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## SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair  
2015 - 2016 Regular

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**Bill No:** SB 329  
**Author:** Mendoza  
**Version:** March 26, 2015  
**Urgency:** No  
**Consultant:** Lenin Del Castillo  
**Hearing Date:** April 22, 2015  
**Fiscal:** Yes

**Subject:** Charter schools: petition denials: competitive bidding

### SUMMARY

This bill would authorize a school district and county office of education to deny a petition for the establishment of a charter school if it finds the charter school would have a negative fiscal impact on the school district (or a district within the county), as specified. Additionally, the bill would require a school district or county office of education, as part of its review of a charter petition, to consider 1) a report assessing its capacity to conduct oversight of the charter school and 2) a report of the anticipated financial and educational impact on the other schools that the school district has oversight obligations for.

### BACKGROUND

#### *Charter Schools*

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.

Current 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 State 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.

Parents, teachers, or community members may initiate a charter petition, which is typically presented to and approved by a local school district governing board. The law also allows, under certain circumstances, for county boards of education and the State

Board of Education to authorize charter schools. The specific goals for a charter school are detailed in the agreement (charter) between the authorizing entity and the charter developer. The charter petition is also required to include a description of the educational program of the school and several other policies and procedures relating to employees, pupils, and finances. Current law establishes procedures for the renewal of charter schools, not to exceed five years.

If a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school is required to notify the superintendent of the school district of the pupil's last known address within 30 days, and shall upon request provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card, and health information. This provision applies only to pupils subject to compulsory full-time education.

## ANALYSIS

This bill:

1. Requires a school district governing board or county board of education, as part of its review of a charter school petition, to consider a report assessing whether school district staff has the capacity to conduct oversight of the charter school and a report of the anticipated financial and educational impact on the other schools that the governing board of the school district has oversight obligations for.
2. Adds the finding that “the charter school would have a negative fiscal impact on the school district” to the findings upon which a district may base denial of a petition for the establishment of a charter school.
  - A. Provides that a negative fiscal impact on the school district may only be established, and is deemed to be established, if any one of the following conditions is met:
    - (1) The school district has received a negative financial certification pursuant to § 42131.
    - (2) The school district has received an emergency apportionment or loan and is operating under the oversight of a state administrator or trustee, as specified.
    - (3) The school district, due to the declining enrollment of pupils, is in the process of closing a school that a charter school petition has identified as the proposed site for its charter school and has received a qualified financial certification pursuant to § 42131, or would receive a qualified certification if the charter school petition is approved.
3. Adds the finding that “the charter school would have a negative fiscal impact on a school district” to the findings upon which a county office of education may base denial of a petition for the establishment of a charter school.

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  - (3) The school district, due to the declining enrollment of pupils, is in the process of closing a school that a charter school petition has identified as the proposed site for its charter school and has received a qualified financial certification pursuant to § 42131, or would receive a qualified certification if the charter school petition is approved.
4. Applies the competitive bidding provisions regarding contracts specified in § 20110 of the Public Contract Code to contracts awarded by a charter school and for purposes of that part of the Public Contract Code, provides that a charter school shall be deemed a school district and the governing body of a charter school shall be deemed the governing body of a school district. Provides that a reference to a school district or the governing board of a school district shall be deemed to also reference a charter school or the governing body of a charter school.

## STAFF COMMENTS

1. ***Need for the bill.*** According to the author's office, California's charter school law was established in 1992 when these schools were expected to be only a small component of state systems of public education. A cap was established to limit charter schools to only 100 throughout the state. Although there are many charter schools that greatly benefit communities, the exponential growth of the charter school industry over the last twenty years has not coincided with increased oversight, and there is a need to revisit the impact of charter schools on neighborhood schools. The author's office indicates that although charter schools contribute to our state's public education and bring a different approach that benefits many students, there must still be oversight to ensure that children are receiving the best education possible. There are cases where small school districts, with only 30 students, authorize a charter school that enrolls up to 3,000 students, making it difficult for staff that oversees 30 students to conduct oversight of a school that serves 100 times its size. Additionally, the author's office indicates there are still some charter schools that do not operate with the student's best interests in mind. This bill seeks to bring accountability and transparency to those institutions.
2. ***Charter schools.*** Charter schools are exempt from most laws governing school districts and schools in order to allow the charter school the flexibility to innovate

and be responsive to the educational needs of the student population served. Charter schools are required, however, to have credentialed teachers in core and college preparatory courses, meet statewide standards, and consult with parents, guardians, and teachers regarding the school's programs.

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.

