

Date of Hearing: April 26, 2017

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
AB 1224 (Weber) – As Amended April 18, 2017

SUBJECT: Charter schools: Chartering Authority Pilot Program

SUMMARY: Establishes a County Chartering Pilot Program for three county offices of education (COEs) to authorize up to five new charter schools in their county or the neighboring counties; authorizes existing charter management organizations (CMOs) to consolidate up to 10 existing schools, located anywhere in the State, under a county office of education as part of the Pilot Program; and, exempts these charter management organizations from existing requirements pertaining to the citing of resource centers which would allow an unlimited number of resource centers anywhere in the State. Specifically, **this bill:**

- 1) Establishes the Chartering Authority Pilot Program under the administration of the SBE and specifies the SBE shall consider and may select up to three county boards of education with demonstrated authorizing and oversight capacity to authorize and oversee up to five new charter schools.
- 2) Requires the SBE to adopt a process, timeline, and application criteria that allows for at least one application cycle each year to be considered for charter authorization until the maximum number of chartering authorities has been selected; requires the SBE to consider in its selection criteria the selection of counties that reflect the range of size, geography, and demographics of the state; and requires at a minimum, the application to include all of the following:
 - a) A charter approval plan that includes a description of how the county board of education will apply the criteria and timelines specified in subdivision (b) of Section 47605 to evaluate and approve charter petitions.
 - b) The scope of the pilot program that includes a description of the types of charter schools that the county board of education may consider within its pilot program that is beyond its traditional authorizing scope. This may include, but is not limited to, certain types of charter school educational models, multiple charter schools operating under a single governance structure, a specific regional or geographic scope within or beyond the county, and provisions to assume the chartering duties of a small school district that chooses to opt out of chartering.
 - c) How the county board of education will ensure the charter schools authorized create and implement a local engagement plan to ensure that the governing boards of school districts and communities in which the charter school will be located are notified of the proposed charter school and are provided an opportunity to comment on each proposed charter school. Engagement activities shall, at a minimum, include one public hearing during the timeline and approval process of the charter by the county in the community in which each proposed charter school plans to operate. The plan shall also include a process for the chartering authority to work with the charter school to consider and resolve complaints about the charter school by the local community, including complaints by the

governing board of the school district in which the charter is located, and a clear process for parents to report any concerns or complaints about the charter school.

- d) A charter school oversight plan that includes a description of the county board of education's capacity and expertise in approving and overseeing charter schools and how the county board of education plans to expand its capacity to accommodate additional charter schools. The plan shall, at a minimum, ensure compliance with Section 47604.32 and shall outline the provisions of any memorandum of understanding that may be necessary between the charter school and the participating chartering authority.
 - e) Assurance that the participating chartering authority will generally align with standards of charter authorizing and oversight approved by the SBE to ensure quality and proper levels of accountability for performance.
 - f) A plan for annual reporting to the SBE and for an annual public meeting in the county in which charter schools authorized by the county board of education are located that describes chartering activities and the academic performance and fiscal viability of each charter school authorized pursuant to this section.
- 3) Requires the SBE to establish a process to evaluate proposals submitted and select no more than three of the highest quality applications to participate in the pilot program.
 - 4) Requires the SBE to annually evaluate and report to the Legislature on the performance of the participating chartering authorities and each of the charter schools approved pursuant to the pilot program, and may require the participating chartering authority to submit annual reports as necessary to meet this requirement.
 - 5) Requires by June 30, 2024, the board to submit a final report to the Legislature with conclusions about the success or challenges of the pilot and whether any statutory changes are recommended to implement the conclusions; authorizes the SBE to extend the authority for any of the pilot program participants to continue to authorize and oversee the charter schools approved, or, if the SBE finds that a participating county board of education has been unable to provide reasonable oversight over its charter schools, the SBE may terminate the authority of any of the participants; and, specifies if the SBE terminates the authority of a participating county board of education, the oversight of a charter school authorized by that county board of education shall be transferred to the SBE or to the governing board of the school district in which the charter school operates.
 - 6) Authorizes a pilot county board to only approve charter schools that will operate within its county or an adjacent county, and any other geographic constraints imposed by the SBE.
 - 7) Specifies, in order to ensure access for parents and other members of the community, a charter school shall ensure that any meeting of the governing board be accessible in a teleconference location in the county that has authorized the charter school and any county in which the charter school operates.
 - 8) Specifies that a nonprofit public benefit corporation that operates more than one charter school in the state may petition a county board of education participating in the pilot program

to consolidate some or all of its existing and future charter schools under the jurisdiction of a single chartering authority that has been approved by the SBE.

