

Date of Hearing: June 17, 2015

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

SB 739 (Pavley) – As Amended May 6, 2015

SENATE VOTE: 23-11

SUBJECT: Charter schools: sited outside boundaries: prohibition

SUMMARY: Prohibits the governing board of a school district to authorize new charter schools to locate outside the boundaries of the school district if the school district is assigned a negative budget certification.

EXISTING LAW:

- 1) Specifies that a charter school that is unable to locate within the jurisdiction of the chartering school district may establish one site outside the boundaries of the authorizer, but within the county in which that school district is located, if the school district within the jurisdiction of which the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools and the Superintendent are notified of the location of the charter school before it commences operations, and either of the following circumstances exists:
 - a) The school has attempted to locate a single site or facility to house the entire program, but a site or facility is unavailable in the area in which the school chooses to locate.
 - b) The site is needed for temporary use during a construction or expansion project.
(Education Code 47605 and 47605.1)
- 2) Requires the governing board of each school district to certify, in writing, within 45 days after the close of the period being reported, whether the school district is able to meet its financial obligations for the remainder of the fiscal year and, based on current forecasts, for the subsequent fiscal year. These certifications shall be based upon the governing board of the school district's assessment, on the basis of standards and criteria for fiscal stability adopted by the state board, of the school district budget, as revised to reflect current information regarding the adopted State Budget, school district property tax revenues, and ending balances for the preceding fiscal year. The certifications shall be classified as positive, qualified, or negative, as prescribed by the Superintendent for purposes of determining subsequent actions by the Superintendent, the Controller, or the County Superintendent of Schools. A negative certification shall be assigned to any school district that, based upon current projections, will be unable to meet its financial obligations for the remainder of the fiscal year or the subsequent fiscal year. A qualified certification shall be assigned to any school district that, based upon current projections, may not meet its financial obligations for the current fiscal year or two subsequent fiscal years. A positive certification shall be assigned to any school district that, based upon current projections, will meet its financial obligations for the current fiscal year and subsequent two fiscal years. (Education Code 42131)

FISCAL EFFECT: According to the Senate Appropriations Committee, the prohibition of a school district assigned a negative certification to authorize new charter schools outside of the school district's jurisdiction, is not expected to result in a significant increase in state costs.

COMMENTS: *Background on Charters:* According to the California Department of Education (CDE), in the 2013-14 academic year there were 1,125 schools charter schools in California, with an enrollment of over 514,000 students. Some charter schools are new, while others are conversions from existing public schools. Charter schools are part of the state's public education system and are funded by public dollars. A charter school is usually created or organized by a group of teachers, parents and community leaders, a community-based organization, or an education management organization. Charter schools are authorized by school district boards, county boards of education or the state board of education. A charter school is generally exempt from most laws governing school districts, except where specifically noted in the law. Specific goals and operating procedures for the charter school are detailed in an agreement (or "charter") between the sponsoring board and charter organizers.

This bill prohibits a school district from authorizing new charter schools outside their district boundaries if the school district receives a negative budget certification. Two arguments are presented as rationale for this bill. First, that a school district with a negative budget certification is experiencing an urgent budget crisis and is ill equipped to take on the oversight responsibilities of new charter schools, especially those located a distance away. And second, that there could be a perverse incentive for school districts with a negative budget certification to approve new charter schools located outside their district boundaries in order to increase district revenues through oversight fees.

According to the author, California law gives school districts and county offices of education the authority to authorize and oversee charter schools operating within their boundaries. In most cases, charter schools are located within the boundaries of the local educational agency that authorized the school. However, current law allows a charter school to locate a facility in a school district other than the one it is authorized by under a very limited number of circumstances. Unfortunately, there have been a number of high-profile cases in which cash-strapped school districts have authorized charter schools outside of the district in order to generate revenue through "oversight fees." In the Santa Clarita area, the Acton-Agua Dulce Unified School District authorized a charter school that was subsequently located in another school district that had previously denied the school. In return, the school then paid a 3.5% oversight fee to the school district. Though the situation in Santa Clarita has brought more attention to this statewide problem, other school districts, including Los Angeles Unified, Culver City Unified, Beverly Hills Unified, Pomona Unified, and San Diego Unified have all had charter schools located within their boundaries by other school districts. SB 739 restricts school districts in negative certification (at risk of not meeting financial obligations) from locating charter schools outside of their district boundaries. This will remove incentives for school districts to use charter authorization as a means to generate revenues.

