

LFC Requester:	Sunny Liu
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**AGENCY BILL ANALYSIS
2017 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

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

Check all that apply: Date 2/4/17
Original **Amendment** **Bill No:** SB207
Correction **Substitute**

Sponsor: Senator John M. Sapien **Agency Code:** 924
Short Title: CLARIFY A CERTAIN CHARTER SCHOOL'S AUTHORITY **Person Writing:** Matt Pahl
Phone: 470-9909 **Email:** Matt.pahl@state.nm.u

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY17	FY18		
0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY17	FY18	FY19		
0	0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY17	FY18	FY19	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total	0	0	0	0	n/a	n/a

(Parenthesis () Indicate Expenditure Decreases)

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

SECTION III: NARRATIVE

BILL SUMMARY

Synopsis: Amends the public school code to clarify a charter school authority's duties relative to authorization of a charter school to be located in a district of a certain size with a certain percentage of students enrolled in already established charter schools.

SIGNIFICANT ISSUES

SB207 puts significant restrictions on charter growth in rural areas of the state, and takes control out of the hand of the state charter authorizer. The bill mandates that charter schools may not enroll more than 10% of the total MEM of a district, regardless of provisions determined in the charter school contract with a charter's authorizer.

SB207 creates an arbitrary cap on charter school enrollment that does not consider how students are served by their schools. High-performing charter schools should be empowered to enroll more students, particularly in areas where other neighborhood schools serve students poorly. Communities may be unable to enroll their students in higher quality charter school available in their community.

PERFORMANCE IMPLICATIONS

SB207 attempts to create an arbitrary cap on charter school enrollment that does not consider how students are served by their schools. High-performing charter schools should be empowered to enroll more students, particularly in areas where other neighborhood schools serve students poorly. Communities may be unable to enroll their students in higher quality charter school available in their community.

ADMINISTRATIVE IMPLICATIONS

Administration of this bill would require the PED to complete additional reporting that is not currently available. There is not currently a PED report available that identifies the total MEM in a district, which includes both state and locally authorized charter schools.

Administration of this bill would require chartering authorities to develop processes to identify schools/districts to which this provision applies as part of the new application process. It would also require chartering authorities to develop a waiver process to obtain district waivers where appropriate. Finally, it might require chartering authorities to develop a process for limiting and/or dividing enrollment/MEM allowances for charter schools located in districts in which these provisions apply.

TECHNICAL ISSUES

It is unclear if subsection G can be waived by the local district; the waiver provisions appear to apply only to subsection H. It is also unclear how far subsection H(2) applies; the statute should clarify if the 10% cap provisions do not apply at all or simply do not apply to limit any situation where the 10% cap is already exceeded—but allow a district to cap the enrollment at its current position and disallow any growth. Consideration should be given to providing a clear explanation

of what happens in the event that a School District with a charter school MEM exceeding the 10% threshold in 2016 – 2017, falls back below that level in future years.

The acronym “MEM” is nowhere spelled out or defined in this Section; it would be helpful to clarify what the “MEM of the school district includes.” It is unclear if this would include the MEM from all charter schools as well as traditional public schools, or only locally chartered charter schools and traditional public schools, or only traditional public schools.

The statute currently states “An initial application for a charter school shall not be made...” It is unclear what happens if the application is submitted despite this provision of statute. The same statute also states, “If an application is submitted to a chartering authority, it must process the application.” If an applicant does not heed the provisions of subsection G and submits an application, it is unclear what options the chartering authority has. This provision could be made clearer by using alternative language to identify how a chartering authority should respond to such an application.

Provisions G and H appear to use a different standard. In G, the *enrollment* may not “equal or exceed ten percent”. In subsection H, the *MEM* “shall not exceed ten percent.” The language in the bill could be clearer by consistently using either enrollment or MEM and using a consistent standard related to the ten percent.

As mentioned above in the “Administrative Consequences” section, it is unclear where the obligation lies regarding the calculation and determination of the MEM, and whether or not there are any reporting requirements that need to be imposed on various entities.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

By not enacting this bill, there is a lack of clarity about whether the 10% enrollment cap applies only to new charter schools, or whether it applies to limit enrollment at below 10% for all charter schools in one of the applicable districts. Currently, the statute could be read to allow charter enrollments to exceed the 10% if the enrollment increase occurred after initial authorizing.