- 9) Specifies that a chartering authority that opts to accept the authorizing and oversight for an organization with multiple charter schools shall first receive approval from the SBE to authorize and oversee charter schools beyond its typical geographic jurisdiction.
- 10) Exempts a charter school that is part of a charter management organization from the citing requirements for resource centers pursuant to section 47605.1 and the geographic restrictions imposed pursuant to Section 47605, if authorized by the SBE to do so.
- 11) Requires the request to include a process for the authorizing county board of education to review the overall fiscal and operational health of the charter organization as part of its oversight.
- 12) Authorizes the county to approve only one charter management organization; specifies that a charter organization, shall count as one charter school and may transfer oversight of up to up to ten existing individual charter schools to the county; and, specifies that a charter management organization approved may add no more than one new school every other year for the length of the pilot, and subject to approval by the county.
- 13) Specifies that in order to ensure access to parents and other members of the community, an organization with multiple charter schools in multiple counties shall ensure that any meeting of the governing board be accessible in a teleconference location in each county in which the organization has been authorized to operate a charter school.
- 14) Authorizes the SBE to transfer oversight responsibilities to a COE in the pilot for an unlimited number of schools that may be approved by the SBE on appeal.
- 15) Specifies that an operating charter school that changes chartering authorities as a result of approval in this section shall continue to operate under the terms and conditions of its approved charter and shall not be deemed a new charter school, and requires the charter school to retain all of its financial and operational practices and status as a continuing charter school, including, but not limited to, funding eligibility, funding rates under the local control funding formula, demographic data, school codes, employment, enrollment eligibility, and accountability status.
- 16) Specifies that a pilot authorizer may charge for the actual costs of supervisory oversight, management of the pilot and reporting to the SBE in an amount no greater than three percent of the pilot charter schools' revenues, and specifies that accounting for the use of oversight fees collected, and an evaluation of the adequacy of oversight fees received shall be included in the annual reports.
- 17) Specifies that except where explicitly exempt, a participating chartering authority shall comply with all laws and requirements of chartering authorities imposed by this chapter, including all of the provisions related to charter school approval, oversight, renewal, and revocation, and specifies a charter school authorized by a county board of education shall comply with all of the provisions applicable to charter schools except where explicitly exempted by this measure.

- 18) Specifies that nothing in this measure shall be construed to limit or change the chartering authority of school districts, county boards of education, or the SBE.
- 19) Authorizes the SBE or a participating chartering authority to solicit and receive grants from private nonprofit foundations and organizations for the purpose of funding the startup and administration of, or research and reporting on, the pilot program.
- 20) Makes the following definitions for purposes of this measure:
 - a) “Participating chartering authority” means a county board of education selected to participate in the pilot program authorized by this section.
 - b) “Pilot program” means the Chartering Authority Pilot Program established pursuant to this section.

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) Authorizes a charter school to establish a resource center, meeting space or other satellite facility located in a county adjacent to that in which the charter school is authorized if the following conditions are met:
 - a) The facility is used exclusively for the educational support of pupils who are enrolled in nonclassroom-based independent study of the charter school.
 - b) The charter school provides its primary educational services in, and a majority of the pupils it serves are residents of, the county in which the charter school is authorized.

FISCAL EFFECT: Unknown

COMMENTS: This bill establishes a County Chartering Pilot Program for three county offices of education (COEs) to authorize up to five new charter schools in their county or the neighboring counties. The measure authorizes existing charter management organizations (CMOs) to consolidate up to 10 existing schools located anywhere in the State, under a county office of education as part of the Pilot Program. Further, the bill exempts these charter management organizations from existing requirements pertaining to the citing of resource centers which would allow these CMO's to establish an unlimited number of resource centers anywhere in the State.

This measure makes several policy changes that are concerning:

- Removes local control over charter authorizing and transfers that authority to COEs.
- Authorizes COEs to grant charters outside of their county jurisdiction by citing charter schools in adjacent counties.
- Allows CMO's to consolidate the oversight for 10 existing schools anywhere in the state under a COE, which will make oversight significantly more difficult since the COE could be hundreds of miles from the schools.
- Authorizes COEs to charge up to 3% oversight fees, which could create a perverse incentive for COEs to participate only to raise revenue.
- Exempts CMO's from the existing laws regarding the citing of charter school resource centers, which will allow an unlimited number of resource centers anywhere in the state.
- Limits parent and teacher access to authorizer board meetings due to the increased distance between the school and the authorizer.
- Gives authority to extend the pilot program to the SBE, instead of returning the program to the Legislature for extension.
- Authorizes the SBE to transfer oversight responsibilities for the SBE charter schools approved on appeal, to any of the participating COEs.

According to the author, "A consensus has emerged across public education in California that there is substantial dysfunction within the authorizing and oversight of charter schools. However, there is not a consensus on how to resolve the problems of this dysfunction, and there is inadequate experience with alternative options to assess what solutions might work. The current process relies almost exclusively on local school districts as the primary authorizer. This structure creates an inherent conflict of interest in which districts must approve and oversee the entities that may be seen as "competing" for pupils and their associated revenues, removing objectivity from their chartering role. As a result,

- Some districts have denied or revoked a charter petition for reasons that are not allowed under the law, in nearly all cases leading to approval of the charter on appeal.
- Situations have occurred in which charter petitions (without judging the integrity of the petition itself) have been authorized for the fiscal benefit of the school district or other reasons unrelated to pupil achievement.
- The profoundly important responsibility of overseeing the charter school on a regular basis is sometimes given short shrift or has become a license to burden the charter school with extraneous and sometimes illegal obligations.
- At least one district has been unresponsive to parent and community concerns about the operation of its charter schools.

