

Case No. S177403

IN THE SUPREME COURT OF
THE STATE OF CALIFORNIA

Second Appellate District Case No. B214119

SUPREME COURT
FILED

JUL 23 2010

Frederick K. Ohlrich Clerk

Deputy

UNITED TEACHERS LOS ANGELES,

Plaintiff and Appellant,

v.

LOS ANGELES UNIFIED SCHOOL DISTRICT,

Defendant and Respondent.

On Appeal from the Superior Court of Los Angeles County,
Case No. BS116739, Honorable Mary Ann Murphy, Judge Presiding

**RESPONDENT'S MOTION TO TAKE JUDICIAL NOTICE;
MEMORANDUM OF POINTS AND AUTHORITIES AND
DECLARATION IN SUPPORT THEREOF**

Sue Ann Salmon Evans, sevans@DWKesq.com, (State Bar No. 151562)
Dannis Woliver Kelley
301 E. Ocean Blvd., Suite 1750
Long Beach, California 90802
Telephone: (562) 366-8500
Facsimile: (562) 366-8505
Attorneys for Respondent and Defendant
Los Angeles Unified School District

[Exempt from filing fees pursuant to Gov. Code, § 6103]

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Pursuant to Evidence Code section 459 and 452, subdivisions (c), (h) and (g), 453, Respondent Los Angeles School District ("Respondent") moves the court to take judicial notice of the following items for all purposes:

**A Copy of Legislative History AB 544 is attached hereto as
Exhibit 1**

The Legislative History for AB 544 is relevant to this matter because UTLA appears to argue in its Opening Brief that the revision to Education Code section 47605 in 1998 by Assembly Bill ("AB") 544 regarding

teacher signatures somehow supports collective bargaining on the charter petition process. Yet UTLA offers legislative history without supporting documentation. The District responds to UTLA's argument and offers the Legislative History of AB 544 in support thereof.

MEMORANDUM OF POINTS AND AUTHORITIES

Upon a party's request, appellate courts have the same power as trial courts to take judicial notice of a matter properly subject to judicial notice. (Evid. Code, § 459; *Lockley v. Law Office of Cantrell, Green, Pekich, Cruz & McCort* (2001) 91 Cal.App.4th 875, 881; *Deschene v. Pinole Point Steel Co.* (1999) 76 Cal.App.4th 33, 37). Pursuant to Evidence Code section 459, the court may take judicial notice of "any matter specified in Section 452." Evidence Code section 452, subdivision (h), states that the court may take judicial notice of "[f]acts and propositions that are not reasonably subject to dispute and are capable of immediate and accurate determination by resort to sources of reasonable indisputable accuracy." Judicial knowledge is taken of all matters generally known and the court is bound to take notice of public facts and of public activities. (*Greeson v. Imperial Irr. Dist.* (9th Cir. 1932) 59 F.2d 529, 531.) Moreover, judicial notice is properly taken of government publications and official acts. (*Atlantic Transport Co. of West*

Virginia v. Rosenberg Bros. & Co. (9th Cir. 1929) 34 F.2d 843. See also, *Carleton v. Tortosa* (App. 3 Dist. 1993) 14 Cal.App.4th 745 [court properly took judicial notice of official publication of California Department of Real Estate; document was official act of executive department of state].) Further, judicial notice is properly taken of facts that are of common knowledge within the territorial jurisdiction of the court taking judicial notice. (Evid. Code, § 452(g).)

The documents requested to be noticed are relevant to Respondent's Reply Brief on the Merits and are proper for consideration thereof under Evidence Code section 452.

The District seeks judicial notice of the legislative history of AB 544. Evidence Code section 452, subdivision (c), states that the court may take judicial notice of "Official acts of the legislative, executive or judicial departments of the United States and of any state of the United States." (See, *Post v. Prati* (1979) 90 Cal. App. 3d 626, wherein the court relied upon a variety of legislative documents, including correspondence to the Governor from state agencies and individual legislators.)

Evidence Code Section 453 states: "The trial Court shall take judicial notice of any matter specified in Section 452 if a party requests it and: (a) Gives each adverse party sufficient notice of the request, through

the pleadings or otherwise, to enable such adverse party to prepare to meet the request; and, (b) Furnishes the court with sufficient information to enable it to take judicial notice of the matter.”

A copy of the legislative history for AB 544 is submitted herewith to furnish the Court with sufficient information to enable it to take judicial notice of those portions relied upon by District.

CONCLUSION

The District respectfully requests that the Court take judicial notice of the document listed above.

Dated: July 22, 2010

DANNIS WOLIVER KELLEY

SUE ANN SALMON EVANS

By 
SUE ANN SALMON EVANS
Attorneys for Respondent
LOS ANGELES UNIFIED SCHOOL
DISTRICT

DECLARATION OF SUE ANN SALMON EVANS

I, Sue Ann Salmon Evans, declare as follows:

1. I am an attorney admitted to practice law before all the courts of the State of California. I am a partner in the law firm of Dannis Woliver Kelley, and attorney of record for Respondent Los Angeles Unified School District (“Respondent” or “District”) in above matter. I have personal knowledge of the facts set forth in this declaration, and if called upon to testify under oath concerning them, I could and would testify competently to such facts.

2. I make this declaration in support of the Respondent’s Motion To Take Judicial Notice.

3. By this motion, Respondent requests that the Court take judicial notice of the Legislative History of AB 544.

4. The Legislative History for AB 544 is relevant to this matter because UTLA appears to argue in its Opening Brief that the revision to Education Code section 47605 in 1998 by Assembly Bill (“AB”) 544 regarding teacher signatures somehow supports collective bargaining on the charter petition process. Yet UTLA offers legislative history without supporting documentation.

5. The Legislative History for AB 544 relates to proceedings occurring before the order that is the subject of this appeal, and should be

considered by this Court. A copy of the legislative history is attached as Exhibit 1.

6. Respondent Los Angeles Unified School District requests the Court to take judicial notice of the Legislative History for AB 544 attached to Respondent's Motion To Take Judicial Notice as Exhibit 1.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed this 22nd Day of July, at Long Beach, California.



SUE ANN SALMON EVANS

VOLUME 1
CALIFORNIA LEGISLATURE
AT SACRAMENTO
1997-98 REGULAR SESSION

ASSEMBLY FINAL HISTORY

ASSEMBLY BILLS, CONSTITUTIONAL AMENDMENTS, CONCURRENT,
JOINT, AND HOUSE RESOLUTIONS

• Assembly Convened December 2, 1996

Recessed December 2, 1996	Reconvened January 6, 1997
Recessed March 21, 1997	Reconvened March 31, 1997
Recessed August 12, 1997	Reconvened August 25, 1997
Recessed September 13, 1997	Reconvened January 5, 1998
Recessed April 2, 1998	Reconvened April 13, 1998

Adjourned September 1, 1998
Adjourned Sine Die November 30, 1998

Legislative Days	268
Calendar Days	729

HON. ANTONIO R. VILLARAIGOSA
Speaker

HON. SHEILA JAMES KUEHL
Speaker pro Tempore

HON. KEVIN SHELLEY
Majority Floor Leader

HON. JOE BACA
Speaker pro Tempore

HON. ROD PACHECO
Minority Floor Leader

Compiled Under the Direction of
E. DOTSON WILSON
Chief Clerk

AMY DUARTE
History Clerk

DARCI KING
Assistant History Clerk

A.B. No. 544—Lempert.

An act to amend Sections 47601, 47602, 47605, 47607, 47608, 47610, 47612, 47613, and 47616.5 of, and to add Sections 47604, 47604.3, 47604.5, 47605.5, 47613.5, 47613.7, 47614, and 47615 to, the Education Code, relating to charter schools.

1997

- Feb. 25—Read first time. To print.
 Feb. 26—From printer. May be heard in committee March 28.
 Mar. 10—Referred to Com. on ED.
 April 14—In committee: Set, first hearing. Hearing canceled at the request of author.
 April 28—From committee: Amend, do pass as amended, and re-refer to Com. on APPR. (Ayes 12. Noes 8.) (April 23).
 May 1—Read second time and amended.
 May 5—Re-referred to Com. on APPR.
 May 21—In committee: Set, first hearing. Referred to APPR. suspense file.
 May 30—From committee: Amend, and do pass as amended. (Ayes 13. Noes 8.) (May 30).
 June 2—Read second time and amended. Ordered returned to second reading.
 June 3—Read second time. To third reading.
 June 4—Read third time, passed, and to Senate. (Ayes 43. Noes 31. Page 2450.)
 June 5—In Senate. Read first time. To Com. on RLS. for assignment.
 June 12—Referred to Com. on ED.
 June 25—From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on ED.
 July 17—From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 10. Noes 0.)
 Aug. 25—In committee: Set, first hearing. Hearing canceled at the request of author.

1998

- April 14—From committee chair, with author's amendments: Amend, and re-refer to committee. Read second time, amended, and re-referred to Com. on APPR. Withdrawn from committee. Re-referred to Com. on RLS.
 April 16—Withdrawn from committee. Read third time, passed, and to Assembly. (Ayes 33. Noes 0. Page 4164.)
 April 16—In Assembly. Concurrence in Senate amendments pending. May be considered on or after April 18 pursuant to Assembly Rule 77.
 April 20—Assembly refused to concur in Senate amendments. To Conference Committee. (Ayes 1. Noes 75. Page 6301.)
 April 20—Senators Alpert, O'Connell, and Lewis appointed to Conference Committee.
 April 20—Assembly Members Lempert, Mazzoni, and Pacheco appointed to Conference Committee.
 April 27—From Conference Committee: (Assembly Ayes: 2 (Lempert, Mazzoni). Assembly Noes: 0.) (Senate Ayes: 3 (Alpert, O'Connell, Lewis). Senate Noes: 0.) To print.
 April 28—From printer.
 April 30—Senate adopts Conference report. (Ayes 29. Noes 3. Page 4380.)
 April 30—Assembly adopts Conference report. To enrollment. (Ayes 62. Noes 4. Page 6523.)
 April 30—Enrolled and to the Governor at 11:30 a.m.
 May 7—Approved by the Governor.
 May 8—Chartered by Secretary of State - Chapter 34, Statutes of 1998.

SENATE RULES COMMITTEE
Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 445-6614 Fax: (916) 327-4478

SB 222

THIRD READING

Bill No: SB 222
Author: Lewis (R), et al
Amended: 4/14/97
Vote: 21

SENATE EDUCATION COMMITTEE: 4-4, 4/9/97
AYES: Haynes, Knight, McPherson, Monteith
NOES: Greene, Dills, Hughes, Watson
NOT VOTING: Alpert, Hayden, O'Connell, Sher, Vasconcellos

SENATE EDUCATION COMMITTEE: 7-5, 4/16/97
AYES: Alpert, Hayden, Haynes, Knight, McPherson, Monteith,
Vasconcellos
NOES: Greene, Dills, Hughes, Sher, Watson
NOT VOTING: O'Connell

SENATE APPROPRIATIONS COMMITTEE: 8-4, 5/12/97
AYES: Alpert, Calderon, Johnson, Kelley, Leslie,
McPherson, Mountjoy, Vasconcellos
NOES: Johnston, Burton, Karnette, Lee
NOT VOTING: Dills

SUBJECT: Charter schools

SOURCE: Author

DIGEST: This bill increases the number of charter schools allowed from 112 to 300, and increases the number of charter schools allowed in each district from 10 to 30 (except Los Angeles Unified School District, which is allowed 42 charter schools).

