
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No: AB 787
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Version: June 1, 2015
Urgency: No
Consultant: Lenin Del Castillo
Hearing Date: July 15, 2015
Fiscal: No

Subject: Charter schools: operation: nonprofit public benefit corporations

NOTE: This bill was previously heard by this Committee on July 1, 2015, but a vote was not taken.

SUMMARY

This bill prohibits a charter school from operating as, or being operated by, a for-profit corporation.

BACKGROUND

Existing law:

- 1) Authorizes a charter school to elect to operate as, or be operated by, a nonprofit public benefit corporation, formed and organized pursuant to the Nonprofit Public Benefit Corporation Law.
- 2) Specifies that the governing board of a school district that grants a charter for the establishment of a charter school shall be entitled to a single representative on the board of directors of the nonprofit public benefit corporation.
- 3) Specifies that an authority that grants a charter to a charter school to be operated by, or as, a nonprofit public benefit corporation is not liable for the debts or obligations of the charter school, or for claims arising from the performance of acts, errors, or omissions by the charter school, if the authority has complied with all oversight responsibilities required by law, including, but not limited to, those required by Education Code § 47604.32 and 47605(m). (Education Code § 47604)

ANALYSIS

This bill prohibits charter schools from being operated by a for-profit corporation.

STAFF COMMENTS

- 1) **Need for the bill.** According to the author's office, "the for-profit model is unsustainable for the long-term development of California's public education system. As a for-profit corporation their first priority is their shareholders, not children or the public. These schools often direct funds out of state to their national entities, and this structure takes taxpayer dollars out of state and away from the classroom. In

the 21st century, online education will only continue to grow. It is crucial that we protect all of our public school students, whether their classroom is physical or virtual.”

- 2) ***Appropriate use of taxpayer dollars?*** While current law explicitly authorizes a charter school to operate as a nonprofit corporation, statute is silent on whether a charter school is permitted to operate as a for-profit corporation. Because of the permissive nature of the Education Code and absent a clear prohibition, several charter schools are currently operating as for-profit corporations. The California Charter School Association indicates there are six for-profit charter schools in California. According to the author’s office, “California Virtual Academies (CAVA) is California’s largest provider of online public K-12 education and a public charter school network that exists entirely online. Students take classes from home, communicating with teachers via computer. CAVA’s primary vendor and manager is K12, Inc., a for-profit corporation.” The author’s office further indicates that “K12, Inc. is the largest for-profit operator of virtual schools nationwide and paid almost \$11 million to its top six executives in 2011-12, while the average CAVA teacher salary was \$36,150, about half the average teacher pay in California.” The Committee may wish to consider whether it is an appropriate use of state taxpayer dollars for-profit corporations to operate public schools. Additionally, does this model provide a perverse incentive for these charter schools to limit services for students in order to increase profits?
- 3) ***Impact on students.*** Notwithstanding any issues regarding the appropriateness of using taxpayer dollars for charter schools operating as a for-profit corporation, it does not appear that the bill contemplates what would happen to students attending these schools if the bill were to become law. Presumably, the operating entities could restructure or reorganize themselves as nonprofit corporations to comply. To the extent that these entities are unable to do so, would the charter schools be required to immediately shut down? Would there be a transition period for them to find placement in a new school? Some students may have unique learning needs which could present logistical challenges in finding the appropriate placement in a new school. To prevent the potential disruption of educational services provided to students, **staff recommends** that the bill be amended to become operative beginning January 1, 2017.
- 4) ***Additional clarification may be needed.*** It is unclear if the bill’s prohibition would extend to contracts that charter schools have in place with for-profit corporations for various operations such as testing companies, test publishers, and providers of instructional materials. Or is the bill limited only to the for-profit entity that owns or manages the day-to-day operations of the charter school? To prevent differing practical interpretations, the author may wish to consider clarifying which entities would be subject to the bill’s prohibition.
- 5) ***Arguments in support.*** Supporters of the bill indicate that prohibiting charter schools from being run by for-profit corporations would protect California taxpayers by ensuring their money is not being taken out of the state and away from classrooms. The bill would help charter schools focus on students and not profits or pleasing investors.

- 6) ***Arguments in opposition.*** Opponents of the bill argue that whether or not the school is “for-profit” should not be the driver, and rather, we should be looking at what the program has done to help students attain academic proficiency in an alternative setting. They indicate the bill would prohibit successful arrangements with online programs that have provided students with successful options.

SUPPORT

American Federation of State, County and Municipal Employees
Association of California School Administrators
California Federation of Teachers (co-sponsor)
California Labor Federation (co-sponsor)
California Professional Firefighters
California School Employees Association (co-sponsor)
California State PTA
California Teachers Association (co-sponsor)
Service Employees International Union

OPPOSITION

California Parents for Public Virtual Education
Charter Schools Development Center
EdVoice
K-12, Inc.
Letters from individuals

-- END --