

Date of Hearing: April 26, 2017

ASSEMBLY COMMITTEE ON EDUCATION  
Patrick O'Donnell, Chair  
AB 950 (Rubio) – As Introduced February 16, 2017

**SUBJECT:** Charter schools

**SUMMARY:** Expands the role of a county board of education and the State Board of Education (SBE) in authorizing charter schools; authorizes countywide charter schools to hire non-credentialed teachers for noncore courses; and, authorizes countywide charter schools to appeal the denial of an application to the SBE. Specifically, **this bill:**

- 1) Deletes the requirement that a countywide charter only be approved if the pupil population cannot be served as well by a charter school that operates in only one school district in the county.
- 2) Deletes the requirement that a countywide charter provide reasonable justification for why it could not be established by petition to a school district.
- 3) Authorizes a county board of education to grant a countywide charter school if a school meets the following:
  - a) The countywide charter petitioners demonstrate that the charter school will provide a high-quality educational program.
  - b) The charter school has described the manner in which the charter school will seek to share best and promising practices of the charter school with other traditional and charter public schools that have low academic performance.
- 4) Deletes the requirement that the state board of education make a finding, based on substantial evidence that the charter's proposed instructional services cannot be provided by a charter school operating in only one school district or only in one county.
- 5) Authorizes the SBE to grant a statewide charter school if a school meets the following, and authorizes the SBE to establish other criteria to define statewide benefit:
  - a) The statewide charter petitioners demonstrate that the charter school will provide a high-quality educational program.
  - b) The charter school has described the manner in which the charter school will seek to share best and promising practices of the charter school with other traditional and charter public schools that have low academic performance.
- 6) Authorizes a charter school that is granted its charter through an appeal to the SBE to submit its petition for renewal to the SBE.
- 7) Authorizes a countywide charter petitioner to appeal an application that has been denied, non-renewed or revoked by the county board of education to the state board of education.

- 8) Specifies that it is the intent of the Legislature that charter schools be given flexibility with the requirement that teachers in charter schools hold a teaching credential with regard to noncore, noncollege preparatory courses.
- 9) Authorizes a statewide charter to operate one site throughout the state.

**EXISTING LAW:**

- 1) Establishes the Charter Schools Act of 1992 which authorizes a school district, a county office of education or the SBE to approve or deny a petition for a charter school to operate independently from the existing school district structure as a method of accomplishing, among other things, improved student learning.
- 2) Establishes a process for the submission of a petition for the establishment of a charter school. Authorizes a petition, identifying a single charter school to operate within the geographical boundaries of the school district, to be submitted to the school district. Authorizes, if the governing board of a school district denies a petition for the establishment of a charter school, the petitioner to elect to submit the petition to the county board of education. Authorizes, if the county board of education denies the charter, the petitioner to submit the petition to the SBE. Authorizes a school that serves a countywide purpose to submit the charter petition directly to the county office of education. Authorizes a school that serves a statewide purpose to go directly to the SBE.
- 3) Authorizes a charter to be granted for not more than five years. Authorizes a charter granted by a school district, county board of education or SBE to be granted one or more renewals by that entity for five years. Requires the renewals and material revisions of the charter to be based on the same standards for the original charter petition.
- 4) Requires a charter school that is granted its charter through an appeal to the state board to submit its petition for renewal to the governing board of the school district that initially denied the charter.
- 5) Specifies a county board of education may approve a countywide charter only if it finds, in addition to the other requirements, that the educational services to be provided by the charter school will offer services to a pupil population that will benefit from those services and that cannot be served as well by a charter school that operates in only one school district in the county.
- 6) Specifies a county board of education may grant a charter for the operation of a school under this part only if it is satisfied that granting the charter is consistent with sound educational practice and that the charter school has reasonable justification for why it could not be established by petition to a school district pursuant to Section 47605.
- 7) Specifies that if a county board of education denies a petition, the petitioner may not elect to appeal the petition for the establishment of the charter school to the SBE.
- 8) Requires teachers in countywide charter schools to be required to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a teacher in other public schools would be required to hold.

