
SENATE COMMITTEE ON EDUCATION

Senator Benjamin Allen, Chair

2017 - 2018 Regular

Bill No: SB 808 **Hearing Date:** April 26, 2017
Author: Mendoza
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Urgency: No **Fiscal:** Yes
Consultant: Ian Johnson

Subject: Charter schools: chartering authorities and approvals

SUMMARY

This bill requires all charter school petitions to be approved by the governing board of the school district in which the charter school is located, prohibits a charter school from locating outside of its authorizer's district boundaries, and limits the current charter appeal process to claims of procedural violations. Further, the bill specifies that charter schools previously approved by a county board or the state and charter schools operating outside of their authorizer's district boundaries may continue to operate until the charter is required to be renewed.

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. (Education Code § 47601 et. seq.)
- 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. (EC § 47605)

- 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. (EC § 47605.5)
- 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. (EC § 47605.6)
- 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. (EC § 47605)
- 6) Authorizes the SBE to approve petitions for state charter schools that operate at multiple sites throughout the state. (EC § 47605.8)

ANALYSIS

This bill:

- 1) Removes the authority of a charter school that is unable to locate within the jurisdiction of its authorizer to establish one site outside the boundaries of the school district, but within the county in which that school district is located, if certain conditions are met.
- 2) Removes the authority for a charter petition to be submitted to the county board of education if the school district denies the petition.
- 3) Removes the authority for a charter petition to be submitted to the SBE if the county board of education denies the petition.
- 4) Allows a charter petition denial by a school district to be appealed to the county board of education, only if the appeal alleges that the school district committed a procedural violation in its review. If the county board finds, by substantial evidence, that a procedural violation was committed, the county board would be authorized to remand the petition back to the school district for reconsideration.
- 5) Removes the authority for a charter petition to be submitted directly to a county board of education for a charter school that will serve students for whom the county office of education would otherwise be responsible for providing direct education and related services.
- 6) Removes the authority for a charter petition to be submitted directly to a county board of education to establish a countywide charter school.

- 7) Removes the authority for a charter petition to be submitted directly to the State Board of Education (SBE) to establish a statewide benefit charter school.
- 8) Allows charter schools previously approved by a county board or the SBE to continue operating until the charter is up for renewal, at which point the charter school must apply for renewal to the school district in which the charter school is located.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the sponsors of this bill, the California Teachers Association and the California Federation of Teachers, local school boards are the most knowledgeable about the education programs and needs within their jurisdictions, and invest significant time and resources reviewing proposed charter school petitions prior to accepting or rejecting them. Local school districts must have the authority to authorize locally controlled charter schools. The granting of charters should only be through school districts with democratically elected school boards for schools within the boundaries of the school district. Further, appeals to the school district's denial of a petition must be only for due process reasons. A growing number of charter schools operate within the boundaries of a school district that did not authorize the charter school. This impacts oversight, accountability, average daily attendance funding, and vote dilution for the parents and students of the district. This bill would ensure local control and accountability for charter schools.
- 2) ***County offices of education.*** In addition to providing support services and oversight for school districts, county offices of education provide instructional and related services to certain students, including severely disabled special needs pupils, adjudicated, incarcerated, and expelled students served through court and community schools, migrant students, and some career technical education students through partnerships with school districts. This bill deletes the ability to establish a county board authorized charter school to serve these students.

While the bill's sponsors have expressed concerns about the accountability of governing boards that are not democratically elected, the Los Angeles County Board of Education is the state's only appointed county board of education, with its seven members appointed by the county board of supervisors to two and four-year terms. Given that the educational services provided by a county office of education are under the jurisdiction of its county board, does it make sense to take away their authority to approve charter schools to provide those services? Would repealing this authority make it more difficult for a county's most vulnerable pupils to benefit from attending a charter school that could help them transition to general education?

- 3) ***Statewide benefit charter schools.*** This bill removes the SBE's authority to approve statewide benefit charter schools. To date, the SBE has authorized three charter schools under the provisions of the statewide benefit charter school law.

