

Date of Hearing: June 17, 2015

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

SB 705 (Hill) – As Amended May 5, 2015

SENATE VOTE: 21-13

SUBJECT: Charter school facilities: notification.

SUMMARY: Specifies that if a school district, upon receipt of a charter school's reasonable projection of average daily classroom attendance by in-district students for the following year, reasonably anticipates that a public school facility located in a district-operated school will be allocated to a charter school, the school district shall, before allocating that facility, notify, in writing, the district-operated school and the parents or guardians of the pupils attending that district-operated school.

EXISTING LAW:

- 1) Expresses the intent of the people that public school facilities should be shared fairly among all public school pupils, including those in charter schools. (Education Code (EC) Section 47614)
- 2) Requires each school district to make available, to each charter school operating in the school district, facilities sufficient for the charter school to accommodate all of the charter school's in-district students in conditions reasonably equivalent to those in which the students would be accommodated if they were attending other public schools of the district. Facilities provided shall be contiguous, furnished, and equipped, and shall remain the property of the school district. The school district shall make reasonable efforts to provide the charter school with facilities near to where the charter school wishes to locate, and shall not move the charter school unnecessarily. (EC 47614)
- 3) Specifies that each year each charter school desiring facilities from a school district in which it is operating shall provide the school district with a reasonable projection of the charter school's average daily classroom attendance by in-district students for the following year. The district shall allocate facilities to the charter school for that following year based upon this projection. If the charter school, during that following year, generates less average daily classroom attendance by in-district students than it projected, the charter school shall reimburse the district for the over-allocated space at rates to be set by the State Board of Education. (EC 47614)
- 4) Provides that facilities requests based upon projections of fewer than 80 units of average daily classroom attendance for the year may be denied by the school district. (EC 47614)

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS: In 2000, voters passed Proposition 39, which gave districts the opportunity to seek approval of a local education bond based on a 55% vote rather than a 2/3 vote under

specified conditions. The initiative also enacted provisions in the Education Code to require school districts to make school facilities available to charter schools operating in the district. Facilities are required to be reasonably equivalent to facilities pupils would receive if the pupils were to attend district schools. School districts are required to make reasonable efforts to provide the charter school with facilities near where the charter school wishes to be located. Facilities provided by the district shall be contiguous, furnished, and equipped. School districts are allowed to charge a pro rata share of any facilities costs the school district pays for with general fund revenues.

Under regulations specified in Title 5 of the California Code of Regulations, charter schools and school districts are required to comply with the following timeline:

- 1) On or before November 1, a charter school is required to submit a written facilities request for facilities for the following school year including a projection of the number of in-district pupils who will be attending the charter school.
- 2) On or before December 1, the school district is required to express any disagreement with the projected number of pupils and provide a projection the district considers reasonable.
- 3) On or before January 2, the charter school responds to the district's objections and either reaffirms or modifies its previous projections.
- 4) On or before February 1, the school district provides a written preliminary proposal regarding the space to be allocated to the charter school.
- 5) On or before March 1, the charter school is required to respond in writing to the school district's preliminary proposal.
- 6) On or before April 1, the school district is required to submit in writing a final notification of space offered to the charter school.

What does this bill do? This bill requires a school district to, prior to allocating a facility to a charter school, notify, in writing, a district-operated school and the parents or guardians of the pupils attending the district-operated school, that the school district reasonably anticipates allocating that facility to a charter school.

The author introduced the bill in response to parent and community concerns following the San Mateo Union High School District's decision to co-locate a charter school with an existing high school, Mills High School, in Millbrae. According to the author's office, members of the community expressed concerns about the lack of community engagement and transparency in the process and raised concerns about potential traffic, scheduling and overcrowding problems at the schoolsite.

According to the California Department of Education (CDE), Mills High School had an enrollment of 1,232 in 2013-14. According to the author's office, the capacity at the schoolsite is 1,454. The charter school opened with 140 ninth graders in the 2014-15 school year, but is expected to grow to about 600 when all four grade levels are reached. The charter school was given six classrooms, resulting in nine Mills High School teachers having to share classrooms. Common areas such as the library and the gym is also shared. The district ultimately formed a

task force to help the two schools determine how best to share the facility for the 2014-15 school year. The task force found that keeping the charter school at that schoolsite is not feasible long-term and will impact the educational programs of both schools. The local newspaper, *The Daily Journal*, reported teachers' concerns that sharing classrooms will impact their ability to do prep work and keep a classroom organized, which could potentially impact the education of students.

Proposition 39 requirement. The premise behind the Proposition 39 requirement was to give charter schools access to district facilities. Implementation has been challenging for some districts, with lawsuits filed in several areas. Not all districts have surplus property, and if they do, the property may not be located where the charters wish to reside. Co-locating charters with existing schools is not uncommon, although logistically and administratively challenging. This bill simply requires a district to notify a district school and the parents and guardians of students at the school prior to allocating the facility to a charter school. While it is unclear the extent to which the lack of communication exemplified in this situation is a problem on a statewide level, ensuring that school district staff are communicating with principals at existing schoolsites makes sense. It would not only help with planning, but would enable school district staff to better understand the impact of placing another school at the same schoolsite and ease the co-location process. The author may wish to consider strengthening the bill by requiring school district staff to consult with a principal of a school where a potential co-location may occur.

Los Angeles Unified School District (LAUSD) has allocated over a hundred district facilities to charter schools and has a standard practice of providing written notification to a school community of a possible co-location. LAUSD provides, and this bill is intended to require, the notice to be sent out following the November 1 notification by a charter school.

Other charter school facilities funding. In addition to district facilities, charter schools have access to state bond funds through the Charter School Facilities Program for the construction of new schools or rehabilitation of existing district schoolsites. Charter schools also have access to almost \$100 million from the general fund for the Charter School Facilities Grant Program that pay the leases of charter schools located in areas with high percentages of low-income students. The Governor has proposed a \$50 million increase the program in the 2015-16 budget. There are also state and federal programs that provide loans or grants.

According to the CDE, as of 2013-14, there were 1,125 charter schools enrolling approximately 514,000 of the state's 6.2 million students.

Arguments in support. The author states, "Current law requires school districts to provide reasonably equivalent facilities to charter school. But existing law does not explicitly require that schools and parents be notified when a charter school may be co-located at an existing school. The bill does not change the statutory obligation school districts have to provide facilities to charter schools. The bill simply clarifies that community members are notified at the beginning of the facility allocation process, when a charter school may be co-located at an existing school, before the final decision has been made."

Arguments in opposition. The California Charter Schools Association Advocates states, "The voters placed very clear limits on what kind of facility a school district must offer. There is an explicit methodology to meet the parameters of the law and select a Proposition 39 facility as well as legal parameters concerning the location the school district must offer. As a result, the allocation of space to a charter school has become an administrative function that either is completely vested in the district superintendent or is prepared by the superintendent with

validation by the school board. Requiring early notification about the possible siting of a charter school suggests that there is discretion afforded to the district as to the facility offered that the law does not allow. Public discussion about a location being considered for a charter school would not constitute a legal basis to influence a decision about a location that complies with Proposition 39."

Prior related legislation. AB 1032 (Gordon), held in the Assembly Appropriations Committee suspense file in 2013, would have made a number of changes to the procedures for allocating Proposition 39 charter school facilities.

REGISTERED SUPPORT / OPPOSITION:

Support

California Federation of Teachers (prior version)

California School Employees Association

California Teachers Association

Opposition

California Charter Schools Association Advocates

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