ANALYSIS: Under current law, a group or individual may circulate a petition to create a "charter school" within an existing public school district. A charter school, with some exceptions, is governed by the provisions of the charter, rather than the requirements of state law, local policies, or local collective bargaining agreements. Charters must include a variety of provisions including pupil achievement, governance of the school, admissions, discipline, staff qualifications, certain employee rights, and a number of other criteria.

B1
Charter petitions must be signed by at least half of the teachers at a school (or by 10% of the teachers district-wide) and approved by the school district's governing board.

CLAUSD
Current statute places a limit on the number of charter schools that may be established at 112 (the original cap of 100 was increased by Chapter 849, Statutes of 1996 (Hayden) to allow Los Angeles Unified School District an additional 12 charters.) Any single school district may not exceed 10 charter schools, except Los Angeles Unified School District which may not exceed 22.

LAUSD, the SBE may also grant charters through the waiver process & has granted 22.
This bill increases the number of charter schools allowed from 100 to 300, and increases the number of charter schools allowed in each district from 10 to 30.

Comments

Related Legislation: In 1995, the Senate Education Committee defeated SB 228 (Kopp) which would have repealed the limit on the number of charter schools. In 1996, the committee defeated AB 198 (Caldera), which would have increased the maximum number of charter schools from 100 to 300, and AB 2106 (Baldwin), which would have repealed the limit on the number of charter schools.

SBE Waivers: Despite the statutory cap on the number of charter schools, the State Board of Education (SBE) has used its authority to waive certain provisions of the Education Code to override the statutory limit on the number of charter schools. The SBE has now authorized 134 charter schools to operate, which contrasts with the $\frac{112}{22}$ statutory limit of 112.

Interim Evaluation: AB 2135 (Chapter 767, Statutes of 1996; Mazzoni) requires the Legislative Analyst to contract for an interim evaluation of the charter school approach to contain specified components to be submitted to the

Legislature by November 1, 1997. The original legislation establishing the charter school program requires the Department of Education to review the educational effectiveness of the program not later than January 1, 1999.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes
Local: Yes

According to the Senate Appropriations Committee analysis, unknown increase. The Commission on State Mandates reimburses school districts for the costs of reviewing charter petitions at an average cost of \$8,000 per petition and a statewide annual cost of \$100,000. If the number of petitions were to increase in number in proportion to the increase in the cap, mandated costs could be in excess of \$250,000. However, school districts are required to review petitions regardless of the existence of the cap and have been continuing to do so. The state board has not used the cap as a means to limit the number of charters. Thus, raising the cap will not result in a one-for-one increase in petitions. The raising of the cap should provide for some increase in petitions, however. Staff is unable to determine the magnitude of the increase or the cost.

SUPPORT: (Verified 1/12/98)

American Silkscreen Inc.
California Network of Educational Charters
Capitol Resource Institute
Little Hoover Commission
Pioneer Union Elementary School District
Vaughn Next Century Learning Center
Gary Hart, Director, Institute for Education Reform

OPPOSITION: (Verified 1/12/98)

California School Boards Association
California Teachers Association
United Teachers Los Angeles
California Federation of Teachers, AFT, AFL-CIO
California School Employees Association

ARGUMENTS IN SUPPORT: Proponents argue that charter schools are working; they note that studies such as one conducted by the Little Hoover Commission on the effectiveness of charter schools show positive results and individual charters report their own successes.

ARGUMENTS IN OPPOSITION: Opponents argue they prefer

that no changes be made to the charter schools laws until
the completion of the evaluation called for in AB 2135
(Mazzoni).

NC:ctl 1/16/98 Senate Floor Analyses
SUPPORT/OPPOSITION: SEE ABOVE
**** END ****

Date of Hearing: April 23, 1997

ASSEMBLY COMMITTEE ON EDUCATION
KERRY MAZZONI, Chair

AB 844 (Caldera) - As Introduced: February 27, 1997

SUBJECT: Charter schools.

SUMMARY: This bill pertains to the number of charter schools that may operate in the state. Specifically, this bill:

Repeals the limit on the number of charter schools that may operate in the state in any school year.

FISCAL EFFECT: Unknown

COMMENTS:

Background. Under current law, a group or individual may circulate a petition to create a "charter school" within an existing public school district. A charter school, with some exceptions, is governed by the provisions of the charter, rather than the requirements of state law, local policies, or local collective bargaining agreements. Charters must include a variety of provisions including pupil achievement, governance of the school, admissions, discipline, staff qualifications, certain employee rights, and a number of other criteria. Charter petitions must be signed by at least half of the teachers at the school (or by 10% of the teachers district-wide) and approved by the school district's governing board. If a charter is rejected by the governing board a review panel is formed to consider the basis for the rejection. If the governing board again rejects the charter the petitioners may appeal to the county board of education, which may grant the charter.

Current law permits the creation of up to 112--with the last 12 reserved for the Los Angeles Unified School District (LAUSD)--charter schools in the state, and does not permit any one school district, other than LAUSD, to have more than 10 charter schools. The SBE may also grant charters through the waiver process and has granted 22 to date.

Related Legislation.

ASSEMBLY BILLS: 1) AB 385 (Goldsmith) establishes a procedure for a school district to convert to a "home rule district." 2) AB 458 (Caldera) provides that the staff and members of the governing board of a school district or county office of education sponsoring a charter school are immune from all liabilities, debts, or contracts

of the charter school unless otherwise provided in the school's charter; 3) AB 867 (Pringle) provides that a petition to establish a charter school may be submitted to the governing board of a school district if that school district has a low-achieving elementary or low-achieving high school. In addition, the bill states that the petition must be signed by not less than 50% of the parents and guardians of pupils enrolled at the low-achieving school; and 4) AB 1254 (Baldwin) repeals the limitation on the number of charter schools allowed to operate in the state unless the Senate Education Committee and the Assembly Education Committee make a joint finding that the charter school approach should be terminated.

SENATE BILLS: 1) SB 180 (Greene) specifies that all charter schools are subject to the provisions of the Field Act; 2) SB 221 (Lewis) provides that a charter may be granted for a period not to exceed 15 years. However, the bill requires that a charter school review must be conducted by the authority that granted the charter once every 5 years in a manner agreed upon by the charter petitioners and the authority that granted the charter; 3) SB 222 (Lewis) repeals the limitation on the number of charter schools operating in the state; 4) SB 223 (Lewis) provides that a charter school petition may be submitted to the governing board of a school district for review if it is signed by not less than 10% of the parents, guardians, or caregivers of pupils enrolled in the school district or if it is signed by not less than 50% of the parents, guardians, or caregivers of pupils enrolled in any one school of the district; 5) SB 224 (Lewis) deems the Regents of the University of California, the Chancellor of the California State University, and the Chancellor of the California Community Colleges as the governing board of a school district for the purposes of establishing a charter school; and 6) SB 843 (Hayden) allows a school district that maintains an enrollment of more than 600,000 pupils to operate 10 charter schools in addition to the 22 charter schools that may currently operate in the school district.

Previous Legislation. Last session, the following bills were introduced, but not enacted into law, related to the charter school cap: 1) AB 39 (Mazzoni) would have lifted the cap to 200; 2) AB 198 (Caldera) would lift the cap to 300; 3) AB 721 (Baldwin) would have lifted the cap entirely; 4) AB 2106 (Baldwin) would have lifted the cap entirely; 5) AB 2134 (Mazzoni) would have lifted the cap based on a formula; 6) SB 228 (Kopp) would have lifted the cap entirely; and 7) SB 748 (Haynes) would have lifted the cap to 300. Chapter 849, Statutes of 1996 (SB 1883, Hayden), lifted the cap to 112, with the last 12 reserved for Los Angeles Unified School District.

Is it wise to expand the charter school approach before the interim evaluation of charter schools is completed? Chapter 767, Statutes of 1996 (AB 2135, Mazzoni), requires the Legislative Analyst's Office to contract out for an interim evaluation of the

effectiveness of the charter school approach. The Legislative Analyst is required to "report to the Legislature and the Governor accordingly with recommendations to modify, expand, or terminate" the charter school approach by November 1, 1997. Staff recommends that the Committee postpone hearing this bill until after the evaluation has been completed.

Arguments in Support. According to the author, "a number of existing charter schools are experiencing a dramatic rise in student achievement, fueled by their ability to lower class size, select teachers, control their budgets and enlist parent input."

Arguments in Opposition: The California Teachers Association states that they "will not support the expansion of the charter school concept until employees of charter schools are granted statutory due process and collective bargaining rights." Many others have argued that the charter school approach should not be expanded until the interim evaluation has been completed.

REGISTERED SUPPORT / OPPOSITION:

Support

Governor Wilson (Sponsor)
Little Hoover Commission

Opposition

California Teachers Association
California School Employees Association
Montebello Teachers Association

Analysis prepared by: Brendan Twohig / aed / 916-445-9431

PROPOSED CONFERENCE REPORT NO. 1
APRIL 27, 1998

AMENDED IN SENATE APRIL 14, 1998

AMENDED IN SENATE JUNE 25, 1997

AMENDED IN ASSEMBLY JUNE 2, 1997

AMENDED IN ASSEMBLY MAY 1, 1997

CALIFORNIA LEGISLATURE—1997-98 REGULAR SESSION

ASSEMBLY BILL

No. 544

Introduced by Assembly Member Lempert

February 25, 1997

~~An act relating to Charter Public Schools. An act to amend Sections 47601, 47602, 47605, 47607, 47608, 47610, 47612, 47613, and 47616.5 of, and to add Sections 47604, 47604.3, 47604.5, 47605.5, 47613.5, 47613.7, 47614, and 47615 to, the Education Code, relating to charter schools.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 544, as amended, Lempert. Charter schools.

Existing law, the Charter Schools Act of 1992, permits teachers, parents, pupils, and community members to petition a school district governing board to approve a charter school to operate independently from the existing school district structure as a method of accomplishing, among other things, improved pupil learning.

~~This bill would declare the intent of the Legislature to enact the Charter Public Schools Act of 1998.~~

Existing law, with certain exceptions, establishes the maximum number of charter schools in California at 100 and the maximum number of 10 in any single school district.

