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## SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2019 - 2020 Regular

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<b>Bill No:</b>	SB 756	<b>Hearing Date:</b>	April 24, 2019
<b>Author:</b>	Durazo		
<b>Version:</b>	March 27, 2019		
<b>Urgency:</b>	No	<b>Fiscal:</b>	Yes
<b>Consultant:</b>	Ian Johnson		

**Subject:** Charter schools: moratorium.

### SUMMARY

This bill prohibits the approval of new charter schools until June 30, 2024, unless various prescribed charter school authorization reforms are enacted on or before January 1, 2020, and requires the Legislative Analyst's Office to conduct a charter school report during the 2023-24 school year.

### BACKGROUND

Existing law:

- 1) Establishes the Charter Schools Act of 1992, providing for the establishment of charter schools in California for the purpose, among other things, of improving student learning and expanding learning experiences for pupils who are identified as academically low achieving.
- 2) Authorizes anyone to develop, circulate, and submit a petition to establish a charter school, and requires charter developers to collect certain signatures in support of the petition, as specified. A governing board must grant a charter if it is satisfied that the charter is consistent with sound educational practice. A governing board is precluded from denying a petition unless it makes written factual findings that the petition fails to meet one or more of the following:
  - a) The charter school presents an unsound educational program.
  - b) The petitioners are demonstrably unlikely to successfully implement the program described in the petition.
  - c) The petition does not contain the number of required signatures.
  - d) The petition does not contain an affirmation it will be nonsectarian, nondiscriminatory, shall not charge tuition, and other affirmations, as specified.
  - e) The petition does not contain reasonably comprehensive descriptions of the 16 required elements of a charter petition.

- 3) Authorizes a petitioner to submit a petition directly to a county board of education to establish a charter school that will serve pupils for whom the county office of education would otherwise be responsible for providing direct education and related services.
- 4) Authorizes a county board of education to approve a petition for the establishment of a countywide charter school that operates at one or more sites within the geographic boundaries of the county that provides instructional services that are not provided by a county office of education.
- 5) Establishes an appeals process for charter schools. Under current law, if a school district governing board denies a petition, a petitioner may appeal to the county board of education. If the county board of education also denies the petition, the petitioner is authorized to submit the petition to the State Board of Education (SBE) for approval.
- 6) Authorizes the SBE to approve petitions for state charter schools that operate at multiple sites throughout the state.

## ANALYSIS

This bill:

- 1) Prohibits the approval of a petition for the establishment of a new charter school until June 30, 2024, unless all of the following policies are enacted on or before January 1, 2020:
  - a) A charter school proposed to be located within a school district shall be approved only by the governing board of that school district.
  - b) The governing board of a school district shall have complete discretion regarding which schools of the school district and charter schools to place within its jurisdiction.
  - c) A charter school shall not locate within a school district without the consent of that school district if the charter school was approved by a jurisdiction other than that school district.
  - d) The overall financial, academic, and facilities impact on the schools of the school district shall be considered before a new charter school is approved by a school district.
  - e) Statewide and school district charter school caps shall be established that create reasonable limits in order to preserve the viability and success of existing schools of a school district.
- 2) Requires the Legislative Analyst's Office to publically issue a report during the 2023-24 school year that answers all of the following questions:

- a) Are charter schools serving similar numbers of English learners and pupils with disabilities as schools of a school district? Does the racial and ethnic balance of charter schools mirror that of schools of a school district? Which pupils with disabilities are being served and which are being excluded? Which foster children and homeless children are being served and which are being excluded? What is happening to the pupils who are excluded?
- b) Has the charter school moratorium led to fewer school closures and program cuts, especially in school districts in which a majority of pupils are pupils of color?
- c) Do charter schools have a higher rate of pupil attrition than schools of a school district?
- d) How have innovative practices been shared between charter schools and schools of a school district? What was learned and how will the new practice be incorporated into the broader learning community?
- e) How many charter schools are still colocated on the campus of a school of a school district? Has the number been reduced? How have colocations impacted the educational experience of pupils?
- f) Has the moratorium decreased the negative fiscal impact of charter schools on school districts and the state?
- g) Should California lift the charter school moratorium?
- h) If the policies identified above were enacted, what other impacts on California's system of public education does each policy change create?

