

Date of Hearing: April 26, 2023

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
AB 1604 (Bonta) – As Amended March 30, 2023

SUBJECT: Charter schools: school facilities: Charter School Facility Grant Program

SUMMARY: Makes changes to the Charter School Facility Grant program (CSFGP) administered by the California School Finance Authority (CSFA) with regard to required admissions preferences, requirements for related parties and conflicts of interest, declaring nonprofit status, and how charter school properties are sold. Specifically, **this bill:**

Admissions preference

- 1) Requires a charter school that qualifies for the CSFGP, based on the free and reduced priced eligibility of the public school where the charter school is physically located, to give first preference to students who reside in the attendance area of the school where the charter school is physically located.

Related parties, conflicts of interest and nonprofit status

- 2) Requires, as part of Charter School Facility Grant program, the CSFA to:
 - a) Evaluate applicants for conflicts of interest in accordance with Government Code Section 1090, the Political Reform Act, or any other conflict of interest laws that may be applicable to the applicant or charter school's participation in the program;
 - b) Revise their regulations prior to opening the 2024-25 funding round to evaluate for conflicts of interest between all related parties. Specifies that these regulations must not be adopted using the Authority's rulemaking authority. States that related parties must include, but are not limited to, nonprofit corporate entities, nonprofit Charter Management Organizations (CMOs), and the wholly owned subsidiaries of such entities, including those entities that were formed for the purpose of managing or providing support to the charter school; and
 - c) Review a random sampling of at least ___ percent of grant recipients per year for compliance with program requirements, including proper disclosure and certifications of conflicts of interest.
- 3) Authorizes CSFA to deny funding to recipients found to have lied or willfully omitted information on their grant program application.
- 4) States that only charter schools that complete the annual Charter School Information Update survey conducted by the California Department of Education (CDE) shall be eligible for grant funding. Requires the CDE to provide a list of schools that completed the survey to the Authority for verification purposes. Requires, in their application for grant funding, charter schools to include documentation confirming their status as a nonprofit organization.

- 5) Requires a charter school, if the charter school leases or rents its facility from a related-party or subsidiary as identified in its audited financial statements according to generally accepted accounting principles in the United States, or owns its facility, to include a statement describing its plans for use of the facility in its final audit.

Sale or transfer of property

- 6) Requires any charter school, charter management organization, subsidiary of a charter school, or subsidiary of a charter management organization that operates or controls an educational facility, substantially funded with CSFGP funds and held by related-party entities, regardless of whether it is currently operating or if its charter has been revoked or nonrenewed, to be required to provide written notice to, and to obtain the written consent of, the Attorney General (AG) prior to entering into any agreement or transaction to do either of the following:
 - a) Sell, transfer, lease, exchange, option, convey, or otherwise dispose of the educational facility; or
 - b) Transfer control, responsibility, or governance of the educational facility.
- 7) Defines the following as related-party entities:
 - a) A charter school;
 - b) A charter management organization; or
 - c) A nonprofit corporation, including a nonprofit limited liability corporation, that is a subsidiary of a charter school or charter management organization.
- 8) Defines substantially funded to mean that the educational facility has received 50% or more of its independently assessed value at the time of its proposed sale or lease in public grant funds from the CSFGP. Requires the CSFA to supply information to the educational facility owner, the school's authorizer, and the AG on the total amount of funds received by a charter school for a given facility through the CSFGP in all program years.
- 9) States that the substitution of a new corporate member or members that transfers the control of, responsibility for, or governance of the educational facility shall be deemed a transfer. States that the substitution of one or more members of the governing body, or any arrangement, written or oral, that would transfer voting control of the members of the governing body, shall also be deemed a transfer. States that this does not apply to typical governing body changes due to term limits, turnover, or decisions by individual governing body members.
- 10) Requires, the AG to conduct one or more public meetings and, within 90 days of the receipt of the written notice provided, the AG to notify the educational facility owner in writing of the decision to consent to, give conditional consent to, or not consent to the agreement or transaction. The AG may extend this period for one additional 45-day period if any of the following conditions are satisfied:

- a) The extension is necessary to obtain information, or
 - b) The proposed agreement or transaction is substantially modified after the first public meeting conducted by the AG.
- 11) Requires, in making the determination, the AG to consider any factors that the AG deems relevant, including, but not limited to, assessing whether the sale will affect the availability of public education facilities, the market value, whether the transaction is consistent with the charitable trust, whether the proceeds will be spent on operations outside the state, among others.
- 12) Authorizes the AG to contract with, consult, and receive advice from any state agency, county board of education, or with experts or consultants to assist in reviewing the proposed agreement or transaction, and receive reimbursement from the educational facility for these costs.