This bill would delete this provision, and would instead, establish the statewide maximum at 250 charter schools for the 1998-99 school year with an additional 100 charter schools per school year thereafter.

The bill would require the Legislative Analyst to contract for an evaluation and report to the Legislature by July 1, 2003, regarding the effectiveness of the charter school approach.

This bill would preclude receipt of public funds by a charter school if the pupil also attends a private school that charges the family for tuition, and would authorize the State Board of Education to adopt implementing regulations.

This bill would provide that a charter school may elect to operate as a nonprofit public benefit corporation and would entitle the school district that grants the charter to have one representative on the board of directors of the nonprofit public benefit corporation.

Existing law permits a petitioner to submit for the approval of the governing board of a school district, a petition for the establishment of a charter school after the petition has been signed by at least 10% of the teachers currently employed in the district, or by at least 50% of the teachers currently employed at one school of the district and establishes a process for review of a denial of the petition, including, but not limited to, the convening of a review panel, and the granting of the charter by the county board of education.

This bill would delete these provisions and would, instead, authorize the submission of a petition after the petition has been signed by a number of parents or guardians of pupils equal to at least $\frac{1}{2}$ of the pupils that the charter school estimates it will enroll in its first year, or after the petition has been signed by a number of teachers equal to at least $\frac{1}{2}$ of the number of teachers that the charter school estimates will be employed at the charter school during its first year. In the case of petitions for establishment of a charter school by converting an existing public school, the bill would permit filing of the petition after the petition has been signed by at least 50% of

the permanent status teachers currently employed at the public school to be converted.

This bill would authorize the State Board of Education to grant a charter for the establishment of a charter school. This bill would permit the petitioner to elect to file the petition with either the county board of education or directly with the State Board of Education, and in the case of a denial by the county board of education, the bill would permit petitioners to file with the State Board of Education. The bill would permit the State Board of Education to, by mutual agreement, designate a local educational agency to perform its supervisory and oversight responsibilities, and would grant the local educational agency all related powers, excluding the power of revocation of the charter.

This bill would authorize the State Board of Education to take action, including, but not limited to, revocation of the charter if, based upon the recommendation of the Superintendent of Public Instruction the State Board of Education makes certain findings relating to, financial mismanagement, illegal or improper use of funds, or substantial and sustained departure from measurably successful accepted practice.

This bill would require that teachers in charter schools be required to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a public school teacher would be required to hold.

Existing law requires a charter school to comply with its charter but generally exempts it from all laws governing school districts, with certain exceptions relating to the State Teachers' Retirement System and the Charter School Revolving Loan Fund.

This bill would add all laws establishing a minimum age for public school attendance to the provisions from which a charter school is not exempt.

Existing law requires the Superintendent of Public Instruction to make certain apportionments to each charter school for each fiscal year.

This bill would require that, only upon adoption of implementing regulations, charter school operational funding, as defined, be equal to the total funding that would

be available to a similar school district, as defined, serving a similar pupil population, and would require the State Department of Education to propose and the State Board of Education to adopt implementing regulations. The bill would, with certain exceptions, permit a chartering agency to charge up to a 1% charge for actual costs of oversight, or up to 3% for these costs if the chartering agency provides substantially rent free facilities to the charter school.

This bill would require a charter school to admit all pupils, would provide for a selection by random drawing in cases where the demand exceeds the capacity and would require that certain preferences be given in the case of pupils currently in the charter school. The bill would preclude the generating of average daily attendance in a charter school by a pupil who is not a resident of California. The bill would require a pupil over 19 to be continuously enrolled in the public school and make satisfactory practice towards a high school diploma in order to remain eligible for generating charter school apportionments, and would require the State Board of Education to adopt implementing regulations by January 1, 2000.

By requiring local agencies to perform these additional duties relating to the formation, monitoring, and administration of charter school, this bill would impose a state-mandated local program.

The bill would make conforming changes and other changes of a technical, nonsubstantive nature.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. It is the intent of the Legislature to enact~~
2 ~~the Charter Public Schools Act of 1998.~~

3 *SECTION 1. Section 47601 of the Education Code is*
4 *amended to read:*

5 47601. It is the intent of the Legislature, in enacting
6 this part, to provide opportunities for teachers, parents,
7 pupils, and community members to establish and
8 maintain schools that operate independently from the
9 existing school district structure, as a method to
10 accomplish all of the following:

11 (a) Improve pupil learning.

12 (b) Increase learning opportunities for all pupils, with
13 special emphasis on expanded learning experiences for
14 pupils who are identified as academically low achieving.

15 (c) Encourage the use of different and innovative
16 teaching methods.

17 (d) Create new professional opportunities for
18 teachers, including the opportunity to be responsible for
19 the learning program at the ~~school-site~~ *schoolsite*.

20 (e) Provide parents and pupils with expanded choices
21 in the types of educational opportunities that are
22 available within the public school system.

23 (f) Hold the schools established under this part
24 accountable for meeting measurable pupil outcomes, and
25 provide the schools with a method to change from
26 rule-based to performance-based accountability systems.

27 (g) *Provide vigorous competition within the public*
28 *school system to stimulate continual improvements in all*
29 *public schools.*

30 *SEC. 2. Section 47602 of the Education Code is*
31 *amended to read:*

32 47602. ~~(a) Except as provided in subdivision (b), the~~
33 ~~total number of charter schools operating in this state in~~
34 ~~any school year shall not exceed 100, with not more than~~
35 ~~10 charter schools in any single school district. For the~~
36 ~~purposes of implementing this section, the State Board of~~
37 ~~Education shall assign a number to each charter notice it~~
38 ~~receives pursuant to subdivision (i) of Section 47605,~~

1 ~~based on the chronological order in which the notice is~~
2 ~~received.~~

3 ~~(b) In addition to the total number of charter schools~~
4 ~~that school districts may operate in this state pursuant to~~
5 ~~subdivision (a) and the 10 charter schools that a single~~
6 ~~school district may operate pursuant to subdivision (a), a~~
7 ~~school district that maintains an enrollment of more than~~
8 ~~600,000 pupils in the current school year may operate 12~~
9 ~~charter schools for a maximum of 22 charter schools in~~
10 ~~these types of school districts.~~

11 ~~(e)-(a) (1) In the 1998-99 school year, the maximum~~
12 ~~total number of charter schools authorized to operate in~~
13 ~~this state shall be 250. In the 1999-2000 school year, and~~
14 ~~in each successive school year thereafter, an additional~~
15 ~~100 charter schools are authorized to operate in this state~~
16 ~~each successive school year. The limits contained in this~~
17 ~~paragraph may not be waived pursuant to Section 33050~~
18 ~~or any other provision of law.~~

19 ~~(2) By July 1, 2003, the Legislative Analyst shall,~~
20 ~~pursuant to the criteria in Section 47616.5, report to the~~
21 ~~Legislature on the effectiveness of the charter school~~
22 ~~approach authorized under this part and recommend~~
23 ~~whether to expand or reduce the annual rate of growth~~
24 ~~of charter schools authorized pursuant to this section.~~

25 ~~(b) No charter shall be granted under this part that~~
26 ~~authorizes the conversion of any private school to a~~
27 ~~charter school. No charter school shall receive any public~~
28 ~~funds for a pupil if the pupil also attends a private school~~
29 ~~that charges the pupil's family for tuition. The State Board~~
30 ~~of Education shall adopt regulations to implement this~~
31 ~~section.~~

32 ~~SEC. 3. Section 47604 is added to the Education Code,~~
33 ~~to read:~~

34 ~~47604. (a) Charter schools may elect to operate as, or~~
35 ~~be operated by, a nonprofit public benefit corporation,~~
36 ~~formed and organized pursuant to the Nonprofit Public~~
37 ~~Benefit Corporation Law (Part 2 (commencing with~~
38 ~~Section 5110) of Division 2 of Title 1) of the Corporations~~
39 ~~Code).~~

1 (b) *The governing board of a school district that grants*
2 *a charter for the establishment of a charter school formed*
3 *and organized pursuant to this section shall be entitled to*
4 *a single representative on the board of directors of the*
5 *nonprofit public benefit corporation.*

6 (c) *It is the intent of the Legislature that an authority*
7 *that grants a charter to a charter school to be operated by,*
8 *or as, a nonprofit public benefit corporation shall not be*
9 *liable for the debts or obligations of the charter school.*

10 SEC. 4. *Section 47604.3 is added to the Education*
11 *Code, to read:*

12 47604.3. *A charter school shall promptly respond to all*
13 *reasonable inquiries, including, but not limited to,*
14 *inquiries regarding its financial records, from its*
15 *chartering authority or from the Superintendent of*
16 *Public Instruction and shall consult with the chartering*
17 *authority or the Superintendent of Public Instruction*
18 *regarding any inquiries.*

19 SEC. 5. *Section 47604.5 is added to the Education*
20 *Code, to read:*

21 47604.5. *The State Board of Education, whether or*
22 *not it is the authority that granted the charter, may, based*
23 *upon the recommendation of the Superintendent of*
24 *Public Instruction, take appropriate action, including,*
25 *but not limited to, revocation of the school's charter,*
26 *when the State Board of Education finds any of the*
27 *following:*

28 (a) *Gross financial mismanagement that jeopardizes*
29 *the financial stability of the charter school.*

30 (b) *Illegal or substantially improper use of charter*
31 *school funds for the personal benefit of any officer,*
32 *director, or fiduciary of the charter school.*

33 (c) *Substantial and sustained departure from*
34 *measurably successful practices such that continued*
35 *departure would jeopardize the educational*
36 *development of the school's pupils.*

37 SEC. 6. *Section 47605 of the Education Code is*
38 *amended to read:*

39 47605. (a) ~~*A petition for the establishment of a*~~
40 ~~*charter school within any school district may be*~~

1 ~~circulated by any one or more persons seeking to establish~~
2 ~~the charter school. After the petition has been signed by~~
3 ~~not less than 10 percent of the teachers currently~~
4 ~~employed by the school district, or by not less than 50~~
5 ~~percent of the teachers currently employed at one school~~
6 ~~of the district, it may be submitted to the governing board~~
7 ~~of the school district for review. (1) Except as set forth~~
8 ~~in paragraph (2), a petition for the establishment of a~~
9 ~~charter school within any school district may be~~
10 ~~circulated by any one or more persons seeking to establish~~
11 ~~the charter school. The petition may be submitted to the~~
12 ~~governing board of the school district for review after~~
13 ~~either of the following conditions are met:~~

14 (A) *The petition has been signed by a number of*
15 *parents or guardians of pupils that is equivalent to at least*
16 *one-half of the number of pupils that the charter school*
17 *estimates will enroll in the school for its first year of*
18 *operation.*

19 (B) *The petition has been signed by a number of*
20 *teachers that is equivalent to at least one-half of the*
21 *number of teachers that the charter school estimates will*
22 *be employed at the school during its first year of*
23 *operation.*