- 9) Specifies the state board shall not approve a petition for the operation of a state charter school unless the state board makes a finding, based on substantial evidence, that the proposed state charter school will provide instructional services of statewide benefit that cannot be provided by a charter school operating in only one school district, or only in one county.

**FISCAL EFFECT:** Unknown

**COMMENTS:** This bill greatly expands the role of county boards of education and the State Board of Education (SBE) in authorizing charter schools. The bill deletes the existing requirement that countywide benefit charter schools and statewide benefit charter schools serve a countywide and statewide purpose and demonstrate that their educational program cannot be limited to a single school district, or a single county if before the SBE. Without this requirement, county boards and the SBE could authorize any charter school.

This measure makes several policy changes that are concerning:

- Deletes the requirement for countywide and statewide charters to show that they serve a countywide and statewide purpose. This means that county boards of education and the SBE will be authorized to grant any regular charter school and it is unclear whether COEs or the SBE has capacity for this dramatic workload increase. This will reduce local control, increase the distance between the school and the authorizer, and lead to authorizer shopping.
- Limits parent and teacher access to authorizer board meetings due to the increased distance between the school and the authorizer.
- Authorizes a statewide charter school to operate one site. The committee should consider how a charter school with only one location could possibly serve a statewide purpose?
- Allows countywide charter schools that are denied by the county to appeal to the SBE, when the SBE does not have knowledge of the specific county or its unique needs.
- Allows countywide charter schools to hire non-credentialed teachers to teach non-core courses.
- Authorizes any charter school that is granted its charter from the SBE to seek renewal from the SBE instead of their local school district, which will greatly expand the Department of Education's (CDE's) workload.

According to the author, "In order to secure a countywide benefit or statewide benefit charter, a charter school petition must cross an impossibly high bar for approval: the applicant must justify why the school cannot be established by a petition to a school district. When the Legislature enacted the law to provide for countywide benefit and statewide benefit charter schools, they clearly saw the value in a school that serves a broader mission that transcends school district lines. A prime illustration of the value of a countywide benefit is the Fortune School in Sacramento. Fortune School addresses the substantial academic achievement gap among African American students throughout Sacramento County. Rather than risk unnecessary challenges by piecing together their program through a multitude of school districts in the county, each with a different culture, requirements and competence in the oversight of charter schools, Fortune School successfully petitioned the county board of education for a countywide benefit charter with 5 schools. Fortune's academic performance proved the schools' worth and they were recently renewed for another 5-year period."

**Countywide & Statewide Charter Authorizing Requirements:** This bill authorizes a county board of education or the SBE to authorize any charter school that meets these two requirements:

- 1) The charter petitioners demonstrate that the charter school will provide a high-quality educational program.
- 2) The charter school has described the manner in which the charter school will seek to share best and promising practices of the charter school with other traditional and charter public schools that have low academic performance.

Any regular charter school could meet these two requirements and seek authorization from a county board of education or the SBE.

Under existing law, a countywide charter and statewide charter must show that their school program cannot operate under a single district or a single county. In essence, the school must show how they will benefit and serve a community countywide or statewide. This bill eliminates the requirement that a charter demonstrate why they cannot operate under a single district or a single county. If the charter petitioner no longer is required to show how the school will serve the community at the countywide or statewide level, then they are just a regular charter school, without an enhanced geographic mission. This means that any charter school can choose to go to either the school district, county office of education or SBE to get authorized. Charter petitioners will no longer need to go to their local school district first. This will dramatically change the charter authorization process. Further, this bill erodes the definition of a countywide or statewide charter school.

**Local Control.** This bill authorizes charter schools to choose whether to seek authorization from their local school district, county office of education or the SBE and no longer requires charter schools to first seek approval at the local level. The Legislature has had intense focus on providing local control to school districts through the Local Control Funding Formula and other state policies, and the committee should consider whether removing local control for charter authorizing moves away from that focus.