EXISTING LAW:

- 1) Establishes the CSFGP (also known as the SB 740 Program), which provides assistance with facilities rent and lease costs for pupils in charter schools. (Education Code (EC) 47614.5)
- 2) Implements the CSFA's administration of the CSFGP intended to provide assistance with facilities rent and lease costs for pupils in charter schools. (CCR Title 4, Division 15, Article 1.5, Sections 10170.1 – 10170.15)
- 3) Specifies that, subject to the annual Budget Act, commencing with the 2017-18 fiscal year, eligible charter schools shall receive an amount equivalent to one of the following, whichever is less:
 - a) 75% of annual facilities rent and lease costs for the charter school; or
 - b) For the 2017-19 fiscal year, an amount equal to \$1,117 per unit of average daily attendance (ADA). Beginning in the 2018-19 fiscal year, the amount of funding provided per ADA in the preceding fiscal year, adjusted by the percentage change in the annual average value of the Implicit Price Deflator for State and Local Government Purchases of Goods and Services for the United States, as published by the United States Department of Commerce for the 12-month period ending in the third quarter of the prior fiscal year.
- 4) Specifies that in any fiscal year in which there are insufficient funds to fully fund the approved amounts, the CSFA shall apportion the available funds on a pro rata basis. (EC 47614.5)
- 5) Specifies that eligibility is based on the geographic location of the charter schoolsite, pupil eligibility for free or reduced price meals, and a preference in admissions, as appropriate. Specifies that charter schoolsites are eligible for funding if the charter schoolsite meets either of the following conditions:
 - a) The charter schoolsite is physically located in the attendance area of a public elementary school in which 55% or more of the pupil enrollment is eligible for free or reduced price

- meals and the schoolsite gives preference in admissions to pupils who are currently enrolled in or reside in the attendance area where the charter schoolsite is located.
- b) 55% or more of the pupil enrollment at the charter schoolsite is eligible for free or reduced price meals. (EC 47614.5)
- 6) Prohibits grant funds to be apportioned for any of the following:
 - a) Units of ADA generated through nonclassroom-based instruction, except as specified;
 - b) Charter schools occupying existing school district or county office of education (COE) facilities; or
 - c) Charter schools receiving reasonably equivalent facilities from their chartering authority. (EC 47614.5)
 - 7) Specifies that grant funds must be used for costs associated with facilities rents and leases and may also be used for costs associated with remodeling of a building, deferred maintenance, initially installing or extending service systems and other built-in equipment, and improving sites. (EC 47614.5)
 - 8) Authorizes the State Allocation Board (SAB) to establish a program that requires a school district, COEs, or charter school that sells real property that was purchased with or modernized with, or on which improvements were constructed that were funded with, any moneys from state bond funds, to return to the SAB the moneys received for the purchase, modernization or construction, if the property is sold within 10 years of receipt of those funds and the proceeds from the sale are not used for capital outlay, education or child care purposes. (EC 17462.3)
 - 9) Establishes, under the CSFGP, a process for disposal of a charter school facility when a charter school ceases to utilize the facility for charter school purposes. (EC Section 17078.62)
 - 10) States that charter schools and an “entity managing a charter school” are subject to Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code as well as the Political Reform Act of 1974. (EC 47604.1)
 - 11) Establishes the procedures for charter school closure including, but not limited to, transfer of student and employee records, completion of final audit, and the disposal of net assets. (CCR Title 5, Section 11962)
 - 12) Requires the following information to be transmitted to CDE when a charter school closes:
 - a) The effective date of the closure;
 - b) The name(s) of and contact information for the person(s) to whom reasonable inquiries may be made regarding the closure;
 - c) The pupils' school districts of residence; and

- d) The manner in which parents (guardians) may obtain copies of pupil records, including specific information on completed courses and credits that meet graduation requirements. (CCR Title 5, Section 11962)
- 13) Requires specified charter school closure information be transmitted to CDE. (CCR Title 5, 11962.1)
- 14) Establishes the process for sale of assets by a nonprofit corporation that operates or controls a health facility. (Corporations Code 5914-5930)
- 15) Requires a nonprofit public benefit corporation to provide written notice to the AG 20 days before it sells, leases, conveys, exchanges, transfers, or otherwise disposes of all or substantially all of its assets. (Corporations Code 5913)
- 16) Governs the dissolution of a nonprofit public benefit corporation and requires the AG to issue a written waiver of objections to the distribution of the corporation's assets. (Corporations Code 6615)