24 (2) *In the case of a petition for the establishment of a*
25 *charter school through the conversion of an existing*
26 *public school, that would not be eligible for a loan*
27 *pursuant to subdivision (b) of Section 41365, the petition*
28 *may be circulated by any one or more persons seeking to*
29 *establish the converted charter school. The petition may*
30 *be submitted to the governing board of the school district*
31 *for review after the petition has been signed by not less*
32 *than 50 percent of the permanent status teachers*
33 *currently employed at the public school to be converted.*

34 (3) *A petition shall include a prominent statement*
35 *that a signature on the petition means that the parent or*
36 *guardian is meaningfully interested in having his or her*
37 *child, or ward, attend the charter school, or in the case of*
38 *a teacher's signature, means that the teacher is*
39 *meaningfully interested in teaching at the charter school.*
40 *The proposed charter shall be attached to the petition.*

1 (b) No later than 30 days after receiving a petition, in
2 accordance with subdivision (a), the governing board of
3 the school district shall hold a public hearing on the
4 provisions of the charter, at which time the governing
5 board of the school district shall consider the level of
6 ~~employee and parental~~ support for the petition by
7 *teachers employed by the district, other employees of the*
8 *district, and parents.* Following review of the petition and
9 the public hearing, the governing board of the school
10 district shall either grant or deny the charter within 60
11 days of receipt of the petition, provided, however, that
12 the date may be extended by an additional 30 days if both
13 parties agree to the extension. *In reviewing petitions for*
14 *the establishment of charter schools pursuant to this*
15 *section, the chartering authority shall be guided by the*
16 *intent of the Legislature that charter schools are and*
17 *should become an integral part of the California*
18 *educational system and that establishment of charter*
19 *schools should be encouraged.* A school district governing
20 board ~~may~~ shall grant a charter for the operation of a
21 school under this part if it ~~determines~~ is satisfied that ~~the~~
22 *granting the charter is consistent with sound educational*
23 *practice. The governing board of the school district shall*
24 *not deny a petition for the establishment of a charter*
25 *school unless it makes written factual findings, specific to*
26 *the particular petition, setting forth specific facts to*
27 *support one, or more, of the following findings:*

28 (1) *The charter school presents an unsound*
29 *educational program for the pupils to be enrolled in the*
30 *charter school.*

31 (2) *The petitioners are demonstrably unlikely to*
32 *successfully implement the program set forth in the*
33 *petition.*

34 (3) *The petition contains does not contain the number*
35 *of signatures required by subdivision (a), a statement.*

36 (4) *The petition does not contain an affirmation of*
37 *each of the conditions described in subdivision (d), and.*

38 (5) *The petition does not contain reasonably*
39 *comprehensive descriptions of all of the following:*

40 (1) —

1 (A) A description of the educational program of the
2 school; designed, among other things, to identify those
3 whom the school is attempting to educate, what it means
4 to be an “educated person” in the 21st century, and how
5 learning best occurs. The goals identified in that program
6 shall include the objective of enabling pupils to become
7 self-motivated, competent, and lifelong learners.

8 ~~(2)~~

9 (B) The measurable pupil outcomes identified for use
10 by the charter school. “Pupil outcomes,” for purposes of
11 this part, means the extent to which all pupils of the school
12 demonstrate that they have attained the skills,
13 knowledge, and attitudes specified as goals in the school’s
14 educational program.

15 ~~(3)~~

16 (C) The method by which pupil progress in meeting
17 those pupil outcomes is to be measured.

18 ~~(4)~~

19 (D) The governance structure of the school,
20 including, but not limited to, the process to be followed
21 by the school to ensure parental involvement.

22 ~~(5)~~

23 (E) The qualifications to be met by individuals to be
24 employed by the school.

25 ~~(6)~~

26 (F) The procedures that the school will follow to
27 ensure the health and safety of pupils and staff. These
28 procedures shall include the requirement that each
29 employee of the school furnish the school with a criminal
30 record summary as described in Section 44237.

31 ~~(7)~~

32 (G) The means by which the school will achieve a
33 racial and ethnic balance among its pupils that is
34 reflective of the general population residing within the
35 territorial jurisdiction of the school district to which the
36 charter petition is submitted.

37 ~~(8)~~

38 (H) Admission requirements, if applicable.

39 ~~(9)~~

1 (I) The manner in which ~~an annual audit of the~~
2 ~~financial and programmatic operations of the school is to~~
3 ~~be conducted~~ *annual, independent, financial audits shall*
4 *be conducted, which shall employ generally accepted*
5 *accounting principles, and the manner in which audit*
6 *exceptions and deficiencies shall be resolved to the*
7 *satisfaction of the chartering authority.*

8 ~~(10)–~~

9 (J) The procedures by which pupils can be suspended
10 or expelled.

11 ~~(11)–~~

12 (K) The manner by which staff members of the
13 charter schools will be covered by the State Teachers'
14 Retirement System, the Public Employees' Retirement
15 System, or federal social security.

16 ~~(12)–~~

17 (L) The public school attendance alternatives for
18 pupils residing within the school district who choose not
19 to attend charter schools.

20 ~~(13)–~~

21 (M) A description of the rights of any employee of the
22 school district upon leaving the employment of the school
23 district to work in a charter school, and of any rights of
24 return to the school district after employment at a charter
25 school.

26 ~~(14)–~~

27 (N) The procedures to be followed by the charter
28 school and the entity granting the charter to resolve
29 disputes relating to provisions of the charter.

30 (c) (1) Charter schools shall meet ~~the~~ *all* statewide
31 ~~performance~~ standards and conduct the pupil
32 assessments required pursuant to Section 60605 *and any*
33 *other statewide standards authorized in statute or pupil*
34 *assessments applicable to pupils in noncharter public*
35 *schools.*

36 (2) *Charter schools shall on a regular basis consult with*
37 *their parents and teachers regarding the school's*
38 *educational programs.*

39 (d) (1) In addition to any other requirement imposed
40 under this part, a charter school shall be nonsectarian in

1 its programs, admission policies, employment practices,
2 and all other operations, shall not charge tuition, and shall
3 not discriminate against any pupil on the basis of
4 ethnicity, national origin, gender, or disability. Admission
5 *Except as provided in paragraph (2), admission to a*
6 *charter school shall not be determined according to the*
7 *place of residence of the pupil, or of his or her parent or*
8 *guardian, within this state, except that any existing public*
9 *school converting partially or entirely to a charter school*
10 *under this part shall adopt and maintain a policy giving*
11 *admission preference to pupils who reside within the*
12 *former attendance area of that public school.*

13 (2) (A) *A charter school shall admit all pupils who*
14 *wish to attend the school.*

15 (B) *However, if the number of pupils who wish to*
16 *attend the charter school exceeds the school's capacity,*
17 *attendance, except for existing pupils of the charter*
18 *school, shall be determined by a public random*
19 *drawing. Preference shall be extended to pupils*
20 *currently attending the charter school and pupils who*
21 *reside in the district. Other preferences may be*
22 *permitted by the chartering authority on an individual*
23 *school basis and only if consistent with the law.*

24 (C) *In the event of a drawing, the chartering authority*
25 *shall make reasonable efforts to accommodate the growth*
26 *of the charter school and, in no event, shall take any action*
27 *to impede the charter school from expanding enrollment*
28 *to meet student demand.*

29 (e) No governing board of a school district shall
30 require any employee of the school district to be
31 employed in a charter school.

32 (f) No governing board of a school district shall require
33 any pupil enrolled in the school district to attend a charter
34 school.

35 (g) The governing board ~~may~~ *of a school district shall*
36 *require that the petitioner or petitioners provide*
37 *information regarding the proposed operation and*
38 *potential effects of the school, including, but not limited*
39 *to, the facilities to be utilized by the school, the manner*
40 *in which administrative services of the school are to be*

1 provided, and potential civil liability effects, *if any*, upon
2 the school and upon the school district. *The petitioner or*
3 *petitioners shall also be required to provide financial*
4 *statements that include a proposed first-year operational*
5 *budget, including startup costs, and cash-flow and*
6 *financial projections for the first three years of operation.*

7 (h) In reviewing petitions for the establishment of
8 charter schools within the school district, the school
9 district governing board shall give preference to petitions
10 that demonstrate the capability to provide
11 comprehensive learning experiences to pupils identified
12 by the petitioner or petitioners as academically low
13 achieving pursuant to the standards established by the
14 State Department of Education under Section 54032.

15 (i) Upon the approval of the petition by the governing
16 board of the school district, the petitioner or petitioners
17 shall provide written notice of that approval, including a
18 copy of the petition, to the State Board of Education.

19 ~~(j) (1) If the governing board of the school district~~
20 ~~denies a charter, the county superintendent of schools, at~~
21 ~~the request of the petitioner or petitioners, shall select~~
22 ~~and convene a review panel to review the action of the~~
23 ~~governing board. The review panel shall consist of three~~
24 ~~governing board members from other school districts in~~
25 ~~the county and three teachers from other school districts~~
26 ~~in the county unless only one school district is located in~~
27 ~~the county, in which case the panel members shall be~~
28 ~~selected from school districts in adjoining counties.~~

29 ~~(2) If the review panel determines that the governing~~
30 ~~board failed to appropriately consider the charter~~
31 ~~request, or acted in an arbitrary manner in denying the~~
32 ~~request, the review panel shall request the governing~~
33 ~~board to reconsider the charter request. In the case of a~~
34 ~~tie vote of the panel, the county superintendent of schools~~
35 ~~shall vote to break the tie.~~

36 ~~(3) If, upon reconsideration, the governing board~~
37 ~~denies a charter, the county board of education, at the~~
38 ~~request of the petitioner or petitioners, shall hold a public~~
39 ~~hearing in the manner described in subdivision (b) and,~~
40 ~~accordingly, may grant a charter. A charter school for~~

1 ~~which a charter is granted by a county board of education~~
2 ~~pursuant to this paragraph shall qualify fully as a charter~~
3 ~~school for all funding and other purposes of this part.~~

4 (j) (1) *If the governing board of a school district*
5 *denies a petition, the petitioner may elect to submit the*
6 *petition for the establishment of a charter school to either*
7 *the county board of education or directly to the State*
8 *Board of Education. The county board of education or the*
9 *State Board of Education, as the case may be, shall review*
10 *the petition pursuant to subdivision (b). If the petitioner*
11 *elects to submit a petition for establishment of a charter*
12 *school to the county board of education and the county*
13 *board of education denies the petition, the petitioner may*
14 *file a petition for establishment of a charter school with*
15 *the State Board of Education.*

16 (2) *A charter school for which a charter is granted by*
17 *either the county board of education or the State Board*
18 *of Education pursuant to this subdivision shall qualify*
19 *fully as a charter school for all funding and other purposes*
20 *of this part.*

21 (3) *If either the county board of education or the State*
22 *Board of Education fails to act on a petition within 120*
23 *days of receipt, the decision of the governing board of the*
24 *school district to deny a petition shall, thereafter, be*
25 *subject to judicial review.*

26 (4) *The State Board of Education shall adopt*
27 *regulations implementing this subdivision.*

28 (k) (1) *The State Board of Education may, by mutual*
29 *agreement, designate its supervisorial and oversight*
30 *responsibilities for a charter school approved by the State*
31 *Board of Education to any local education agency in the*
32 *county in which the charter school is located or to the*
33 *governing board of the school district that first denied the*
34 *petition.*

35 (2) *The designated local education agency shall have*
36 *all monitoring and supervising authority of a chartering*
37 *agency, including, but not limited to, powers and duties*
38 *set forth in Section 47607, except the power of revocation,*
39 *which shall remain with the State Board of Education.*

1 (3) A charter school that has been granted its charter
2 by the State Board of Education and elects to seek
3 renewal of its charter shall, prior to expiration of the
4 charter, submit its petition for renewal to the governing
5 board of the school district that initially denied the
6 charter. If the governing board of the school district
7 denies the school's petition for renewal, the school may
8 petition the State Board of Education for renewal of its
9 charter.