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the bill's sponsor, "The recent practices of county offices of education and the State Board of Education in summarily overruling rigorous evaluations of charter petitions by local school boards is undermining the practice of local control, wherein districts develop priorities and plans with input from all stakeholders including parents, students, teachers, and community members. In many instances, decisions made to overrule a local school board have forced districts to increase class size, lay off educators like counselors, nurses and librarians, and cut vital programs like Career and Technical Education.

"Rather than a willing partner, too many school districts have felt that charter schools were administratively forced into their jurisdiction. When a charter school is willingly approved in a school community, there is far greater opportunity to share best practices and cooperate in order to better serve diverse student needs. Working together is how we improve the conditions of learning. The push for charters is predicated on the continued deterioration of public schools, and teachers across our county are fighting to protect public education. This means

that the ecosystem of public schools in a community must work in concert, rather than in competition. By working together in a system which does not advantage one kind of school over another, we keep our focus on meeting the needs of all students.

“A loophole in California charter school law allows a charter school to operate in a district where it has not been authorized. This practice undermines the ability of a local school board to determine the educational practices of its community. The lack of oversight of charter schools has robbed students in neighborhood public schools of millions of dollars. Forcing charter schools to operate within the school district that approves its petition means decision makers who represent the constituents in the community being served, would be able to access and monitor the expenditures of local dollars intended to be used on local students.

“The impact on kids in neighborhood public schools must be a consideration before new charter schools are approved. The academic impact charter schools have on a local school system can be significant. A need for facilities sometimes results in co-locations of charter schools and neighborhood public schools. While this may be a cooperative process in some instances, a school board must be able to consider the impact. Co-locations have resulted in a great deal of tension when schools have different behavior expectations of the students they serve, or are unwillingly forced to share a gymnasium, track, or cafeteria. In response to Proposition 39, some schools districts have been forced to place charter schools in wings of schools or in portables, where the sharing of facilities like fields and auditoriums have created tensions, and in some cases, eliminated rooms that schools had been using. The obligation of these Proposition 39 requests is generated upon approval of the charter school, so it is critical that school districts be provided the authority to consider facilities impacts before the charter school is approved.”

- 2) ***Charter school overview.*** Charter schools are public schools that provide instruction in any combination of grades kindergarten through 12. In 1992, the state enacted legislation allowing charter schools in California to offer parents an alternative to traditional public schools and encourage local leaders to experiment with new educational programs. Except where specifically noted otherwise, California law exempts charter schools from many of the statutes and regulations that apply to school districts. Generally, all charter schools must (1) provide nonsectarian instruction, (2) charge no tuition, and (3) admit all interested students up to school capacity. To both open and continue operating, a charter school must have an approved charter setting forth a comprehensive vision for the school.

Over the last decade, charter school enrollment has grown steadily. In 2006, 560 charter schools served about 200,000 students (3.5 percent of the state’s K-12 enrollment). By 2016, over 1,200 charter schools served about 580,000 students (almost 10 percent of the state’s K-12 enrollment). Most charter schools are small, compared to traditional public schools, and located in urban areas. The median charter school enrolls about 250 students, whereas the median traditional public school enrolls about 525 students. Together, nine Bay Area

counties, Los Angeles County, and San Diego County account for more than 60 percent of all charter schools and charter school enrollment in the state.

Charter schools can be conversions of existing public schools or new startup schools. About 15 percent of charter schools are conversions, with the remaining 85 percent being startups. Of these, about 80 percent offer traditional, classroom-based instruction and 20 percent offer some form of independent study, such as distance learning or home study.

- 3) ***Charter school authorization.*** Groups that are interested in creating a charter school must adhere to a state prescribed application process. A charter petition must be signed by a sufficient number of interested teachers or parents and must set forth a comprehensive vision for the school, including its educational program, student outcome measurements, student discipline policy, employee policies, governance structure, and fiscal plans. Petitions must be submitted to an authorizer, which in most cases is the school district in which the charter school will be located. Groups can also submit petitions to the county office of education or the state for charter schools that will serve multiple districts or multiple counties.

Existing law requires an authorizer to approve a charter application, unless it makes a written finding that: (1) the proposed educational program is unsound, (2) the petitioners are unlikely to successfully implement their program, (3) there are insufficient signatures, (4) the proposed school violates one of the three basic requirements for all charter schools, or (5) the petition does not include a reasonably comprehensive vision for the school. A charter school that is rejected by its district may appeal to its county office of education, and if rejected there, may appeal to the state.

