlay Council (PSCOC)).

SB245 gives charter schools the right to select the auditor of their choice and requires them to pay for their audits from their own funds separate from chartering authority.

PERFORMANCE IMPLICATIONS

In recent years, the Office of the State Auditor (OSA) has encountered increasing concerns with charter school foundations and interactions with charter school government finances. One school has had its going concern questioned – meaning that it is in so much debt to its foundation that if it were to close the state would be liable. Additionally, at least a few charter schools have such poor financial operations that their audit status is disclaimed – meaning the auditor cannot provide an opinion on the veracity of the financial statements being made by the charter school. We raise this issue because closer scrutiny and oversight of charter school financial operations is required by both oversight entities like PED and school districts, a well as the chartering authorities, to improve financial outcomes. The ultimate responsibility for holding charter schools accountable for improper financial operations lay with the chartering school district and the PEC when they are evaluating schools for the potential to renew operations. Creating better guidelines to hold charter schools accountable for financial mismanagement is an important tool to combat the audit findings these schools generate.

The intent of SB 245 is unclear. However, as described below, if the intent of the provisions of SB 245 is to reduce the negative impact charter schools have on their authorizing financial statements, this is unlikely to occur due to the requirements of the governmental accounting standards board (GASB) and generally accepted auditing standard requirements to follow applicable accounting standards, which often include GASB statements for state and local government audits. Under SB 245, locally chartered charter schools will still be presented either discretely or blended as part of the school district audit.

ADMINISTRATIVE IMPLICATIONS

Both state-chartered and locally chartered charter schools are separately audited but are not currently required to have separate, standalone audits. SB245 allows for charter schools to select their own auditors. However, how a charter school is presented in the financial audits is determined by the governmental accounting standards board (GASB) statements that all government auditors must follow when conducting a financial audit. Under current statements 14, 39, 61, 80 and 90 it is unlikely that a charter school would be classified as a stand-alone government by any auditor and would therefore be a component unit of its chartering authority. As such, most charter schools' audited financial information must ultimately be reported in the chartering authority's audited financial statements (the local school district in the instance of the a locally chartered charter school and the PED in the instance of a state-chartered charter school as the PEC is administratively supported by PED).

If the provisions of SB245 were to pass, then the data from the two financial audits would still have to be reconciled and in instances where the financial audit data is conflicting, or does not reconcile, delays in publishing the financial audit will result, as well as additional costs to the charter school, the chartering authority and the OSA. If SB245 were to pass, OSA would be required to update the Audit rule in 2.2.2.8 NMAC and 2.2.2.12 C NMAC, as well as review other provisions that address charter school audits in part to clarify how having two auditors will be reconciled to present as one entity in a blended or discrete presentation.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

It is unclear how having two auditors is a more efficient use of limited government resources than having one as any auditors selected by charter schools would still need to use the approved independent public accountant list published by the OSA and each auditor is independent in its review of governments – regardless of whether it is a component unit or not.

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

The board of finance designation has traditionally been limited to school districts as defined by a geographic taxing area. The state originally moved from a county school system to geographic school districts as a separate taxing district that levies its own taxes, issues debt instruments and related payment plans and had the need for other financing instruments (certificates of deposits, on-demand checking accounts, etc.). The board of finance was then placed with the school board because it no longer had to use the County treasurer and County Board as its financial board when it separated from the county school systems. The board of finance also followed school districts as they moved into designation by the federal government as LEA's that can receive direct federal funding.

When the state created state-chartered charter schools began under the Richardson administration and the reworked the State Board of Education was reformed as the PEC to authorize state-chartered charter schools it created new LEA's with state charters as there is no other mechanism by which to flow direct federal funding and other federal oversight requirements for state level education entities.

ALTERNATIVES

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

AMENDMENTS