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill. According to the author, "In recent years, the Legislature has worked hard to raise standards for charter schools so that students can learn in safe environments under the oversight of a local authorizer. However, additional reforms are needed to guarantee accountability in the event that a charter school closes. Last year, I asked the State Auditor to look into the Charter School Facilities Grant Program and Conduit Financing Program to see if there were opportunities to strengthen outcomes in favor of our students. The Auditor found that the Legislature could adopt safeguards to better ensure that when a charter school closes and its facilities, that have benefitted from Facility Grant Program funds, are sold and leased, that they continue to be used for public education. Further, the audit provided a number of recommendations to strengthen the administration of the Charter Schools Facilities Grant Program. AB 1604 incorporates the auditor's recommendations. In this historic crisis, it is crucial that the state establish strong safeguards to protect limited Proposition 98 dollars from waste and ensure the long-term retention of capital investments within our public education system."

Charter School Facility Grant Program (CSFGP). The CSFGP was established by SB 740 (O'Connell), Chapter 892, Statutes of 2001, to provide charter schools serving low-income areas with assistance in rent and lease payments. Eligible charter schools may receive up to \$1,117 per unit of ADA (adjusted annually), but may not receive more than 75% of the school's annual rent or lease costs. If the program is oversubscribed, the funds would be distributed on a pro-rata basis. Eligibility is limited to:

- 1) A charter school physically located in the attendance area of a public school with at least 55% of its students eligible for free or reduced price meals, and the school gives preference in admissions to pupils who are currently enrolled in that public elementary school and to pupils who reside in the attendance area where the charter school is located (called the Expanded Eligibility criterion); or

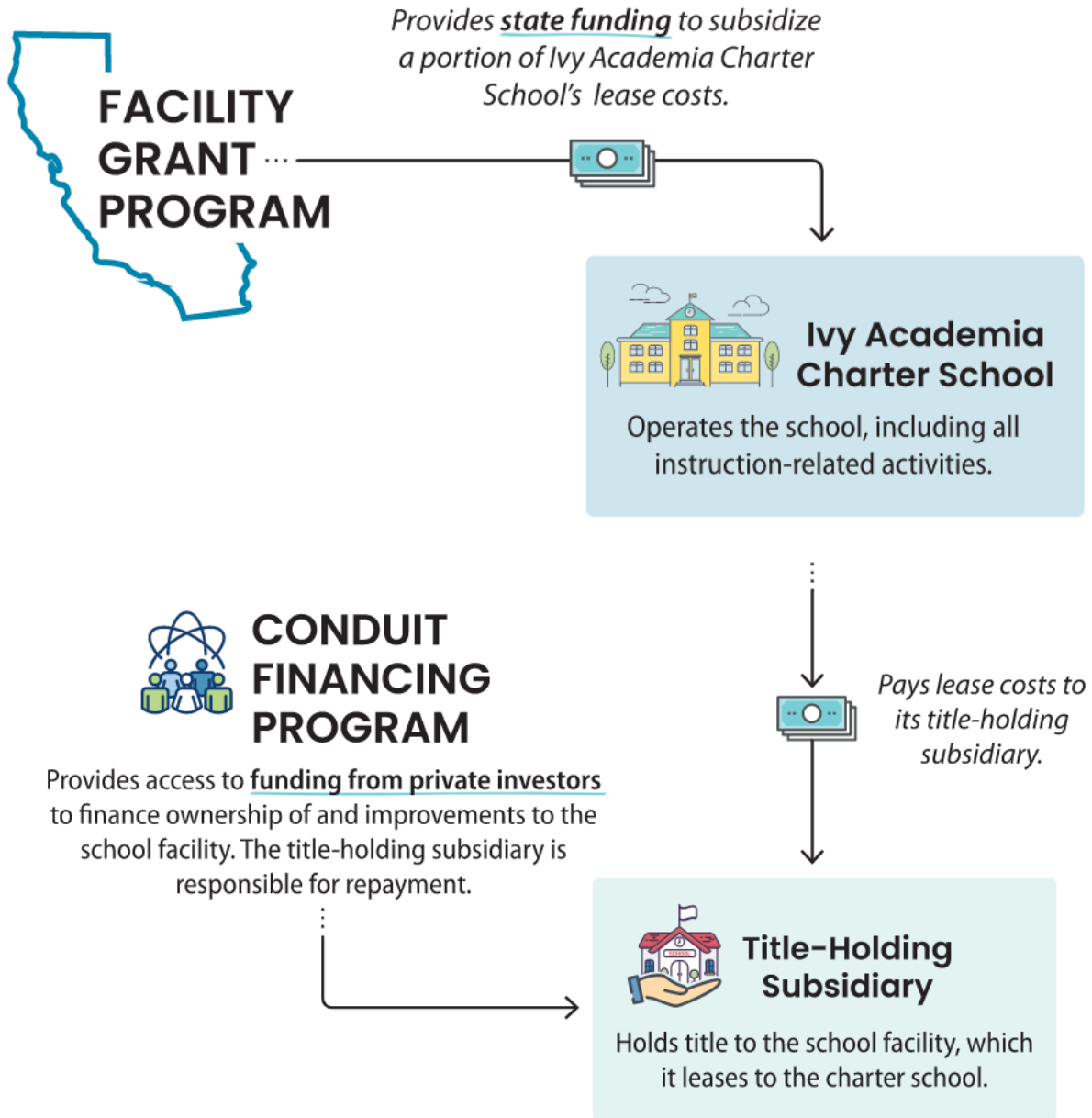
- 2) A charter school in which 55% or more of its pupil enrollment is eligible for free or reduced price meals. Funds may be used for costs associated with facilities rents and leases, but may also include remodeling, deferred maintenance, initially installing or extending service systems and other built-in equipment, and improving sites.