10 (1) Teachers in charter schools shall be required to
11 hold a Commission on Teacher Credentialing certificate,
12 permit, or other document equivalent to that which a
13 teacher in other public schools would be required to hold.
14 These documents shall be maintained on file at the
15 charter school and shall be subject to periodic inspection
16 by the chartering authority. It is the intent of the
17 Legislature that charter schools be given flexibility with
18 regard to noncore, noncollege preparatory courses.

19 SEC. 7. Section 47605.5 is added to the Education
20 Code, to read:

21 47605.5. A petition may be submitted directly to a
22 county board of education in the same manner as set forth
23 in Section 47605 for charter schools that will serve pupils
24 for whom the county office of education would otherwise
25 be responsible for providing direct education and related
26 services. Any denial of a petition shall be subject to the
27 same process for any other county board of education
28 denial of a charter school petition pursuant to this part.

29 SEC. 8. Section 47607 of the Education Code is
30 amended to read:

31 47607. (a) (1) A charter may be granted pursuant to
32 Sections 47605, 47605.5, and 47606 for a period not to
33 exceed five years. A charter granted by a school district
34 governing board ~~or~~ a county board of education or the
35 State Board of Education, may be granted one or more
36 subsequent renewals by that entity. Each renewal shall be
37 for a period ~~not to exceed~~ of five years. A material revision
38 of the provisions of a charter petition may be made only
39 with the approval of the authority that granted the
40 charter. The authority that granted the charter may

1 *inspect or observe any part of the charter school at any*
2 *time.*

3 (2) *Renewals and material revisions of charters shall*
4 *be governed by the standards and criteria in Section*
5 *47605.*

6 (b) A charter may be revoked by the authority that
7 granted the charter under this chapter if the authority
8 finds that the charter school did any of the following:

9 (1) Committed a material violation of any of the
10 conditions, standards, or procedures set forth in the
11 charter ~~petition~~.

12 (2) Failed to meet or pursue any of the pupil outcomes
13 identified in the charter ~~petition~~.

14 (3) Failed to meet generally accepted accounting
15 ~~standards of principles, or engaged in fiscal management~~
16 ~~mismanagement.~~

17 (4) Violated any provision of law.

18 (c) *Prior to revocation, the authority that granted the*
19 *charter shall notify the charter public school of any*
20 *violation of this section and give the school a reasonable*
21 *opportunity to cure the violation, unless the authority*
22 *determines, in writing, that the violation constitutes a*
23 *severe and imminent threat to the health or safety of the*
24 *pupils.*

25 *SEC. 9. Section 47608 of the Education Code is*
26 *amended to read:*

27 47608. All meetings of the governing board of the
28 school district, ~~the review panel convened pursuant to~~
29 ~~subdivision (j) of Section 47605,~~ and the county board of
30 education at which the granting, revocation, appeal, or
31 renewal of a charter petition is discussed shall comply
32 with the Ralph M. Brown Act (Chapter 9 (commencing
33 with Section ~~54590~~ 54950) of Division 2 of Title 5 of the
34 Government Code).

35 *SEC. 10. Section 47610 of the Education Code is*
36 *amended to read:*

37 47610. A charter school shall comply with *this part and*
38 *all of the provisions set forth in its charter ~~petition~~,* but is
39 otherwise exempt from the laws governing school

1 districts except ~~as specified in Sections 47611 and 41365.~~
2 *all of the following:*

3 (a) *As specified in Section 47611.*

4 (b) *As specified in Section 41365.*

5 (c) *All laws establishing minimum age for public*
6 *school attendance.*

7 *SEC. 11. Section 47612 of the Education Code is*
8 *amended to read:*

9 47612. (a) The Superintendent of Public Instruction
10 shall make all of the following apportionments to each
11 charter school for each fiscal year:

12 (1) From funds appropriated to Section A of the State
13 School Fund for apportionment for that fiscal year
14 pursuant to Article 2 (commencing with Section 42238)
15 of Chapter 7 of Part 24, an amount for each unit of regular
16 average daily attendance in the charter school that is
17 equal to the current fiscal year base revenue limit for the
18 school district to which the charter petition was
19 submitted. *In no event shall average daily attendance in*
20 *a charter school be generated by a pupil who is not a*
21 *California resident. To remain eligible for generating*
22 *charter school apportionments, a pupil over 19 years of*
23 *age shall be continuously enrolled in public school and*
24 *make satisfactory progress towards award of a high school*
25 *diploma. The State Board of Education shall, on or before*
26 *January 1, 2000, adopt regulations defining "satisfactory*
27 *progress."*

28 (2) For each pupil enrolled in the charter school who
29 is entitled to special education services, the state and
30 federal funds for special education services for that pupil
31 that would have been apportioned for that pupil to the
32 school district to which the charter petition was
33 submitted.

34 (3) Funds for the programs described in clause (i) of
35 subparagraph (B) of paragraph (1) of subdivision (a) of
36 Section 54761, and Sections 63000 and 64000, to the extent
37 that any pupil enrolled in the charter school is eligible to
38 participate.

39 (b) A charter school shall be deemed to be under the
40 exclusive control of the officers of the public schools for

1 purposes of Section 8 of Article IX of the California
2 Constitution, with regard to the appropriation of public
3 moneys to be apportioned to any charter school,
4 including, but not limited to, appropriations made for the
5 purposes of subdivisions (a) and (b).

6 (c) A charter school shall be deemed to be a "school
7 district" for purposes of Section 41302.5 and Sections 8
8 and 8.5 of Article XVI of the California Constitution.

9 *SEC. 12. Section 47613 of the Education Code is*
10 *amended to read:*

11 47613. Notwithstanding subdivision (c) of Section
12 48209.11, *the full apportionment received by the basic aid*
13 *district pursuant to this section shall be provided to the*
14 *charter school, and with respect to any pupil of a charter*
15 *school located within a basic aid school district of choice*
16 *who attended a public school in a district other than a*
17 *basic aid district immediately before transferring to the*
18 *charter school, the Superintendent of Public Instruction,*
19 *commencing with the 1996-97 1998-99 fiscal year, shall*
20 *calculate for that school an apportionment of state funds*
21 *that provides 70 percent of the district revenue limit*
22 *calculated pursuant to Section 42238 that would have*
23 *been apportioned to the school district of residence for*
24 *any average daily attendance credited pursuant to*
25 *Section 48209.11. For purposes of this section, "basic aid*
26 *district" means a school district that does not receive from*
27 *the state, for any fiscal year in which the subdivision is*
28 *applied, an apportionment of state funds pursuant to*
29 *subdivision (h) of Section 42238.*

30 *SEC. 13. Section 47613.5 is added to the Education*
31 *Code, to read:*

32 47613.5. (a) *Notwithstanding Sections 47612 and*
33 *47613, commencing with the 1999-2000 school year and*
34 *only upon adoption of regulations pursuant to subdivision*
35 *(b), charter school operational funding shall be equal to*
36 *the total funding that would be available to a similar*
37 *school district serving a similar pupil population,*
38 *provided that a charter school shall not be funded as a*
39 *necessary small school or a necessary small high school,*

1 nor receive revenue limit funding that exceeds the
2 statewide average for a school district of a similar type.

3 (b) The State Department of Education shall propose,
4 and the State Board of Education may adopt, regulations
5 to implement subdivision (a) and, to the extent possible
6 and consistent with federal law, provide for simple and,
7 at the option of the charter school, local or direct
8 allocation of funding to charter schools.

9 (c) For the purposes of this section, the following
10 terms have the following meanings:

11 (1) "Operational funding" means all funding other
12 than capital funding.

13 (2) "School district of a similar type" means a school
14 district that is serving similar grade levels; elementary,
15 high, or unified.

16 SEC. 14. Section 47613.7 is added to the Education
17 Code, to read:

18 47613.7. (a) Except as set forth in subdivision (b), a
19 chartering agency may charge for the actual costs of
20 supervisory oversight of a charter school not to exceed
21 1 percent of the revenue of the charter school.

22 (b) A chartering agency may charge for the actual
23 costs of supervisory oversight of a charter school not to
24 exceed 3 percent of the revenue of the charter school if
25 the charter school is able to obtain substantially rent free
26 facilities from the chartering agency.

27 (c) A local agency that is given the responsibility for
28 supervisory oversight of a charter school, pursuant to
29 paragraph (1) of subdivision (k) of Section 47605, may
30 charge for the costs of supervisory oversight, and
31 administrative costs necessary to secure charter school
32 funding, not to exceed 3 percent of the revenue of the
33 charter school. A charter school that is charged for costs
34 under this subdivision shall not be charged pursuant to
35 subdivision (a) or (b).

36 (d) This section shall not prevent the charter school
37 from separately purchasing administrative or other
38 services from the chartering agency or any other source.

39 (e) For the purposes of this section, a chartering
40 agency means a school district, county department of

1 education, or the State Board of Education, that granted
2 the charter to the charter school.

3 SEC. 15. Section 47614 is added to the Education
4 Code, to read:

5 47614. A school district in which a charter school
6 operates shall permit a charter school to use, at no charge,
7 facilities not currently being used by the school district for
8 instructional or administrative purposes, or that have not
9 been historically used for rental purposes provided the
10 charter school shall be responsible for reasonable
11 maintenance of those facilities.

12 SEC. 16. Section 47615 is added to the Education
13 Code, to read:

14 47615. (a) The Legislature finds and declares all of
15 the following:

16 (1) Charter schools are part of the Public School
17 System, as defined in Article IX of the California
18 Constitution.

19 (2) Charter schools are under the jurisdiction of the
20 Public School System and the exclusive control of the
21 officers of the public schools, as provided in this part.