3. ***Fiscal issues as a basis for denying charter petitions.*** While this bill specifies criteria for how negative fiscal impact would be defined, it does not require a school district to make a factual finding about the extent of the negative impact. Conceivably, a district could deny a charter petition for any negative impact, even a relatively small one. Opponents argue that allowing school districts to use fiscal issues as a basis for denying charter school petitions is counter to the Legislature's intent for charter schools and shifts the focus from the educational program to be offered by the charter school to the fiscal condition of the school district. Opponents also argue that authorizing governing boards to deny charters on the basis of the fiscal impact to the district would have the effect of restricting parental choice in choosing schools that best meet their pupil's needs. For these reasons, **staff recommends** that the bill be amended to remove the provisions authorizing a school district and county office of education to deny a charter petition if it finds the charter school would have a negative fiscal impact on the school district.
4. ***Limits the establishment of charter schools?*** Twice a year, the California Department of Education (CDE) receives Notice of Interim Certifications on the financial status of the state's approximately 1,100 local educational agencies (LEAs). Based on the first interim report that was published by the CDE in February 2015, 43 LEAs are either in negative or qualified financial status. Of these, 5 LEAs have a negative certification which means they will not be able to meet their financial obligations for 2014-15 or 2015-16 and 38 LEAs have a qualified certification and may not be able to meet their financial obligations for 2014-15, 2015-16, or 2016-17.

This bill could give governing boards a basis to deny charter school renewals, because renewals must include a comprehensive description of any new requirement of charter schools enacted into law after the charter was originally granted or last renewed. It is unclear how many existing charter schools could be denied renewal because the authorizing school district could meet the definition of negative fiscal impact. It also seems unlikely that denying the renewal of these schools would solve the fiscal problems of these districts.
5. ***Current oversight for charter authorizers.*** Existing law requires a charter school to promptly respond to all reasonable inquiries, including, but not limited to, inquiries regarding its financial records, from its chartering authority, the

county office of education that has jurisdiction over the school's chartering authority, or from the Superintendent of Public Instruction and to consult with these entities regarding any inquiries. Each chartering authority is also required to do all of the following with respect to a charter school under its authority:

- A. Identify at least one staff member as a contact person for the charter school.
- B. Visit each charter school annually.
- C. Ensure that each charter school complies with all reports required of charter schools by law.
- D. Monitor the fiscal condition of each charter school under its authority.
- E. Provide timely notification to the State Department of Education if any of the following circumstances occur or will occur with regard to a charter school for which it is the chartering authority:
  - (1) A renewal of the charter is granted or denied.
  - (2) The charter is revoked.
  - (3) The charter school will cease operation for any reason.

Existing law requires each charter school to annually prepare and submit reports to its chartering authority and county superintendent of schools or only to the county superintendent of schools if the county board of education is the chartering authority. These reports include a preliminary budget, interim financial reports, and audits. Current law also requires the chartering authority to use any financial information it obtains from the charter school, including, but not limited to, the reports required by this section, to assess the fiscal condition of the charter school.

By requiring a school district to assess its capacity prior to approving a charter petition, this bill could provide a mechanism for a district in determining whether it has the necessary capacity to provide effective oversight.

6. ***Competitive bidding.*** This bill would apply the competitive bidding provisions specified in § 20110 of the Public Contract Code to contracts awarded by a charter school. This could affect how various equipment, materials, and supplies are purchased or leased and according to opponents of the bill, charter schools would be subject to a time-consuming, labor-intensive process with no justification.
7. ***Related and prior legislation.***

AB 1172 (Mendoza, 2012), similar to this measure, would have authorized a school district to deny a petition for the establishment of a charter school if it finds

the charter school would have a negative fiscal impact on the school district. AB 1172 failed passage in this Committee.

AB 86 (Mendoza, 2011) would have expanded signature requirements for charter school petitions to include classified employees. This measure was passed by this Committee and subsequently vetoed by Governor Brown with the following message:

***Charter schools are a small but very important part of the California public school system. They vary by size, mission, governing structure and educational philosophy. Their purpose is to allow parents, teachers and other interested citizens to form public schools outside the more detailed regulatory framework of the regular school system.***

***They are profoundly difficult to establish and even more difficult to maintain and grow in excellence. Having started two myself, I know whereof I speak.***

***Notwithstanding the important contributions classified staff make to the operation of a school, this bill would unnecessarily complicate an already difficult charter school petition process.***

***I believe the existing law is tough enough.***

AB 2954 (Liu, 2006) would have added “negative fiscal impact” to the reasons a governing board could deny a charter school petition and required petitions to describe how the charter school would provide free and reduced-priced meals to eligible students. That measure was passed by this Committee and subsequently vetoed by Governor Schwarzenegger, whose veto message read, in part:

***While I understand the plight of school districts faced with fiscal challenges of declining enrollment and other management issues, I cannot condone allowing them to deny parents and students their rights to petition for the establishment of a charter school. In essence, this bill would grant school districts the authority to punish charter petitioners because of problems caused by their own fiscal management issues or their unwillingness to make tough decisions, or both.***

***In sum, this bill runs counter to the intent of charter schools, which is to provide parents and students with other options within the public school system and to stimulate competition that improves the quality not only of charter schools, but of non-charter schools as well.***

## **SUPPORT**

California School Boards Association  
California Teachers Association (sponsor)

**OPPOSITION**

California Center for Parent Empowerment  
California Charter Schools Association  
Camino Nuevo Charter Academy  
Charter Schools Development Center  
EdVoice  
StudentsFirst  
Letters from individuals

**-- END --**