**Countywide & Statewide Benefit Threshold:** The sponsors of this bill contend that the threshold for receiving approval as a countywide benefit or statewide benefit school is too difficult. One example contradicts that notion. According to the Ventura County Office of Education (VCOE), a charter school located in a wealthy school district wanted to expand their mission to serve a more diverse student population. The charter school applied for a countywide benefit charter in order to serve students across the county and open sites in lower income areas. According to the VCOE, this clearly met the definition of a charter school that could not operate within a single school district. As the county is relatively segregated with rich districts and poor districts, a charter school that wishes to serve a diverse student population would need to operate on a countywide basis to achieve that goal. It would appear that a charter school located in any county with such segregation would have similar arguments to make in a countywide charter petition.

**County Office of Education (COE) & SBE Capacity:** It is unclear whether COEs and the SBE have the capacity to dramatically expand their authorizing and oversight of charter schools. According to the California County Superintendents Educational Services Association, of the 58 COEs, approximately 6 COE's have charter oversight offices. Most COEs are too small to have even one dedicated staff person working on charter school authorization and oversight. With this in mind, the committee should consider whether it is prudent to expand charter authorizing at the county level. Currently, it is unknown how many countywide benefit charter schools exist statewide, since data isn't collected.

The Department of Education (CDE) provides oversight to the charter schools approved by the SBE. Currently CDE oversees 23 charter schools and one statewide benefit charter that operates 6 schools. With limited staff, it is unclear whether CDE can expand charter oversight for the SBE. The SBE has approved three statewide benefit charter schools to date, although two of the three have sought authorization at the local level since their original approval by the SBE. One statewide benefit charter authorized by the SBE was the subject of a court case and the California Appellate Court found that Aspire Public Schools did not meet the definition of a state wide benefit charter school.

***Oversight for Charter Schools at a Distance.*** By authorizing a COE and the SBE to dramatically increase oversight of charter schools across the county or the state, oversight of the charter schools could suffer due to the distance between the authorizer and the schools. The further the authorizer is from the schools, the less oversight occurs. A significant aspect of the oversight process is to visit the charter school, walk classrooms, observe conditions, observe instruction, etc. A paper review is not sufficient. Requiring CDE to travel hundreds of miles to conduct oversight will likely not result in improved oversight.

***Parent and Teacher Involvement.*** This bill authorizes charter schools to choose whether to seek authorization from their local school district, county office of education or the SBE. This will result in authorizers being further away from the location of the school. With the authorizer some distance away, it makes it difficult for the parents and teachers at those school sites to have access to the authorizer board meetings. Board meetings need to be easily accessible to parents and teachers.

***Renewal for SBE Charter Schools Granted on Appeal:*** This bill authorizes a charter school that was granted its charter by the State Board of Education (SBE) to either seek renewal of their charter through the local school district that initially denied the charter petition or to seek renewal through the SBE. When a charter school is authorized by the SBE on appeal, the California Department of Education (CDE) with its limited staff, provides oversight to that charter school. It appears that existing law requires charter schools to apply for renewal from their local school district for a couple of reasons. First, if charter schools are granted renewal by a local district, this minimizes the ongoing workload of the CDE for charter oversight. Second, if a charter school is granted renewal by a local district, this returns oversight responsibilities to the local level, which is generally preferable. Oversight responsibilities are most effective when both entities are in close physical proximity. This makes oversight easier when the authorizer makes visits to the school, seeks information from the school and encourages a personal relationship between the authorizer and the school.

***Appeal to the State Board of Education for Countywide Charter Denial:*** This bill authorizes a charter school that is denied by the county office of education for a countywide charter to seek an appeal at the SBE. Since a countywide benefit charter is unique in its mission to serve the county, how would the SBE be equipped to decide whether a countywide charter school would serve that particular county well, without knowing the county geography, demographics, among other things? Countywide charters have a broader mission to serve at the countywide level, and that decision is best determined by county officials.