22 (3) Charter schools shall be entitled to full and fair
23 funding, as provided in this part.

24 (b) This part shall be liberally construed to effectuate
25 the findings and declarations set forth in this section.

26 SEC. 17. Section 47616.5 of the Education Code is
27 amended to read:

28 47616.5. The Legislative Analyst shall contract for an
29 ~~interim~~ a neutral evaluator to conduct an evaluation of
30 the effectiveness of the charter school approach
31 authorized under this part and, on or before ~~November~~
32 ~~July 1, 1997~~ 2003, shall report to the Legislature and the
33 Governor accordingly with recommendations to modify,
34 expand, or terminate that approach. The evaluation of
35 the effectiveness of the charter school approach shall
36 include, but shall not be limited to, the following factors:

37 (a) If available, the pre- and post-charter school test
38 scores of pupils attending charter schools and other pupil
39 assessment tools.

- 1 (b) The level of parental satisfaction with the charter
2 school approach compared with schools within the
3 district in which the charter school is located.
- 4 (c) The impact of required parental involvement.
- 5 (d) The fiscal structures and practices of charter
6 schools as well as the relationship of these structures and
7 practices to school districts, including the amount of
8 revenue received from various public and private
9 sources.
- 10 (e) An assessment of whether or not the charter school
11 approach has resulted in increased innovation and
12 creativity.
- 13 (f) Opportunities for teachers under the charter
14 school approach.
- 15 (g) Whether or not there is an increased focus on
16 low-achieving and gifted pupils.
- 17 (h) Any discrimination and segregation in charter
18 schools.
- 19 (i) If available, the number of charter school petitions
20 submitted to governing boards of school districts and the
21 number of those proposals that are denied, per year, since
22 the enactment of the charter school law, including the
23 reasons why the governing boards denied these petitions,
24 and the reasons governing boards have revoked charters.
- 25 (j) The governance, fiscal liability and accountability
26 practices and related issues between charter schools and
27 the governing boards of the school districts approving
28 their charters.
- 29 (k) The manner in which governing boards of school
30 districts monitor the compliance of the conditions,
31 standards, and procedures entered into under a charter.
- 32 (l) The extent of the employment of noncredentialed
33 personnel in charter schools.
- 34 (m) An assessment of how the exemption from laws
35 governing school districts allows charter schools to
36 operate differently than schools operating under those
37 laws.
- 38 (n) A comparison in each school district that has a
39 charter school of the pupil dropout rate in the charter
40 schools and in the noncharter schools.

1 (o) The role and impact of collective bargaining on
2 charter schools.

3 *SEC. 18. The provisions of Sections 1 to 17 of this act*
4 *are severable. If any provision of this act or its application*
5 *is held invalid, that invalidity shall not affect other*
6 *provisions or applications that can be given effect without*
7 *the invalid provision or application.*

8 *SEC. 19. Notwithstanding Section 17610 of the*
9 *Government Code, if the Commission on State Mandates*
10 *determines that this act contains costs mandated by the*
11 *state, reimbursement to local agencies and school*
12 *districts for those costs shall be made pursuant to Part 7*
13 *(commencing with Section 17500) of Division 4 of Title*
14 *2 of the Government Code. If the statewide cost of the*
15 *claim for reimbursement does not exceed one million*
16 *dollars (\$1,000,000), reimbursement shall be made from*
17 *the State Mandates Claims Fund.*

18 *Notwithstanding Section 17580 of the Government*
19 *Code, unless otherwise specified, the provisions of this act*
20 *shall become operative on the same date that the act*
21 *takes effect pursuant to the California Constitution.*

CONFERENCE REPORT COMMITTEE ANALYSIS

Bill No: AB 544
Author: Lempert
RN: 9810154
Report date: 4/27/98

SUBJECT: Charter Schools

Were the Conference amendments heard in committee? No.

SUMMARY: The bill amends the Charter Schools Act of 1992, as follows:

1. Increases the "cap" on the number of charter schools from 100 to 250 for 1998-99, adding an additional 100 schools every year thereafter, and prohibits the State Board of Education from waiving the new totals.
2. Explicitly authorizes charter schools to be operated by, or as, a non-profit public benefit corporation, which assumes liability for the charter school.
3. Authorizes the State Board of Education to revoke a charter for specified causes including gross financial mismanagement or jeopardizing the educational development of the school's pupils.
4. Allows petitions for new charter schools (not conversion schools) to be based on signatures of 50% of teachers (as now), or **parents** of 50% of the pupils intending to enroll in the school.
5. Requires that a petition to convert a public school to a charter school contain the signatures of at least 50% of **tenured** teachers of that school.
6. Provides that a school district governing board may refuse to grant a charter only upon finding specified reasons.
7. Requires charter schools to meet all statewide performance standards and conduct all pupil testing required of other public schools.

CONTINUED

8. Requires charter schools to admit all pupils who wish to attend, or admit additional pupils by lottery in the event space is not available.
9. Eliminates cumbersome review requirements for denied charters and instead allows denial of charters to be petitioned to the County Board of Education or the State Board of Education. If granted "on appeal", the County or State Board becomes the chartering agency for that school, although the State Board may delegate oversight responsibility to a local agency.
10. Requires charter school teachers to be credentialed, or hold equivalent documentation issued by the Commission on Teacher Credentialing, but suggests that charter schools be "given flexibility" for instructional staff in courses that are not part of the core curriculum, and are not college preparatory courses. ("Flexibility" has been discussed as the ability to employ guest speakers and instructors with special permits or eminence credentials.)
11. Requires that, to be funded, charter school pupils be of minimum age for public school attendance, be California residents and that pupils over the age of 19 be continuously enrolled and making satisfactory progress towards award of a high school diploma.
12. Provides for the State Board of Education to adopt regulations to:
 1. Provide that charter school funding shall be **equal** to the **funding** of school districts serving similar populations, under similar conditions, but not paid at the higher rate for a necessary small school.
 2. Insure that charter school **general funding will be within statewide averages** to avoid creating inappropriate fiscal incentives.
 3. Allow charter schools the option of **receiving funds** through the chartering school district, as currently, or **directly** from the State.
13. Restricts fees charged to charter schools for oversight of the charter to 1%, or 3% if facilities are provided.

CONTINUED

14. Requires that unused school district facilities be made available to charter schools.
15. Requires an independent evaluation of charter schools to be completed on July 1, 2003.

By: Jim Wilson, Senate Education Committee

CONTINUED

SENATE RULES COMMITTEE

Office of Senate Floor Analyses
1020 N Street, Suite 524
(916) 445-6614 Fax: (916) 327-4478

CONFERENCE COMPLETED

Bill No: AB 544
Author: Lempert (D)
Amended: Conference Report No. 1, 4/27/98
Vote: 21

SENATE EDUCATION COMMITTEE: Not Relevant

SENATE FLOOR: 33-0, 4/16/98

AYES: Alpert, Ayala, Brulte, Burton, Costa, Hayden, Haynes, Hughes,
Hurt, Johannessen, Johnson, Johnston, Karnette, Kelley, Knight, Kopp,
Lee, Leslie, Lewis, Lockyer, Maddy, McPherson, Monteith, Mountjoy,
O'Connell, Peace, Rosenthal, Schiff, Solis, Thompson, Vasconcellos,
Watson, Wright

NOT VOTING: Calderon, Craven, Dills, Greene, Polanco, Rainey, Sher

ASSEMBLY FLOOR: Not Relevant

SEE CONFERENCE COMMITTEE VOTE ON LAST PAGE

SUBJECT: Charter schools

SOURCE: Author

DIGEST: This bill makes numerous changes to the Charter Schools Act of 1992, among them, raising the cap on the authorized number of charter schools and providing flexibility in the granting of charters.

CONTINUED

Conference Committee Amendments delete the previous version and replace it with all the changes to the Charter Act. Prior to these amendments, the bill merely stated legislative intent to enact the Charter Public Schools Act of 1998.

NOTE: As it left the Assembly, the bill created the California Paraprofessional and Career Ladder Program to provide grants to school districts for the recruitment and training of paraprofessional employees.

ANALYSIS: Under current law, a group or individual may circulate a petition to create a "charter school" within an existing public school district. A charter school, with some exceptions, is governed by the provisions of the charter, rather than the requirements of state law, local policies, or local collective bargaining agreements. Charters must include a variety of provisions including pupil achievement, governance of the school, admissions, discipline, staff qualifications, certain employee rights, and a number of other criteria.

Charter petitions must be signed by at least half of the teachers at a school (or by 10% of the teachers district-wide) and approved by the school district's governing board.

Current statute places a limit on the number of charter schools that may be established at 112 (the original cap of 100 was increased by Chapter 849, Statutes of 1996 (Hayden) to allow Los Angeles Unified School District (LAUSD) an additional 12 charters.) Any single school district may not exceed 10 charter schools, except LAUSD which may not exceed 22. The State Board of Education may also grant charters through the waiver process and has granted 22.

This bill amends the Charter Schools Act of 1992, as follows:

1. Increases the "cap" on the number of charter schools from 100 to 250 for 1998-99, adding an additional 100 schools every year thereafter, and prohibits the State Board of Education from waiving the new totals.

CONTINUED

2. Explicitly authorizes charter schools to be operated by, or as, a non-profit public benefit corporation, which assumes liability for the charter school.
3. Authorizes the State Board of Education to revoke a charter for specified causes including gross financial mismanagement or jeopardizing the educational development of the school's pupils.
4. Allows petitions for new charter schools (not conversion schools) to be based on signatures of 50% of teachers (as now), or parents of 50% of the pupils intending to enroll in the school.
5. Requires that a petition to convert a public school to a charter school contain the signatures of at least 50% of tenured teachers of that school.
6. Provides that a school district governing board may refuse to grant a charter only upon finding specified reasons.
7. Requires charter schools to meet all statewide performance standards and conduct all pupil testing required of other public schools.
8. Requires charter schools to admit all pupils who wish to attend, or admit additional pupils by lottery in the event space is not available.
9. Eliminates cumbersome review requirements for denied charters and instead allows denial of charters to be petitioned to the County Board of Education or the State Board of Education. If granted "on appeal", the County or State Board becomes the chartering agency for that school, although the State Board may delegate oversight responsibility to a local agency.
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CONTINUED

ability to employ guest speakers and instructors with special permits or eminence credentials.)