The enacting legislation stated the Legislature's intent to appropriate \$10 million for the program for the 2001-02, 2002-03, and 2003-04 fiscal years (FY). Funds for this program have increased substantially over time, with the bulk of the funding coming from the transfer of funds from the phase out of the Year-Round Operational Grant Program. SB 658 (Romero), Chapter 271, Statutes of 2008, required all funds appropriated for the Year-Round School Grant Program at the FY 2007-08 level, which, at the time, was \$97 million, to be transferred to the CSFGP at a rate of 20% each year. The FY 2009-10 budget reduced allocations to categorical programs, including this program, by approximately 35%. The program received \$92 million in FY 2012-13. Up until FY 2010-11, the CSFGP was a reimbursement-based program. The FY 2010-11 budget contained language authorizing charters to receive grants at the beginning of the fiscal year based on prior year ADA and estimated costs. The program was administered by CDE until 2013 and is now administered by the CSFA under the California State Treasurer. Beginning with the 2018-29 fiscal year, the funding provided per ADA is adjusted by a cost inflator index. Funding for this program in FY 2021-22 is \$152 million. The Governor's 2022-23 budget proposes to provide an additional \$30 million ongoing increase to the program for remodeling, deferred maintenance, initially installing or extending service systems and other built-in equipment, improving sites, and facility modifications to mitigate the spread of COVID-19.

Conduit bonds and CSFGP. Under existing law, the Treasurer's office is authorized to issue conduit revenue bonds for K-12 schools, including charter schools. Conduit bond financing is a mechanism of borrowing whereby a conduit issuer, typically a governmental agency, acts as a bridge between investors and the borrower. Interest received by investors that provide the funds for a project enjoy higher yields than general obligation bonds and are tax free. In return, the borrower benefits by paying lower interest rates. According to the 2020 report by the Treasurer's Office, between 2010 and 2020, almost \$2 billion in authority was issued, predominantly on behalf of charter schools.

CSFGP funds have been used to help charter schools pay for conduit bond financing. The CSFGP was established to help charter schools with leases, not to purchase facilities. When CSFGP is used to pay for conduit bond financing, the State is paying to purchase a facility that is wholly owned by a related party that owns the facilities used by the charter school, which is a private entity, and therefore it could be considered a gift of public funds. There is another program through state bonds funds for the acquisition and construction of charter school facilities. Purchase and paying debt service should remain with state bond funds. Allowing the CSFGP, funded by state general funds, to pay for the purchase and debt service of charter school facilities raises issues of concerns. Under the bond program, a charter is reviewed to ensure that it is "financially sound" and to ensure it has the ability to incur such debt.

A Charter School Can Appropriately Benefit From Both Conduit Revenue Bonds and Facility Grant Program Funds



(Source: State Auditor, 2023)

State Auditor's 2023 report. In May 2022, Assemblymembers Mia Bonta and Patrick O'Donnell submitted a request to the Joint Legislative Audit Committee to conduct an audit of the CSFGP and conduit bond program to "determine whether program oversight is sufficient to prevent taxpayer dollars from financing private acquisition of school facilities, to determine the scope of such acquisition to date, and to determine the effectiveness of the program's goals to provide high quality school facilities to low-income charter school students."

The State Auditor released their report on the CSFGP and Conduit Financing Program on February 14, 2023. The audit identified several issues that should be addressed through legislative and regulatory reform, as noted below:

There is no consistency among CSFGP recipients in the degree to which charter schools prioritize admissions for nearby students.