Some small districts have authorized charter schools legitimately but then failed to provide responsible oversight because they do not have the capacity or experience to ensure the oversight is effective."

Local Control. This bill gives authority to COEs to grant 5 new charter schools within their county or an adjacent county. The bill further allows a charter management organization to consolidate up to 10 schools under a COE that are located anywhere in the state. This bill removes local control for charter authorizing from school districts. 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.

Parental Access. This bill allows CMO's to consolidate 10 existing charter schools under a single charter authorization from a COE. This provides convenience for CMO's that find it cumbersome to work with 10 different school district authorizers for their 10 charter schools. While this policy may provide greater convenience to the CMO, it does not provide convenience to the parents at those school sites who will have limited access to the authorizer board meetings. Board meetings need to be accessible to parents and teachers. The bill requires the CMO board meetings to be accessible to parents through teleconference in the county in which the school is located, but that puts parents at a disadvantage. Participation by telephone is not the same as face to face interaction. The committee should also consider why the teleconference is merely within the county and not at the school site. It is unclear whether the bill provides enough access to parents and teachers to meet the needs of the community at the local level.

Oversight for Charter Schools at a Distance. By authorizing a COE to authorize charter schools in an adjacent county and a CMO's charter schools anywhere in 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 a county office to travel many miles to conduct oversight will likely not result in improved oversight.

Exemption for Resource Centers. This bill grants charter management organizations that consolidate existing charter schools under a COE to be exempt from existing requirements for citing resource centers. It is unclear why charter management organizations under this pilot would need such an exemption unless the intent is to either authorize an unlimited number of resource centers or the CMO currently has resource centers that are in violation of existing law and the CMO will be authorized to keep the resource centers through this exemption. The committee should consider whether this exemption is in response to the appellate court decision in the case of Anderson Union HSD v. Shasta Secondary Home School, which disallowed the citing of a resource center located within the county, but outside the district, in which the charter school is located.

Jurisdiction. This bill authorizes COEs to grant charter schools in their county or in an adjacent county. The bill further authorizes COEs to take over the oversight responsibilities for CMO's with schools currently located anywhere in the state. Allowing COEs to authorize schools in another county jurisdiction is equivalent to a city council citing a recycling center in another city's jurisdiction. Outside of education, the committee staff is unaware of any other local authority that is allowed to cite facilities outside their local geographic jurisdiction.

Pay to Play. This bill authorizes COEs to charge up to 3% for oversight of the charter schools they authorize under this pilot. While anecdotal evidence from COEs demonstrates that the current 1% oversight fee does not adequately cover the costs of proper charter school oversight, there is potential under this pilot program for COEs to use this to generate revenue. The committee may recall that Acton-Agua Dolce Unified School District appeared to generate revenue with a higher oversight fee as the district authorized charter schools outside its jurisdiction. It is quite possible that COEs will be interested in participating in the pilot program, not for their interest in providing model oversight, but because this will raise revenue for the COE.

Pilot Extended by the SBE. This bill authorizes the SBE to extend the pilot program without returning to the Legislature for approval. Typically, pilot programs have a clear sunset date and an evaluation due to the Legislature at least one year prior to the sunset date. Legislation must then be approved by the Legislature and signed by the Governor to extend the sunset date of a pilot program. Committee staff is unaware of any pilot program for which the Legislature has granted power to a state agency or elected body to decide whether or not to extend a pilot program. The authority to extend a pilot program has always rested with the Legislature. The committee should consider whether it's appropriate for the Legislature to devolve the authority to extend this pilot program to the SBE, rather than have that consideration return to the Legislature as with all other pilot programs.

SBE transferring Oversight to Counties. This bill authorizes the SBE to transfer oversight responsibilities for all the charter schools that the SBE approves on appeal, to one or more COEs in the pilot. Further, the bill specifies that these existing schools do not count toward the limit of 5 new schools per county. Currently, the SBE authorizes 23 charter schools. This will expand the scope of the pilot significantly.

Unclear Intent. This bill authorizes COEs to consider certain types of charter school educational models, multiple charter schools operating under a single governance structure, a specific regional or geographic scope within or beyond the county, and provisions to assume the chartering duties of a small school district that chooses to opt out of chartering. This list is so broadly written that it is unclear what the intent of this language could include. The committee should consider whether COEs should be allowed to charter schools that differ in scope from existing charter school models.

REGISTERED SUPPORT / OPPOSITION:

Support

California Charter Schools Association (Sponsor)
Amethod Public Schools
Aplus
Butte County Superintendent of Schools
Placer County Board of Education
Yolo County Board of Education
Several 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
San Francisco Unified School District
Silicon Valley Leadership Group
Ventura County Office of Education

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