- 4) ***Charter school oversight.*** A charter school must promptly respond to all reasonable inquiries 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. Each chartering authority is also required to: (1) identify at least one staff member as a contact person for the charter school, (2) visit each charter school annually, (3) ensure that each charter school complies with reporting requirements, (4) monitor the fiscal condition of each charter school under its authority, and (5) provide timely notification to the State Department of Education if an existing charter is renewed, revoked, or ceased. Charter schools must annually submit reports to its chartering authority and county superintendent of schools including budget information, interim financial reports, and audits. The chartering authority is tasked with using any financial information it obtains from the charter school to assess the fiscal condition of the charter school.
- 5) ***Findings and recommendations from recent informational hearing.*** On October 23, 2017, this Committee held an informational hearing on charter school authorization in California. The hearing covered the authorization process, with perspectives shared by charter school practitioners, charter authorizers, the Legislative Analyst, and the state's Fiscal Crisis Management and Assistance Team.

Notable findings and recommendations from the panelists were as follows:

- a) *California has many authorizers each overseeing few charter schools, making it difficult to develop systemic authorizer expertise.* California represents 1/3 of all authorizers and 18 percent of all charter schools in the nation. Of the state's authorizers, 90 percent are school districts, with 85 percent overseeing five or fewer charter schools (half oversee only one charter school).
- b) *Charter schools usually close for fiscal reasons.* More than 80 percent of charter school closures are due to financial mismanagement.
- c) *Current oversight fee levels do not support meaningful oversight.* For most authorizers, the oversight fees paid by charter schools do not provide substantial resources, because most authorizers oversee fewer than five charter schools that tend to be small. This prohibits most authorizers from staffing full-time charter offices, resulting in oversight engagement that is sporadic, distracted, and a contributor to staff turnover for the authorizer.
- d) *Charter schools have changed over time, but the approval process has not.* The growth of the charter school sector has brought multi-school networks operated by charter management organizations and more blended learning models. Yet, the charter petition and the approval process has not changed. The content found in petitions has become "boilerplate", undermining the purpose and value of the approval process. Further, petitions lack sufficient financial, operational, and governance information for authorizers to effectively determine which petitioners are "demonstrably unlikely to successfully implement the program".
- e) *Meaningful upfront charter evaluations are critical because schools that do not start strong rarely improve.* Research shows that charter schools that begin with unclear plans and insufficient resources almost never improve. However, the schools may not be forced to close for two or three years, exacerbating the negative impact on students, parents, and taxpayers. This makes the quality of the information in petitions and the capacity of authorizers to do meaningful evaluations on the front end even more important.
- f) *Charter authorizers can face timeline challenges.* To evaluate a petition effectively, authorizers need staff with knowledge about education, assessments, special education, English-learners, school finance, human resources, and governance. With no control of when petitions will be submitted, meeting the current review timelines can be challenging for authorizers. For example, a petition that is submitted in early November gives an authorizer roughly 20 working days to arrange its multi-disciplinary team, review the petition, and present a report to its board.
- g) *Charter renewal process does not reconcile initial promises with results.* When a charter school applies for renewal, it simply updates its original

petition, even though what is most important is how well the charter school performed on the promises that were made. This represents a disconnect between the statutory standard for charter renewal and the state's new continuous improvement accountability structure.

- h) *Conflicts of interest can influence charter petition decisions.* When evaluating charter petitions, district officials can, at times, be motivated by retaining or recapturing student enrollment, even if their district schools are underperforming. This inherent conflict speaks to the value of the current appeal process.
  - i) *Capacity interviews should be required.* While some authorizers already conduct capacity interviews, panelists stated that the increasingly boilerplate nature of charter petitions warrants that these interviews be part of the statutory process. These interviews are now viewed as the only effective way of truly assessing petitioner capacity.
  - j) *The functions of annual oversight should be clarified in law.* Existing law requires authorizers to monitor the fiscal condition of charter schools, but it does not say how. Because the details are left to be determined by each authorizer, there is wide variety in what oversight looks like throughout the state. Some authorizers are quite involved (bordering on intrusive) and others do little more than process paperwork.
- 6) ***Charter growth correlates with poverty in California.*** Even though only about 10 percent of California's 6.2 million public school students attend a charter school, the state's charter school enrollment has more than doubled over the last ten years. While charter school growth is often portrayed as a statewide fight over students and territories, charter enrollment data appears to show that most charter growth has occurred in very specific regions of the state. In fact, over the last ten years, more than half of California's school districts authorized no new charter schools at all. The areas of the state in which charter growth has been most substantial tend to be areas where most students are from low-income families, with particular charter concentration occurring in big urban areas.
- 7) ***Charter Task Force requested by Governor Newsom.*** In March, the Superintendent of Public Instruction (SPI) facilitated the first meeting of the Charter Task Force as requested by Governor Newsom. The Governor previously stated that rising charter school enrollments in some urban districts are having real impacts on those districts' ability to provide essential support and services for their students. The Governor requested the SPI to convene a group of experts to closely examine the impact of charter school growth on district budgets and to provide a report and recommendations by July 1, 2019.
- 8) ***Arguments and questions to consider.*** Supporters of this measure argue that "The moratorium proposal lifts up the value that the primary function of charter schools is to establish locally-driven pedagogical innovation that supports California's system of public education and does not replace or undermine it. Establishment of a charter moratorium provides time to reconsider whether our current regulatory framework for charter schools is working toward this value.