- Charter schools qualify for grant funds from the CSFGP by one of two methods: either a) serving 55% or more of pupils eligible for free or reduced price meals (FRPM), or b) physically locating in the attendance area of a public elementary school in which 55% or more of pupil enrollment is eligible for FRPMs and the school site gives a preference in admissions to pupils who are currently enrolled in that public elementary school and to pupils who reside in the elementary school attendance area where the charter school site is located (EC 47614.5 (c)(2)).
- In a review of just four charter schools that qualify for CSFGP funds (under method b above), the auditor found that “each established a different priority level for the admission of nearby students.” This means that the nearby FRPM students the program is meant to serve may receive fourth or fifth priority for admissions preference if charter interest exceeds enrollment capacity, behind the children of teachers and administrators or siblings of current students. The auditor wrote, “under the current law, nearby students are not necessarily a highly preferred admission group, which could undermine the purpose of the program.”

Tax-exempt LLCs that often hold title to publicly funded charter school properties are not subject to existing law requiring AG for the sale of assets.

- Existing law imposes safeguards for transactions involving charter schools or CMO subsidiaries that are nonprofit public benefit corporations. Those safeguards include requiring that the nonprofit public benefit corporation provide notice to the AG if it seeks to sell or lease its corporate assets and obtain a written waiver of objections if it seeks to dissolve. However, these safeguards do not exist for tax-exempt LLCs, which commonly hold title to charter school facilities. On this, the auditor wrote, “Thus, a charter school subsidiary that is an LLC may sell or lease a school facility without notifying the AG of the transaction. Although state law grants the AG the authority to investigate transactions involving charitable assets, including those owned by tax-exempt LLCs, we question the effectiveness of this provision if there is no mandate that tax-exempt LLCs notify the AG of these transactions.”

Charter school closures contribute to classroom overcrowding in nearby schools.

- Although it is not an explicit goal of the program, the auditor found that CSFGP recipients operate in areas of the state where classroom space is needed. In reviewing a selection of 20 CSFGP recipients, the auditor found that 60% of those schools were located in areas where the Office of Public School Construction identified a need for additional classroom space.

- Therefore, should a charter school that paid CSFGP funds to a wholly-owned subsidiary close, existing public schools would need to find space to accommodate those students in a short timeframe and the closed charter facility that had been funded through public grant would not automatically be available option to the district, as it is not a public property.

CSFA does not identify possible conflicts of interest involving nonprofit CMOs and subsidiaries.

- CSFA has promulgated regulations to address and examine conflicts of interest affecting rent or lease agreements for grant program recipients. Those regulations defined the term “related parties” to include school officials and their close family members, as well as certain corporate entities affiliated with those officials or family members. The regulations impose additional requirements on agreements and transactions between those parties to ensure compliance with Government Code 1090 and the Political Reform Act of 1974.
- Notably, however, CSFA’s definition of “related parties” excludes agreements between charter schools and nonprofit CMOs or their subsidiaries, even when the nonprofit CMOs or subsidiaries employ school officials or their family members. At least half of all CSFGP recipients engage in agreements with their closely associated CMOs and subsidiaries. The lack of scrutiny around these agreements leaves open the possibility that schools out of compliance with Government Code 1090 and the Political Reform Act of 1974 will improperly receive grant program funds. “In implementing the Facility Grant Program, CSFA has established a narrow definition of related parties that excludes nonprofit CMOs and the subsidiaries of those CMOs and charter schools. As a result, CSFA does not apply the same scrutiny to lease and rental agreements involving these entities as landlords.”

CSFA relies on CSFGP applicants to self-certify their program eligibility.

- CSFA staff has established robust procedures to review any related parties reported by a charter school program applicant for compliance with program regulations. However, staff does not review assertions by CSFGP applicants that no related-party conflicts exist. Staff are directed to “identify a charter school as eligible for the Facility Grant Program if the charter school reports no related parties.”
- The auditor states that this practice risks CSFA improperly funding or not appropriately vetting its grant program applicants. In fact, the auditor reviewed 11 applications in which charter schools reported they had no relationship with their landlord and found that in three of those 11 cases, “there was a heightened risk that the applicant and landlord were closely associated despite the charter school not saying so on its application.”

The state collects insufficient data on the organizational types of charter schools.

- The state auditor was unable to determine the type of charter school organization (CMO, single management, none, or other) for 35% of CSFGP recipients during their

review period in part because the California Department of Education's annual survey on charter school information is not mandatory. The absence of this crucial information undermines oversight and accountability work by CSFA and charter authorizers.

The state loses track of publicly funded charter school facilities after charter schools close.