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 - B. Insure that charter school general funding will be within statewide averages to avoid creating inappropriate fiscal incentives.
 - C. Allow charter schools the option of receiving funds through the chartering school district, as currently, or directly from the State.
13. Restricts fees charged to charter schools for oversight of the charter to 1%, or 3% if facilities are provided.
14. Requires that unused school district facilities be made available to charter schools.
15. Requires an independent evaluation of charter schools to be completed on July 1, 2003.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

CONTINUED

SENATE RULES COMMITTEE

Office of Senate Floor Analyses

1020 N Street, Suite 524

(916) 445-6614 Fax: (916) 327-4478

CONFERENCE COMPLETED

Bill No: AB 544
Author: Lempert (D)
Amended: Conference Report No. 2, 4/27/98
Vote: 21

WITHOUT REFERENCE TO FILE

SENATE EDUCATION COMMITTEE: Not Relevant

SENATE FLOOR: 33-0, 4/16/98

AYES: Alpert, Ayala, Brulte, Burton, Costa, Hayden, Haynes, Hughes, Hurtt, Johannessen, Johnson, Johnston, Karnette, Kelley, Knight, Kopp, Lee, Leslie, Lewis, Lockyer, Maddy, McPherson, Monteith, Mountjoy, O'Connell, Peace, Rosenthal, Schiff, Solis, Thompson, Vasconcellos, Watson, Wright

NOT VOTING: Calderon, Craven, Dills, Greene, Polanco, Rainey, Sher

ASSEMBLY FLOOR: Not Relevant

SUBJECT: Charter schools

SOURCE: Author

DIGEST: This bill makes numerous changes to the Charter Schools Act of 1992, including, raising the cap on the authorized number of charter schools and providing flexibility in the granting of charters.

Conference Committee Amendments delete the previous version and replace it with all the changes to the Charter Act. Prior to these amendments, the bill merely stated legislative intent to enact the Charter Public Schools Act of 1998.

NOTE: As it left the Assembly, the bill created the California Paraprofessional and Career Ladder Program to provide grants to school districts for the recruitment and training of paraprofessional employees.

ANALYSIS: Under current law, a group or individual may circulate a petition to create a "charter school" within an existing public school district. A charter school, with some exceptions, is governed by the provisions of the charter, rather than the requirements of state law, local policies, or local collective bargaining agreements. Charters must include a variety of provisions including pupil achievement, governance of the school, admissions, discipline, staff qualifications, certain employee rights, and a number of other criteria.

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CONTINUED

3. Authorizes the State Board of Education to revoke a charter for specified causes including gross financial mismanagement or jeopardizing the educational development of the school's pupils.
4. Allows petitions for new charter schools (not conversion schools) to be based on signatures of 50% of teachers (as now), or parents of 50% of the pupils intending to enroll in the school.
5. Requires that a petition to convert a public school to a charter school contain the signatures of at least 50% of tenured teachers of that school.
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 - B. Insure that charter school general funding will be within statewide averages to avoid creating inappropriate fiscal incentives.
 - C. Allow charter schools the option of receiving funds through the chartering school district, as currently, or directly from the State.
13. Restricts fees charged to charter schools for oversight of the charter to 1%, or 3% if facilities are provided.
14. Requires that unused school district facilities be made available to charter schools.
15. Requires an independent evaluation of charter schools to be completed on July 1, 2003.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

CONFERENCE COMMITTEE VOTE: 4/27/98

The undersigned Members consenting to the report:

Lempert
Mazzoni

Alpert
O'Connell
Lewis

Assembly Committee on Conference Senate Committee on Conference

Absent or not voting: Assemblymember Pacheco

CP/NC:nf/cm/ctl/jk 4/29/98 Senate Floor Analyses
SUPPORT/OPPOSITION: NONE RECEIVED

CONTINUED

**** END ****

OFFICE OF CHILD DEVELOPMENT AND EDUCATION

Type of Analysis: Enrolled Bill Report

Bill Number: AB 544

Author: Lempert

Date Amended: April 27, 1998

Sponsor: none

Subject: Charter Schools

Summary: This bill would make significant revisions to the state's charter school program, including increasing the cap on the number of charter schools that may operate in the state, requiring that charter school teachers hold certification or credential equal to teachers in regular public schools, and other changes related to the granting of charters and the funding mechanism for and accountability of charter schools.

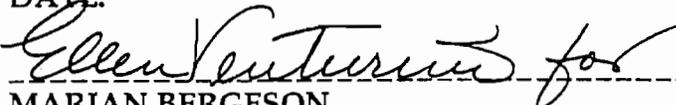
Recommendation: No Recommendation.

This bill addresses many issues related to charter schools that are also addressed in a pending ballot initiative. While the intent of this bill is to provide a legislative solution, to avoid the initiative process, and while this bill reasonably addresses many of the issues contained in the initiative, there are several areas in which it falls short of the initiative's scope. This bill would result in far more restrictions on charter schools than either the proposed initiative or current law, without an offsetting increase in incentives to start new charters. We note that while this bill has some technical problems, particularly related to transition, there is interest in the Legislature for clean-up legislation to more effectively implement the general concepts in this bill.

This bill has many features that could increase the number of charter schools, reasonably increase accountability of charter schools, and improve the operation of charter schools. Specifically, this bill would:

RECOMMENDATION: No Recommendation

DATE:

cm


MARIAN BERGESON

Secretary of Child Development and Education

Prepared by: C. Miller

- increase the cap on the number of charter schools in the state by allowing an increase of 100 new charter schools each year;
- specifically provide for the establishment of new charter schools by non-profit public benefit corporations;
- require an authorizing entity to deny a charter only after a public hearing and presentation of written findings of the reason for the denial;
- provide more options for a charter petitioner to get approval if the governing board of the local district initially denies a charter;
- require that if a local authorizing entity attempts to revoke a charter, the school must first be given an opportunity to correct the violation;
- require that the chartering authority assist in accommodating growth, and provide facilities, if available;
- allow for county offices of education to establish charters for program typically operated by a county office;
- revise the funding formula to remove a perceived disincentive for basic aid districts to establish charter schools;
- require regulations to revise the funding formula for charter schools to ensure that funding shall be equal to the total funding that would be available to a similar school serving a similar population;
- provide clearer fiscal controls, including requirements for financial statements and budget plans in the charter petition and an annual independent audit;
- prohibit private school students from also attending a public charter school;
- require that charters comply with minimum age requirements for public attendance, and limit participation of pupils over 19 years; and
- require that a charter pupil to be a California resident.

However, charter schools are predicated on the idea that they should be free of excessive state control and encouraged to try innovative methods. This bill makes other significant changes that we believe would substantially discourage the local flexibility and innovation that is at the core of the charter schools program. Among its more stifling provisions, this bill would:

- require that all charter school teachers hold a Commission on Teacher Credentialing (CTC) document equivalent to that which is required of teachers in other public schools;
- not provide for any transition for existing charter schools to meet the new credentialing requirements or other provisions;
- require that not less than fifty percent of the permanent status teachers sign the petition to convert an existing school to a charter, whereas current law allows all teachers to participate in the petition;

Page 3

- adds to the reasons for the denial of a charter that the charter "presents an unsound educational program", a criterion that is vague, at best;
- allows the SBE to revoke any charter in which it determines the school had "substantial and sustained departure from measurably successful practices" a criterion that could discourage the use of innovation;
- does not include any specific provisions to encourage the establishment of charter schools at or near low performing schools; and
- could require the use of collective bargaining in teacher compensation and some form of affirmative action to achieve a racial and ethnic balance among its pupils.

These issues are discussed in greater detail below.

Contents of the Bill: Current law establishes the Charter Schools Act of 1992 (SB 1448, Chapter 781, Statutes of 1992), provides for the establishment of charter schools throughout the state. Charter schools are exempt from most provisions of the education code. The intent of the Charter Schools Act is to provide a mechanism for schools to operate independently of the existing school district structure to foster greater flexibility, creativity and innovation in the delivery of educational services. Charter schools must develop a specific plan of operation and receive the approval of the charter petition from the governing board of the school district, the Superintendent of Public Instruction and the State Board of Education. Charter schools are governed by the provisions of the locally developed charter petition. Enrollment in a charter school is voluntary.

The existing law limits the establishment of charter schools to 100 schools statewide, and no more than 10 in any one district. However, under general waiver authority, the State Board of Education may approve waivers of the statutory cap, and currently 139 charter schools are operating in the state.

This bill makes significant changes to the charter schools law that both requires additional accountability of charter schools and increases incentive to establish charter schools. The major elements, and their impact are discussed below:

Cap on Number of Charter Schools

This bill would increase the cap on the number of charter schools in the state by allowing an increase of 100 new charter schools each year, but would also prohibit the SBE from waiving the new cap. While a significant change over current law, this falls short of an actual repeal of the cap which is provided in the initiative. In addition, because the State Board of Education (SBE) may already waive the existing cap for any new charter school that requests it, it is unclear what impact this change will actually have on the number of new charter schools. However, this will benefit new charters by no longer requiring them to request a waiver of the cap from the SBE.

Start Up Requirements

Current law allows the establishment of a charter school with signature of 10 percent of the teachers in the district, or 50 percent of the teachers at one site. This bill repeals that provision and provides separate signature requirements for new start up schools and conversion schools.

Start-Up Schools. This bill specifically provides for the establishment of new charter schools by non-profit public benefit corporations. To be eligible, the non-profit must accept all liability for the debts and obligations of the charter school, and the authority granting the charter must be entitled to a seat on the board of directors of the corporation. A petition for the start up of a new charter school must contain the signatures of a number of parents of at least one-half of pupils the charter expect to enroll and a number of teachers of at least one-half of the teachers that the new charter expects to employ. These provisions will most likely encourage non-profits to apply to be state charter schools.

Conversion of Existing Schools. To convert an existing school to a charter, this bill requires that not less than fifty percent of the permanent status teachers sign the petition. Allowing only permanent status teachers to request a conversion charter may inhibit the conversion of traditional schools to charters, because it is possible that newer teachers, who are not yet permanent status, may be the ones most interested in converting to a charter.

It is of significant note that the proposed initiative also repeals the signature process in current law, but contains no signature requirements, except in specific provisions related to the conversion of low performing schools. In this regard, this bill is much more restrictive than the proposed initiative or current law, particularly for the establishment of conversion charters.

Approval of Charter Petition

This bill provides that if the governing board denies a charter, the petitioner can appeal to the County Board of Education or directly to the SBE, and also allows for judicial review if the SBE fails to act within 120 days. It is unclear what jurisdiction would be responsible for "judicial review" of a charter that has not been acted upon by the SBE.

This bill also provides that authorizing entity may deny a charter after public hearing and must present written findings. This will help to ensure that charters are denied for good cause. However, among the reason for the denial of a charter is if the charter "presents an unsound educational program". A denial of a charter based on "unsound educational program" is vague and subjective. Application of this criterion could stifle the educational innovation that is at the heart of the charter schools philosophy.

Repeal of Charter

Current law allows for the granting authority to repeal a charter for fiscal mismanagement, violation of the charter or law, or if the school fails to meet pupil outcomes. Under this bill, prior to revocation, the school must be given an opportunity to correct the violation. In addition, the SBE may revoke any charter in which it determines the school had "substantial and sustained departure from measurably successful practices such that continued departure would jeopardize the educational development of the school's pupils." The opportunity for correction is a positive measure. However, The additional criterion is highly subjective and could inhibit exploration of innovative teaching method in charter schools. This provision also appears unnecessary because pupil outcomes should be the measure of an effective school, and a charter may already be revoked for failure to meet outcomes.