How Common is Negative Budget Certification?: According to data from the Interim Reports filed with the California Department of Education, there were four districts in 2014-15, eight districts in 2013-14, and eight districts in 2012-13 that received a negative certification. This means that the school district will be unable to meet its financial obligations for the remainder of the fiscal year or the subsequent fiscal year. The district mentioned above, Acton-Aqua Dulce Unified School District was assigned a negative budget certification in 2013-14.

Arguments in Support: The California School Employees Association supports the bill and states, "Districts with negative certification are likely to be ill equipped to provide the necessary oversight and support for charters that they authorize beyond the boundaries of the school district. This bill will also have a positive consequence of disincentivizing the authorization of charters outside of district boundaries, solely to collect a portion of the charter school's average daily attendance funding."

Arguments in Opposition: The California Charter Schools Association Advocates opposes the bill and states, "This bill grows out of a situation in the Santa Clara Valley region of the author's district in which a school district (Acton-Aqua Dulce Unified School District) was viewed as "out of control" because it was authorizing too many charter schools, including one that sought to site a single school facility in a neighboring school district under current law. At the time the perceived offenses by Acton-Aqua Dulce occurred, the district was in negative certification by the state. Curiously, the author's solution to the situation with Action-Aqua Dulce is too late because the district is no longer in negative certification. So, SB 739 would have no impact on the charter school authorizing activities of Acton-Agua Dulce."

Previous Legislation: SB 1263 (Pavley) from 2014, which was vetoed by the Governor, would have authorized a charter school to locate outside the jurisdiction of the chartering school district with written approval from the school district within the jurisdiction of which the charter school chooses to operate and for purposes of construction, as specified; authorized existing charter schools that are located outside the jurisdiction of the chartering school district to continue operation if they were approved prior to April 1, 2013, and are in operation with students enrolled and attending before September 15, 2014; and, prohibited a school district with a negative certification from authorizing new charter schools located outside of their jurisdiction. Governor's veto message:

This bill seeks to reverse the application of a limited exemption in law that allows a charter school petitioner to locate a single school site outside of its authorizing school district, under specific circumstances. This bill would instead require the charter school to first get permission from the host district where it intends to locate.

Unfortunately, it appears that some districts and charter schools have gone against the spirit of the law and the exemption has instead become the rule. This has led to litigation and strained relationships among districts and charter schools.

While this bill attempts to solve a real problem, I am not comfortable with the retroactive language that could force existing charter schools to change locations.

I have assembled a team to examine this situation and come back with solutions that minimize disruption to students and parents.

AB 2954 (Liu) from 2006, which was vetoed by the Governor, would have added "negative fiscal impact" as a reason for a school district to deny a charter school petition and authorizes a condition for approval of a petition as it relates to providing free and reduced priced meals. Governor's veto message:

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 addition, allowing school districts to require, as a condition of approval, that the petition describe how the charter school will provide free and reduced-priced meals to eligible pupils would simply provide districts with another pretext on which to deny a charter. Charter schools are generally exempt from most laws and regulations governing school districts and they should continue to be exempt from this one.

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.

REGISTERED SUPPORT / OPPOSITION:

Support

American Federation of State, County and Municipal Employees
Association of California School Administrators
California School Employees Association
California Teachers Association
Castaic Union Elementary School District
Los Angeles Unified School District
Newhall Elementary School District
Saugus Springs Union Elementary School District
School Employers Association of California
Sulphur Springs Union Elementary School District
William S. Hart Union High School District

Opposition

California Charter Schools Association Advocates

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