- Existing law requires a charter school to complete an independent final close-out audit after a charter school closes, including in cases where a school closes voluntarily or when its charter is revoked or nonrenewed (EC 47605.6 (b)(5)(P)). However, in the auditor's review of 10 close-out audits of schools that received funding from the CSFGP, none identified how the facilities they had occupied were used after their closure. In cases where a facility is owned by a charter school, CMO, or one of its closely associated entities, it's vital that authorizers retain a record of this information as it relates to educational facility space capacity. (Source: State Auditor, 2023)

Arguments in support. The California School Employees Association states, "AB 1604 increases transparency and accountability when it comes to the closure and subsequent sale or lease of publicly funded charter school facilities. This February, the State Auditor validated what we already knew: the California School Finance Authority (CSFA) is administering the CSFGP with fidelity to existing law, but the law and current program regulations contain inadequate safeguards to adequately protect public funds. The substantive recommendations included in the audit report will help ensure that facilities that have been significantly funded with taxpayer dollars continue to support public education and will better ensure compliance with California's robust conflict of interest laws.

This bill would implement the auditor's recommendations through the following provisions:

1. To address the lack of consistency among grant program recipients in the degree to which charter schools prioritize admission for nearby students, this bill would specify that preferences for local students supersede any other priority order (Audit Report 2022-110, 15-16).
2. To ensure that grant program applicants are being appropriately vetted for conflicts of interest involving nonprofit Charter Management Organizations (CMOs) and subsidiaries, this bill would require CSFA to update their regulations to evaluate these conflicts before opening the 2024-25 funding round (Audit Report 2022-110, 29-32).
3. To conform with best practices for verifying that statements made by grant program applicants are true, this bill would require that CSFA spot check a certain percentage of grant recipients each year for compliance with program requirements and regulations (Audit Report 2022-110, 32-34).

4. To prevent the loss of crucial public educational facility space, this bill would require that charter schools substantially funded with grant program dollars have the sale or lease of their school facility, if it is owned by a related-party or the school themselves, reviewed and approved, conditionally approved, or denied by the Attorney General after a local public hearing on the proposed lease or sale (Audit Report 2022-110, 27-28).

CSEA believes that this legislation takes an even-keeled approach in balancing the interests of both charter schools and the taxpayers who finance these facilities. By requiring a third-party to review and approve sale or lease agreements of facilities that have received 50% or more of their funding through Proposition 98, the community's interests are preserved and accounted for in decisions about these publicly funded facilities. Because charter schools leveraging the grant program often open in areas of the state where more educational facility space is needed, this process will ensure that districts, students, staff, and community members can have their voices heard when classroom space capacity is impacted. Ultimately, this legislation will finally give the community a voice in how their publicly funded facilities are used after a charter school closes.”

Arguments in opposition. The California Charter School Association states, “While AB 1604 has been described by the author as simply implementing the recommendations in the above-cited report, the provisions of the bill go far beyond the recommendations in the BSA report, and confer broad authority to the Attorney General to approve, conditionally approve or deny the disposition of a charter school facility leased with partial funding through the CSFGP. It is also important to note that BSA made no findings or identified any evidence to substantiate its recommendations, and relied on conjecture and speculation in making the recommendations concerning the CSFGP. Any proposed changes to the CSFGP under AB 1604 creates the risk of increasing costs for and undermining the high-quality facility arrangements that charter schools and their low-income students are currently accessing, with potentially disastrous results for the most high-need communities in the state.

Requires Advance Notice to and Consent from the Attorney General Concerning the Disposition of a Charter School Facility Which Will Substantially Impair Financing

Under subdivisions (b) and (c) of the new proposed Education Code section 47614.6 (Section 47614.6), a charter school, charter management organization, subsidiary of a charter school, or subsidiary of a charter management organization must provide advance notice to the Attorney General before entering into any agreement or transaction to dispose of the charter school facility leased through partial funding through the CSFGP. Under subdivision (d) of the proposed Section 47614.6, the Attorney General will have at least 90 days to make its determination to consent to, give conditional consent to, or deny consent to an agreement or transaction concerning a charter school facility, and can extend this time period for an additional 45 days for a total of 135 days or 4½ months.

Application of Section 1090 of the Government Code and the Political Act of 1974 by the CSFA Is Inconsistent with Its Expertise

Under proposed subparagraphs (A) and (B) of paragraph (5) of subdivision (c) of Section 47614.5, CSFA is directed to evaluate applicants to the CSFGP for conflicts of interests under Section 1090 of the Government Code and the Political Reform Act of 1974 (Political Reform Act), and to update its regulations before the opening of the 2024-25 funding round to evaluate conflicts of interests between all related parties.... CSFA lacks the investigatory powers, experience, staff and budget to make these sorts of determinations. Additionally, requiring CSFA

to make conflict of interest determinations or regulations may result in regulations, rulings or decisions in conflict with those of the Fair Political Practices Commission, which is charged with the primary responsibility for enforcing California's conflict of interest laws.