Supporters of this bill commonly cite pending litigation involving Aspire Charter Schools as an example of the State Board of Education's (SBE) abuse in granting statewide benefit charter schools without regard to the current parameters of the statute. The suit was filed when the SBE approved Aspire's statewide benefit charter petition despite the fact that the petition offered no evidence that the school "will provide instructional services of statewide benefit that cannot be provided by a charter school operating only in one district, or in one county." This directly violated Education Code Section 47605.8. The suit also complained that the SBE was not authorized to approve the Aspire Charter because the petition did not indicate that the charter school would serve students in the California Conservation Corps., Federal Workforce Investment Act, and other programs described in Education Code Section 47612.1. In March 2013, Aspire agreed to surrender its statewide benefit charter status and to be ineligible to seek statewide benefit charter status for five years.

- 4) ***Charter school petitions and appeals.*** If a charter school petition is denied by a school district, this bill will delete the county board's ability to approve the charter school. The bill proposes, instead, to allow a county board of education to consider an appeal only if the appeal alleges that the school district governing board committed a procedural violation and if the county board finds that the district board committed a procedural violation, the county board may return the petition to the school district to reconsider the petition. This bill also limits a charter school appeal of a revocation decision in a similar manner and removes the SBE from the appeal process for both petition appeals and revocation appeals. According to supporters of this bill, by allowing the SBE or the county board to authorize charter schools despite having been thoroughly vetted through the locally elected bodies, the ability for local communities to set local needs and goals is undermined. Would the new, more limited, appeal process established by this bill unnecessarily limit the opportunity for charter petitioners to seek approval?
- 5) ***Arguments in support.*** Supporters of this bill argue that the original promise behind the creation of charter schools, freedom to innovate and experiment in exchange for accountability and results, has yet to be met. The federal Race to the Top initiative, numerous studies of charter school performance, enrollment trends, audits, and investigations of charter schools by the Fiscal Crisis Management and Assistance Team and other entities have demonstrated the need to refocus attention on charter schools in order to return to the original intent of the law.
- 6) ***Arguments in opposition.*** Opponents of this bill, including the California Charter Schools Association, argue that this bill makes a dramatic change in the ability of a charter school petitioner to appeal an adverse decision by a local school district. This change, which cuts the SBE from the process, seriously undermines due process for the petitioner. The value of due process in the case of charter school petitions is that objective third parties are given authority to review a decision made by a less objective party.

7) ***Related Legislation.***

AB 950 (Rubio) allows a charter school that is granted its charter through an appeal to the State Board of Education (SBE) to submit its petition for renewal to either the governing board of the school district that initially denied the charter or directly to the SBE. This measure is currently pending before the Assembly Education Committee.

AB 1224 (Weber) establishes the Chartering Authority Pilot Program under which the SBE would be authorized to select up to three county boards of education with demonstrated authorizing and oversight capacity to authorize and oversee up to five additional charter schools each. This measure is currently pending before the Assembly Education Committee.

AB 1360 (Bonta) prohibits a charter school from establishing discriminatory admission requirements, requires charter schools to comply with existing suspension and expulsion provisions, and establishes the collection of data on student and teacher turnover in the charter school environment to help guide policy moving forward. This measure is currently pending before the Assembly Education Committee.

SUPPORT

Alliance of Californians for Community Empowerment
American Federation of State, County, and Municipal Employees
California Federation of Teachers (co-sponsor)
California School Employees Association
California Teachers Association (co-sponsor)
Los Angeles Alliance for a New Economy
San Diego Education Association
United Educators of San Francisco
United Teachers of Richmond

OPPOSITION

Association of Personalized Learning Schools and Services
California Charter Schools Association
Downtown College Prep
EdVoice
Knowledge Is Power Program—Los Angeles Schools
Orange County Board of Education
Oxford Day Academy
Voices College-Bound Language Academies

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