“Charter schools were intended to be laboratories of innovation that benefit all students, not silos to further segregate and isolate students based on race and income. In larger urban school districts, the unregulated growth of charter schools has meant that neighborhood public schools become more racially segregated and experience an increase in high needs special education and English Learner students, exacerbating fiscal and academic pressures on teachers, administrators, and support personnel.”

Opponents of this bill argue “Establishing a moratorium without regard to the quality, viability or need for a new charter school removes local discretion and traps the most vulnerable students in failing schools. This bill would also result in the loss of millions of dollars of federal funding that is tied to charter schools but benefit all schools in California.

“The case for a moratorium on charter schools in California has not been made. While there has been a great deal of focus on the fiscal impact of charter schools on districts, there is little credible evidence to suggest that charter schools are the cause of district financial problems. In fact, several objective studies, such as the OUSD Grand Jury and the LAUSD Independent Review Commission conclude charter schools have minor, if any, impact on the districts’ financial crises.”

Given these arguments, the Committee may wish to consider the following questions:

- What would a moratorium on new charter schools accomplish? Would it prevent new, high-quality charter schools from opening in areas where students and parents would benefit from more school choice?
- If the author has already identified the ways in which the Charter Schools Act should be amended, what is the purpose of a five year pause on new charter schools?
- What is the interaction between this bill and AB 1505 (O’Donnell), AB 1506 (McCarty), and AB 1507 (Smith)? Will the policy objectives included in this bill be revised to the extent that the Assembly bills are amended? If not, is it possible that all three of the Assembly bills could be adopted and a moratorium still be triggered?
- Does increasing school district governing board control come at the cost of diminishing parent choice?
- Is it reasonable to require parents that cannot afford private school to send their kids to traditional public schools that do not meet their needs rather than create a new charter school?
- Given that the growth in charter schools has occurred mostly in specific regions of the state, has the case been made that new charter schools should be prohibited (even on a short-term basis) or capped statewide?

- Would a moratorium on new charters only in areas of the state with a high concentration of existing charter schools be a more measured approach?
- Are there other ways in which the Charter Schools Act could be amended to ensure that: (1) charter schools provide access to all interested students, (2) charters are only granted to petitioners demonstrating a strong potential for success, genuine demand from parents, and lack of comparable programs, and (3) authorizers have adequate authority and responsibility for academic, fiscal, and governance oversight?

**SUPPORT**

California Teamsters Public Affairs Council  
California Federation of Teachers  
California Labor Federation  
California School Employees Association  
California Teachers Association

**OPPOSITION**

Able Charter Schools  
Ace Charter Schools  
Aerostem Academy (Charter School)  
Afisha Media Group  
Alder Grove Charter School  
Alliance College-Ready Public Schools  
Alma Fuerte Public School  
Alpha Public Schools  
Alta Public Schools  
Apex Academy  
Aplus+  
Ari Community Services  
Aspire Public Schools  
Audeo Charter School  
Bach Viet Association  
Baypoint Preparatory Academy  
Bella Mente Montessori Academy  
Bright Star Schools  
Bullis Charter School  
Ca Black Chamber Of Commerce Foundation  
Caliber Schools  
California Charter Schools Association  
California Connections Academy  
California Pacific Charter Schools  
Camino Nuevo Charter Academy  
Champs Charter High School of the Arts  
Charter Schools Development Center  
Chico Country Day School  
Chime Institute