Imposes a Charter School Admission Priority that May Be Inconsistent with the Charter School's Educational Program As Reviewed by the Authorizer

In 2017, CCSA supported AB 1360 (Bonta), which required charter schools to have their preferences and priority order approved by their authorizer at a public hearing. AB 1360 also reinforced that preferences shall not result in limiting enrollment access for pupils who are economically disadvantaged, as determined by eligibility for any free or reduced-price meal program.... While CCSA strongly supports the requirement for charter schools participating in the CSFGP to give students an admission preference if they are eligible for free or reduced-price meals, and reside in the elementary school attendance area where the charter school facility is located, we believe the priority order of the admission preference should be determined by the charter school authorizer based on the individualized review of a school's program.”

Recommended Committee amendments. Staff recommends the bill be amended to:

- 1) Delete the provisions of the bill that require the AG to approve the sale of a charter school property. Instead, require the sale or lease of charter school facilities, acquired, financed, constructed or modernized after January 1, 2024, that are substantially funded by the CSFGP and held by related party entities to do the following, which substantially mirrors the process for the sale of school district surplus property:
 - a) Require a charter school to offer the facility for sale or lease to the following organizations in priority order:
 - i) Another charter school, a school district, a COE, or an agency that will use the property exclusively for the delivery of subsidized child care and development services or early education, for a period of not less than five years from the date the property is made available.
 - ii) Any public district, public authority, public agency, public corporation, or any other political subdivision of the state, and to the federal government.
 - b) Specify that “substantially funded” means that the educational facility has received 51% of its most recently assessed value as determined by the county assessor at the time of its proposed sale in public grant funds from the CSFGP.
 - c) Require the charter school to offer the facility for sale to the priority entities at the charter school's cost of acquisition, adjusted by a factor equivalent to the percentage increase or decrease in the cost of living from the date of purchase to the year in which the offer of sale is made, plus the cost of any school facilities construction undertaken on the property by the charter school since its acquisition, adjusted by a factor equivalent to the increase or decrease in the statewide cost index for class B construction, as annually determined by the State Allocation Board pursuant to Section 17072.10, from the year the improvement is completed to the year in which the sale is made. In the event that a statewide cost index for class B construction is not available, the charter school shall use a factor equal to the average statewide cost index for class B construction for the

preceding 10 calendar years. *In no event shall the price be less than 25% of the fair market value of the property described in this section or less than the amount necessary to retire the share of conduit revenue bonds including early repayment penalty fees or any other loans.* The percentage of annual increase or decrease in the cost of living shall be the amount shown for January 1 of the applicable year by the then current Bureau of Labor Statistics Consumers Price Index for the area in which the schoolsite is located.

- d) Require that, if a charter school facility is substantially funded by the CSFGP and held by a related party, is sold within 10 years of receiving CSFGP funds, the property is not sold to one of the priority entities and the proceeds from the sale are not used for capital outlay in California, the CSFGP funds received in the previous 10 years be returned to the CSFA, after first retiring any outstanding bonds and second retiring other financial obligations.
- 2) Require a charter school participating in a conduit financing program to notify the conduit issuer of the following:
 - i) When a charter school is closing;
 - ii) When the charter school intends to sell or vacate a facility with outstanding conduit bonds;
 - iii) When the facility is sold; and
 - iv) Annually notify the conduit issuer of the status of facilities that have been vacated with outstanding conduit bonds.
 - 3) Require the CSFA to update their regulations before opening the 2024-25 funding cycle to review a random sampling of at least 10% of grant recipients per year for compliance with program requirements, including proper disclosure and certifications of conflicts of interest and the process to evaluate conflicts of interest between all related parties.
 - 4) Require a charter school that qualifies for the CSFGP, based on the free and reduced priced eligibility of the public school where the charter school is physically located, to give preference to students who reside in the attendance area of the school where the charter school is physically located, after preferences for existing students and siblings of existing students. Further clarify that dual immersion charter schools may have an admission preference for students who speak specific languages among the students who reside within the attendance area of the neighborhood school. If the number of students admitted from that group does not meet the necessary threshold for a dual immersion program, the charter school may have a preference for students who speak a specific language who do not reside within the attendance boundary, above the students who reside within the attendance area of the neighborhood school.
 - 5) Clarify that the term “charter management organization” as used in Section 47614.5 and 47614.6 has the same meaning as an “entity managing a charter school” pursuant to Section 47604.1.

- 6) Clarify that charter school bond agreements shall include an extraordinary call feature to allow repayment at anytime.