***Flexibility for Hiring Credentialed Teachers:*** This bill authorizes countywide charter schools to hire non-credentialed teachers to teach non-core courses. Existing law authorizes charter schools

authorized by local school districts to hire non-credentialed teachers to teach non-core courses and the author intends to extend that same authorization to countywide benefit charter schools. It is unclear why this authorization is needed to hire non-credentialed teachers. It is also unclear which courses would qualify as non-core, non-college prep courses.

***Statewide Charters Schools with One Location:*** This bill authorizes statewide charter schools to have only one location. How could a charter school with a single location possibly serve a statewide purpose? By its very definition, it seems that a statewide charter school would need multiple locations to serve a statewide purpose. It is unclear why this bill seeks to allow statewide charter schools to have only one location.

***Proposition 39 Obligations.*** Would this measure include Proposition 39 obligations to provide appropriate facilities as well all oversight responsibilities? Is it appropriate to give expanded charter authorizing power to COEs and the SBE if they are not responsible for charter facility obligations? This measure would allow COEs and the SBE to authorize charter schools within the boundaries of existing school districts, however, the districts would not have any input into the charter authorization process; and, districts would still be obligated to provide furnished facilities for these new charters. The committee should consider if it is appropriate to expand authorizing to COEs and the SBE without also taking on the facilities obligations of those schools.

***Previous legislation:*** AB 284 (Garrick) from 2010, which died in the Higher Education Committee, would have allowed the governing board of a community college district (CCD) to authorize a petition to establish a charter school within the county in which the district maintains a campus; authorizes a maximum of ten charter schools be accepted state-wide by the California Community Colleges (CCC); requires these charter schools to be funded directly; and, requires the California Department of Education (CDE) to prepare an analysis of the program by January 1, 2013.

AB 39 (Walters) from 2005 would have authorized a pilot project for the chancellor of a campus of the UC, the president of a campus of the CSU, or the governing board of a community college district to approve a petition submitted to establish a charter school within the county in which that entity is located or maintains a campus. The pilot would have permitted each segment of higher education to administer 1 charter school per campus, not to exceed 10 charter schools per segment. The bill was referred but never heard by the Assembly Education Committee.

AB 2764 (Bates) from 2004 would have authorized a pilot project for the chancellor of a campus of the UC, the president of a campus of the CSU, or the governing board of a community college district to approve a petition submitted to establish a charter school within the county in which that entity is located or maintains a campus. The pilot would have permitted each segment of higher education to administer 1 charter school per campus, not to exceed 10 charter schools per segment. AB 2764 was held on the Assembly Appropriations Suspense File. According to the Assembly Appropriations Committee, AB 2764 (Bates), was analyzed as having “Potentially significant annual General Fund costs, likely in excess of \$400,000, to CSU and UC to adhere to the various provisions outlined in the bill, including approval and oversight of charter schools. Significant reallocation of General Fund (Proposition 98) funds, likely in the tens of millions from school districts, to CSU and UC. The actual amount would depend on how many charter schools each of these two segments authorized and the number of students enrolled.”

AB 1464 (Bates) from 2003 would have authorized non-profit charitable organizations, the governing body of a private university or college that offers a specified teacher training program, the chancellor of a campus of the UC, the president of a campus of the CSU, or the governing board of a community college district to approve a petition submitted to establish a charter school within the county in which that entity is located or maintains a campus. That bill would have also authorized the mayor of a city having a population of 250,000, or more, to approve a petition submitted to establish a charter school within that city. AB 1464 was held in the Assembly Education Committee at the request of the author.

**REGISTERED SUPPORT / OPPOSITION:****Support**

California Charter Schools Association (Sponsor)  
Amethod Public Schools  
Aplus  
Butte County Superintendent of Schools  
Five Keys Schools and Programs  
Yolo County Board of Education  
Individuals

**Opposition**

California Association of Highway Patrolmen  
California Federation of Teachers  
California School Boards Association  
California School Employees Association  
California Teachers Association  
Kern County Superintendent of Schools  
Los Angeles County Office of Education  
Ventura County Office of Education

**Analysis Prepared by:** Chelsea Kelley / ED. / (916) 319-2087