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# SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair  
2015 - 2016 Regular

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**Bill No:** AB 1426  
**Author:** Levine  
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**Urgency:** No  
**Consultant:** Lenin Del Castillo  
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**Fiscal:** Yes

**Subject:** Charter schools: classroom-based and nonclassroom-based instruction: blended learning charter schools

## SUMMARY

This bill establishes a funding determination process for blended learning charter schools that offer classroom-based instruction between 60 percent and 80 percent of the instructional time.

## BACKGROUND

Under existing law, the Charter Schools Act of 1992 provides for the establishment of charter schools in California for the purpose, among other things, to improve student learning and expand learning experiences for pupils who are identified as academically low achieving. A charter school may be authorized by a school district, a county board of education, or the State Board of Education, as specified. Some charter schools are new while others are conversions from existing schools. Except where specifically noted otherwise, California law exempts charter schools from many of the statutes and regulations that apply to schools and school districts. The legislative intent of the Charter Schools Act was to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from a school district structure that would afford parents and pupils with expanded educational choices, offer new professional opportunities for teachers to be responsible for the learning program at the school site, and create competition within the public school system to stimulate continual improvements in all public schools.

Existing law requires that charter schools: 1) are nonsectarian in their programs, admission policies, employment practices, and all other operations; 2) not charge tuition; and 3) not discriminate against any pupil on the basis of the characteristics, as specified. Admission to a charter school may not be determined according to the place of residence of the pupil, or of his or her parent or legal guardian, within the state, except that an existing public school converting to a charter school must adopt and maintain a policy giving admissions preference to pupils who reside within the former attendance area of that public school. (Education Code § 47605, et seq.)

According to the California Department of Education, there were over 1,100 charter schools with an enrollment of approximately 514,000 pupils operating in the state in 2013-14.

Existing law:

- 1) Requires charter schools to offer, at a minimum, the following number of minutes of instruction each fiscal year:
  - a) 36,000 minutes in kindergarten;
  - b) 50,400 minutes in grades 1 to 3, inclusive;
  - c) 54,000 minutes in grades 4 to 8, inclusive; and
  - d) 64,800 minutes in grades 9 to 12, inclusive.
- 2) Provides that "classroom-based instruction" in a charter school occurs only when charter school pupils are engaged in educational activities required of those pupils and are under the immediate supervision and control of an employee of the charter school who possesses a valid teaching certification.
- 3) Authorizes a charter school to receive a full classroom-based instruction apportionment if it offers at least 80 percent of the minimum instructional time and requires the attendance for all pupils for whom a classroom-based apportionment is claimed at the school site for at least 80 percent of the minimum instruction time required.
- 4) Authorizes charter schools to offer nonclassroom-based instruction, which includes, but is not limited to, independent study, home schooling, and distance and computer-based education.
- 5) Regulates the provision of funding to charter schools that provide instruction in nonclassroom-based settings through a funding determination process by the State Board of Education (SBE) and provides that nonclassroom-based instruction shall be funded at no more than 70 percent of the rate for classroom-based instruction unless the SBE determines that a greater or lesser amount is appropriate.  
(Education Code § 47634.2)

## ANALYSIS

This bill:

- 1) Defines "blended learning charter school" as a charter school that offers a formal education program in which a pupil learns at least in part through online delivery of content and instruction with some element of pupil control over time, place, and pace and at least in part at a supervised location away from home, operates a single school site within the geographic jurisdiction of the authority that granted its charter, and has no more than one satellite facility, as specified.
- 2) Requires a blended learning charter school that offers classroom-based instruction no less than 60 percent and no more than 80 percent of the instructional time offered by the charter school to be subject to the determination of funding requirement by the State Board of Education, as specified.

- 3) Requires a blended learning charter school that seeks a funding determination to report its attendance as a nonclassroom-based charter school.
- 4) Provides that a blended learning charter school that seeks a funding determination shall not lose eligibility for facilities assistance funding, as specified, based solely on its status as a nonclassroom-based school, provided that the charter school is otherwise eligible.
- 5) Requires the State Board of Education (SBE) to adopt regulations setting forth criteria for the determination of funding for a blended learning charter school and shall include facility costs as instructional costs for any funding evaluation that considers the total instructional costs of the school.

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author's office, "while blended learning innovations are occurring throughout the state, they are not well supported by the existing policy environment. Currently, our education policies support two paths to instruction: the traditional classroom model and the virtual/independent study model. Blended learning operates in the middle of that spectrum. Both traditional and charter public schools are engaging in blended learning but charter schools have a hurdle that traditional schools do not. The current 80 percent threshold that defines a nonclassroom-based school creates unintentional challenges for a blended learning charter school that remains mostly bricks and mortar."
- 2) ***Blended learning.*** Blended learning is a method of instruction that combines traditional classroom-based instruction with some form of independent study that utilizes online learning outside of the classroom. It currently is offered by both charter schools and traditional public schools. Charter schools have the option of reducing classroom-based instruction to 80 percent of the minutes otherwise required and still receive full Average Daily Attendance (ADA) funding for their students.