Citizens of the World Charter School  
City Charter Schools  
Collegiate Charter High School of Los Angeles  
Community School for Creative Education  
Core Charter School  
Da Vinci Connect  
Da Vinci Schools  
Desert Trails Preparatory Academy  
Ednovate  
Education for Change  
Edvoice  
El Sol Science and Arts Academy  
Endeavor College Prep  
Environmental Charter Schools  
Envision Education  
Epic Charter School  
Escuela Popular  
Excelencia Charter Academy  
Excelsior Charter Schools  
Extera Public Schools  
Fenton Charter Public Schools  
Forest Charter School  
Gabriella Charter Schools  
Gateway College and Career Academy  
Girls Athletic Leadership Schools Los Angeles  
Goals Academy  
Granada Hills Charter High School  
Green Dot Public Schools California  
Grimmway Schools  
Grossmont Secondary School  
Guajome Schools  
Hawking Steam Charter School  
Heritage Peak Charter School  
High Tech Los Angeles  
Highlands Community Charter School  
Icef Public Schools  
Ilead California Charter Schools  
Inspire Charter Schools  
International School for Science and Culture  
Isana Academies  
Ivy Academia Entrepreneurial Charter School  
James Jordan Middle School  
John Muir Charter Schools  
Julian Charter School  
Kairos Public Schools  
Kavod Charter School  
Kinetic Academy  
Kipp Bayview Academy  
Kipp Bayview Elementary  
Kipp Bridge Academy

Kipp La Public Schools  
La Verne Elementary Preparatory Academy  
La Vida Charter School  
Laborers Local 185  
Language Academy of Sacramento  
Larchmont Charter School  
Lashon Academy  
Leadership Public Schools  
Learn4life Assurance Learning Academy  
Leonardo Da Vinci Health Sciences Charter School  
Libertas College Preparatory Charter School  
Lighthouse Community Public Schools  
Literacy First Charter Schools  
Los Angeles Academy Of Arts and Enterprise  
Los Angeles International Charter School  
Los Angeles Leadership Academy  
Los Feliz Charter School for the Arts  
Magnolia Public Schools  
Mirus Secondary School  
Multicultural Learning Center  
Navigator Schools  
New Academy Of Sciences and Arts  
New Horizons Charter Academy  
New Los Angeles Charter Schools  
New West Charter  
Norton Science and Language Academy  
Nova Academy Early College High School  
Oakland Unity High School  
Odyssey Charter Schools  
Olive Grove Charter School  
Orange County Academy of Sciences and Arts  
Orange County Educational Arts Academy  
Pacific Charter Institute  
Pacific Community Charter School  
Pacoima Charter School  
Palisades Charter High School  
Palm Lane Charter School  
Partnerships to Uplift Communities Schools  
Perseverance Prep  
Pivot Charter Schools  
Plumas Charter School  
Puente Charter School  
Resolute Academy  
Rio Valley Charter School  
Rocketship Public Schools  
Rocklin Academy Family of Schools  
Ross Valley Charter School  
Sacramento Area League of Associated Muslims  
Sacramento Music Summit "The Creative Exchange"  
Samueli Academy

San Diego Cooperative Charter Schools  
San Diego Global Vision Academy  
San Jose Conservation Corps & Charter School  
Santa Rosa Academy  
Scholarship Prep Charter School  
Sebastopol Independent Charter  
Shasta Charter Academy  
Sherman Thomas Charter School  
Silicon Schools Fund  
Soar Charter Academy  
Soleil Academy  
Springs Charter School  
St Hope Public Schools  
Stem Prep Schools  
Summit Leadership Academy High Desert  
Summit Public Schools  
Sutter Peak Charter Academy  
Sweetwater Secondary School  
Sycamore Academy of Science and Cultural Arts  
Sycamore Creek Community Charter School  
Taylion Academy  
Teach Public Schools  
The Academies  
The Charter School of San Diego  
The Foundation for Hispanic Education  
The Preuss School Ucsd  
Thrive Public Schools  
Twin Ridges Home Study Charter School  
University High School  
University Preparatory Academy  
Urban Discovery Academy  
Valley Charter School  
Valley Industry and Commerce Association  
Valley View Charter Prep  
Village Charter Academy  
Visions in Education  
Vista Charter Public Schools  
Voices College Bound Language Academies  
Vox Collegiate Of Los Angeles  
Western Sierra Charter Schools  
Westlake Charter School  
Wish Charter Schools  
Yes Charter Academy  
Youth Policy Institute Charter Schools  
Numerous Individuals

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