Related legislation. AB 2484 (Bonta) of the 2021-22 Session would have made changes to the grant amounts awarded to charter schools as part of the CSFGP when the facilities used by charter schools are owned by related parties, and made changes to the procedures for any remaining net assets after a charter school closes. This bill was held in the Senate Appropriations Committee.

SB 645 (Simitian) of the 2011-12 Session would have created charter school academic accountability measures for renewal; expanded eligibility for CSFGP; and, authorized the CSFA to refinance working capital for charter schools. This bill was held in the Assembly Appropriations Committee.

SB 765 (Weiner) of the 2017-18 Session would have re-established provisions requiring the governing board of a school district seeking to sell or lease surplus property to first offer that property to a charter school and authorizes a school district to use the proceeds from the lease or sale of surplus real property for any one-time general fund purpose. The bill was amended to address an issue outside the jurisdiction of this committee.

SB 1016 (Budget Committee), Chapter 38, Statutes of 2012, requires school districts, until June 30, 2013, seeking to sell surplus property used for instructional purposes to first offer the property to a charter school to be used for direct instruction or instructional support.

AB 86 (Committee on Budget), Chapter 48, Statutes of 2013, extends the SB 1016 sunset to July 1, 2016, specified that the charter must have a projected 80 units of in-district ADA the following year, and established a process for disposal of the property if the charter school did not use the property for instructional purposes or no longer needed the property.

AB 948 (Olsen), Chapter 871, Statutes of 2014, requires the CSFA to expand eligibility under the CSFGP by reducing the free and reduced-price meals threshold one percentage point at a time, but in no case below 60%, for charter schools that meet eligibility based on the school's enrollment of pupils that are eligible for free and reduced-price meals, in any year in which additional funds remain after state and federal funds have been allocated to applicants. Requires a charter school that receives CSFGP funds to be subject to audits conducted pursuant to the audit guide.

AB 2047 (Huff) of the 2005-06 Session would have deleted the provision of law stating the intent of the Legislature to appropriate \$10 million for the CSFGP for the 2001-02, 2002-03, and 2003-04 fiscal years, and specified that for the 2006-07 fiscal year and each fiscal year thereafter, the program shall be funded at the level appropriate in the annual Budget Act, or other statute. This bill was held in the Assembly Appropriations Committee.

AB 2323 (Huff) of the 2005-06 Session would have expanded eligibility to charter schools located in attendance areas of public schools where 50% or more but less than 70% pupils are eligible for free and reduced-price meals and the charter school gives preference to students enrolled in the public school or the charter school enrolls 50% or more but less than 70% of pupils enrolled at the charter school are eligible for free and reduced-price meals. This bill was held in the Assembly Appropriations Committee.

REGISTERED SUPPORT / OPPOSITION:

Support

California Federation of Teachers Afl-cio
California Labor Federation, Afl-cio
California School Employees Association
California Teachers Association

Opposition

Able Charter Schools
Academia Avance
Ace Charter Schools
Alta Public Schools
Aspire Public Schools
Baytech Charter School
Bright STAR Schools
California Charter Schools Association
California Creative Learning Academy
Camino Nuevo Charter Academy
Ceiba College Preparatory Academy
Century Community Charter School
Charter Schools Development Center
Delta Elementary Charter School
Dual Language Immersion North County
Ednovate
Education for Change
Environmental Charter Schools
Equitas Academy Charter Schools
Escondido Charter High School
Gabiella Charter Schools
Gateway Community Charters
Girls Athletic Leadership Schools Los Angeles
Goethe International Charter School
Granada Hills Charter High School
Hawking Steam Charter School
Imagine Schools
Integrity Charter School
Intellectual Virtues Academy of Long Beach
Ivy Bound Academy Charter Middle School
James Jordan Middle School
John Muir Charter Schools
Julia Lee Performing Arts Academy
Kairos Public Schools
Kipp Bay Area Public Schools
Kipp Norcal
Larchmont Charter School

Lighthouse Community Public Schools
Literacy First Charter Schools
Long Valley Charter School
Los Angeles Leadership Academy
Magnolia Public Schools
Multicultural Learning Center
Navigator Schools
New Horizons Charter Academy
New Los Angeles Charter Schools
Phoenix Charter Academy
Public Safety Academy of San Bernardino
Reach Leadership Steam Academy
Redwood Coast Montessori
Renaissance Arts Academy
River Charter School
Scholarship Prep Charter School
Summit Public Schools
Sycamore Academy of Science and Cultural Arts
The Grove School
The Language Academy of Sacramento
Tree of Life Charter School
Vibrant Minds Charter School
Vista Charter Public Schools
Voices College Bound Language Academies
Ypi Charter Schools

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