While existing law already authorizes a charter school to offer nonclassroom-based instruction and go through a funding determination process by the SBE in which it could receive full ADA funding for its students, this bill creates new statutory provisions for charter schools that provide between 60 percent and 80 percent of classroom-based instruction time which is a lower threshold than what is currently authorized for nonclassroom-based instruction. Funding for blended learning programs would also be subject to a funding determination process by the SBE. However, the SBE would be required to include facility costs (as instructional costs) as part of its consideration. Currently, the Charter School Facility Grant Program which was established by SB 740 (O'Connell, Chapter 892, Statutes of 2001) and provides assistance to charter schools with facilities rent and lease expenditures, explicitly prohibits the use of non-classroom based ADA. The author's office and supporters of the bill argue that these charters will have facility needs, such as providing some courses in a classroom setting or for teachers to meet with students on a scheduled basis.

- 3) **Effectiveness of online instruction?** Studies on the use of online instruction, which has grown in recent years, as compared to traditional face-to-face instruction, have been inconclusive and some have even gone on to suggest that online instruction is not as effective as regular classroom instruction. For example, a 2011 study of charter school performance in Pennsylvania by the Center for Research on Education Outcomes at Stanford University found that each of that state's eight online charter schools significantly underperformed brick and mortar schools and regular (non-virtual) charter schools in reading and math. A 2011 report from the Ohio Department of Education only rated three of the state's 27 virtual schools as effective or excellent. Notwithstanding these studies, with recent advances in technology combined with local workforce needs, blending learning programs could allow for more innovative and experimental paths to instruction that benefit student outcomes. Additionally, by requiring a blended learning charter school to go through a funding determination process through the State Board of Education (SBE), this could help ensure adequate state fiscal oversight and prevent the potential for these schools to reduce spending on instruction-related activities.
- 4) **Pilot program.** Absent a comprehensive analysis on the effectiveness of blended learning, it appears to be premature at this point to expand these programs as prescribed by this measure. **Staff recommends** the following amendments:
- a) Provide that the bill's provisions be implemented as a pilot program administered by the California Department of Education (CDE) for a three-year period, commencing with the 2016-17 school year.
  - b) Require the CDE to establish an application process with up to 10 charter schools selected for participation.
  - c) Require that the application be based on, at minimum, a written proposal describing the blended learning program and population to be served, evidence of the applicant's track record of success in operating a blended learning program, and a written plan for documenting and reporting its practices and pupil outcomes for the duration of the pilot program, including specific educational goals and outcomes that are aligned with the applicant's local control and accountability plan.

**Staff also recommends** that the bill be amended to require the CDE to contract for an independent evaluation of the pilot program that assesses the effectiveness of charter school blended learning programs on student performance and includes recommendations on whether this model of instruction should be implemented on a statewide basis. The evaluation shall include recommendations on funding instructional and facility costs and the effectiveness of the funding determination process. This could help inform future discussions on the possibility of permanently authorizing blended learning at the reduced threshold of classroom time that this measure proposes.

- 5) **Funding for facilities.** This bill provides that a blending learning charter school that seeks a funding determination shall not lose eligibility for facilities assistance under Proposition 39, the Charter School Facility Grant Program, and the State School

Facilities Program, provided the school is otherwise eligible for the facilities funding pursuant to those programs. As previously mentioned in Comment No. 2, current law explicitly prohibits eligibility for Charter School Facility Grant Program funds for nonclassroom-based instruction. Because the bill would require the SBE's funding determination to include facility costs as part of its consideration and also to be consistent with the existing Charter School Facility Program, **staff recommends** that the provision allowing a blended learning charter school to retain its eligibility for facilities assistance pursuant to the Charter School Facility Grant Program be deleted.

- 6) **Arguments in support.** Supporters of this bill, the California Charter Schools Association, state blended learning programs are not well supported by the existing policy environment. They state the current SBE funding determination process has forced blended learning charter schools to "severely curtail their blended learning innovation." They further state the current process is "arbitrary and artificially constraining when applied to blended learning charter schools."
- 7) **Arguments in opposition.** The California Teachers Association, (CTA), which is opposed to this bill, states there is no research highlighting the importance of the zone between 60 percent to 80 percent of students instructional time that necessitate special consideration. A high quality charter school using a blended model of instruction has the potential to be a valuable alternative for certain targeted students for whom the traditional classroom model is not feasible. However, too often this approach is neither targeted nor high quality. They note charter schools that move into the online learning environment interact more with for-profit companies who have a responsibility to their shareholders, taking the focus away from students. CTA believes charter schools that seek to provide more online instruction out of class should utilize the existing process for non-classroom based instruction apportionments.
- 8) **Related and prior legislation.** AB 2178 (Levine, 2014) proposed to establish the Blended Learning Pilot Program, administered by the State Board of Education for the purpose of exploring best practices in blended learning. This bill failed passage in the Assembly Appropriations Committee.

## SUPPORT

California Charter Schools Association  
EdVoice  
StudentsFirst

## OPPOSITION

California Federation of Teachers  
California School Employees Association  
California Teachers Association