Low Performing Schools Priority

This bill does not include any specific provisions to encourage the establishment of charter schools at or near low performing schools. It is of note that the proposed initiative has substantial provisions related to converting low performing schools to charter schools, and requires the department to develop incentives to encourage the establishment of charter schools within one mile of schools that are consistently at the bottom 10 percentile of the ranking. The emphasis on low performing schools is a strong element in the initiative that is completely absent from this bill.

Teacher Qualifications

Current law has no credentialing requirement for charter teachers. This bill requires all charter school teachers to hold a Commission on Teacher Credentialing (CTC) document equivalent to that which is required of teachers in other public schools. It is of note that this bill is more restrictive than the proposed initiative which would only require a charter teacher to have passed the CBEST exam and have a bachelor's degree. This bill would greatly limit the flexibility of charter schools to hire teachers that are expert in a specific field or teaching philosophy that is not specifically certified by CTC. This potentially is the most drastic restriction in this legislation. By requiring CTC certification, many teachers who could bring real world experience, or innovative teaching methods to a charter school would be prohibited from teaching. This new restriction could virtually extinguish the experimental nature of charter schools.

Transition of Bills Provisions

This bill does not provide for any transition for existing charter schools to meet the new requirements. This is particularly problematic for existing schools that may not have credentialed teachers. If every charter school will be required to have credentialed teachers by January 1, 1999, the bill's date of enactment, many charter schools could be forced to release existing teachers and hire new teachers, assuming new teachers were available, or worse, not have sufficient teachers to continue operation. This could have a negative impact on the operation of existing charter

Page 6

schools that were established with a core of dedicated staff that may not have, or be eligible for credentials.

Collective Bargaining

This bill requires that "charter schools shall on a regular basis consult with their parents and teachers regarding the school's educational programs". This section may be construed to require collective bargaining for charter school teachers.

Relative Teachers

This bill, as with current law, does not contain any specific provisions on the issue of relative teachers and "home schooling" charters. We note that the initiative would prohibit compensation of any teacher if more than one third of the pupils are a close relative of the teacher.

Affirmative Action

This bill retains language in current charter law that requires the charter petition to address how the school will achieve a racial and ethnic balance among its pupils that is reflective of the district. Schools may have difficulty achieving this goal within the restriction of Proposition 209.

Supervisory Oversight

This bill specifies some "supervisory oversight" responsibilities for the granting authority. Although the bill allows for some reimbursement from the charter for these activities, this could result in some mandated costs. This may also be problematic for the State Board of Education, which in many cases may be the granting authority, and except by mutual agreement to delegate these duties to a local district within the county of the charter, would be the entity responsible for "supervisory oversight". This would require the SBE to be responsible for all monitoring and supervising, including evaluating a school for renewal, ensuring appropriate responses to audit findings and other administrative services. It is not clear that this would be an appropriate or reasonable role for the SBE, and could potentially require significant additional state staff.

Funding Mechanism

This bill revises the funding formula to remove a perceived disincentive for basic aid districts to establish charter schools. This could have a positive impact on new charters in basic aid districts. Otherwise, this bill does not make any immediate changes to the funding process for charter schools. However, this bill declares that by 1999-00, and upon adoption of regulations by the SBE, charter school funding shall be equal to the total funding that would be available to a similar school serving a similar population. Regulations adopted for this purpose shall provide a simple allocation for charter schools that allows the school to choose between direct funding to the school or through the district.

Page 7

Other Changes

This bill make a number of other changes to the existing charter law, that appear to make a positive move to support charter schools while increasing the accountability of charter schools in the use of state funds, and providing reasonable restrictions on enrollment. These provisions include:

- clearer fiscal controls, including requirements for financial statements and budget plans in the charter petition and an annual independent audit;
- an allowance for county office of education to establish charters for program typically operated by a county office;
- a requirement that the chartering authority assist in accommodating growth, and provide facilities if available;
- a requirement that charters participate in all statewide pupil assessment programs;
- a prohibition against private school students from also attending a public charter school;
- a requirement that charters comply with minimum age requirements for public attendance, and limit participation of pupils over 19 years; and
- a requirement that a charter pupil to be a California resident.

Fiscal Impact: Unknown.

Support: No letters on file this version.

Neutral: No letters on file this version.

Oppose: No letters on file this version.

Voting Record: Senate Floor: 29-3 Assembly Floor: 60-4

DEPARTMENT OF FINANCE ENROLLED BILL REPORT

AMENDMENT DATE: April 27, 1998
RECOMMENDATION: Sign

BILL NUMBER: AB 544
AUTHOR: T. Lempert

ASSEMBLY: 60/4
SENATE: 29/3

BILL SUMMARY: Charter School Conference Committee Bill

This bill would make significant changes to the existing Charter Schools Act, including provisions related to approval, denial, and revocation of charter schools, lifting the current cap on the number of charter schools, clarification of pupils that are eligible to generate funding for charter schools, clarification of the fiscal accountability requirements of charter schools, and restrictions on teachers that may be employed by charter schools.

FISCAL SUMMARY

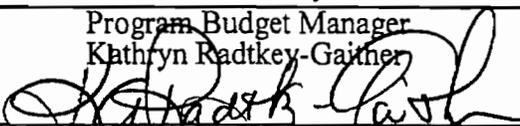
This bill would result in additional Proposition 98 General Fund costs of approximately \$25,000 to provide revenue limit funding for 10 pupils currently attending a charter school in a basic aid district who do not reside in the district. However, there would be additional, unknown savings depending on the extent to which there is an increase in the number of charter schools approved by basic aid school districts that are not currently basic aid districts of choice. This savings would result because the State would only be paying 70 percent of the revenue limit that would otherwise be paid for those non-resident pupils who attend charter schools in basic aid districts.

As a result of the reforms proposed by this bill that would limit unintended growth in the charter school program and inflation of the Proposition 98 guarantee, this bill could limit the future fiscal liability of the State for billions of dollars to fund pupils who would not otherwise be included in the Proposition 98 calculation.

COMMENTS

DOF recommends that the Governor sign this bill because it includes significant reforms to limit unintended growth in the charter school program, and it would clarify and strengthen the fiscal accountability requirements of charter schools. More specifically:

- By requiring that charter schools comply with all laws establishing minimum age for public school attendance, prohibiting apportionment funding from being generated by adults (subject to regulations to be adopted by the SBE) and pupils who are not California residents, and prohibiting charter schools from receiving public funds for any pupils that also attends a private school that charges the family tuition, this bill would limit the fiscal liability of the State for potentially billions of dollars

Analyst/Principal (0340) E. Cubanski	Date	Program Budget Manager Kathryn Radtkey-Gaither	Date
			4/30/98
Department Assistant Director			Date
			4-30-98

ENROLLED BILL REPORT

Form DE-43 (Rev 03/95 Pink)

AUTHOR

AMENDMENT DATE

BILL NUMBER

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resulting from inflation of the Proposition 98 guarantee by including individuals who would otherwise be excluded from the Proposition 98 calculation. These reforms have long been advocated by DOF and supported by the Administration.

- By requiring charter petitions to include strengthened fiscal and audit requirements, requiring charter petitioners to provide specified financial statements related to the operation and budget of the charter school, and clarifying the fiscal reasons for which a charter may be revoked, this bill will help to ensure the fiscal viability of all charter schools.

While DOF recommends the Governor sign this bill; we note the following concerns with the bill for the Governor's consideration:

- The new funding provisions included in this bill which would allow charter schools to receive operational funding equal to the total funding that would be available to similar school districts serving similar pupil populations could be extremely costly and problematic depending on how they are interpreted and implemented. However, since the new funding provisions would be effective only upon adoption of regulations by the SBE, DOF believes that we and the Administration will continue to have an opportunity to ensure that the funding requirements for charter schools are fiscally sound.
- The requirement that charter schools only employ certificated teachers, as well as the ability of the SBE to revoke a charter for departure from "measurably successful educational practices" may inhibit the ability of charter schools to develop and offer innovative educational programs. DOF believes that the success of charter schools results in large part from their ability to hire qualified and dedicated, but often non-credentialed teachers, and to craft instructional services to meet the specific needs of their pupils.
- The requirement that petitions for conversion charter schools be signed by at least 50 percent of the permanent status teachers currently employed at the public school to be converted is likely to make the conversion of regular public schools to charter schools more difficult.
- This bill does not include some of the provisions of the Charter Public School Initiative that the Governor strongly supported, including provisions related to converting existing low performing public schools to charter schools, and requirements for academic performance for charter school pupils.

ANALYSIS

A. Programmatic Analysis

The Charter Schools Act of 1992 was enacted to provide opportunities for parents and teachers to establish schools that are free from most of the requirements of the Education Code. This freedom is intended to allow charter schools maximum flexibility and the opportunity for educational innovation. Current law caps the total number of charter schools that may exist statewide at 112,

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although the State Board of Education (SBE) has exercised its general waiver authority to approve charters above the limit. The total number of charters granted to date is 138.

Under current law, a petition to establish a new charter school or to convert an existing public school to a charter school may be submitted to a school district governing board for approval if the petition addresses specified requirements and is signed by at least 10 percent of the teachers in a school district or at least 50 percent of the teachers in a school. If the district governing board denies the charter, the petitioners may appeal to the county board of education for approval of the charter. Charters may be granted for a period of five years, and may be granted unlimited renewals for periods up to five years. Charters may be revoked at any time by the charter granting authority for specified reasons.

The State currently provides funds to school districts for charter schools at the district's base revenue limit per unit of average daily attendance (ADA), as offset by the district's local property tax revenues. Charter schools are also eligible to receive funding from the school district for special education and specified categorical programs. Funding provided for out-of-district pupils attending charter schools located in basic aid districts of choice is equal to 70 percent of the base revenue limit per ADA of the pupil's district of residence.

This bill would make significant changes to the existing Charter Schools Act. Specifically, it would:

- Repeal the existing cap on the total number of charter schools, and allow up to 250 charter schools to operate in 1998-99 and an additional 100 in 1999-2000 and each subsequent fiscal year.
- Require that teachers employed by charter schools have a California teaching credential or other document equivalent to that which a teacher in other public schools would be required to hold. The bill would also include intent language regarding flexibility for charter school teachers of non-core, non-college preparatory classes; however, the intent language would not override the credentialing requirement. **Note: This requirement will have the most significant impact on existing charter schools, and is perhaps the least consistent with the original policy goals of the charter schools legislation.**
- Change the signature requirements for charter school petitions to require that the petitions for start-up charter schools are signed by a number of parents equal to at least one-half of the number of pupils that the charter school estimates will enroll in the first year or at least one-half of the number of teachers that the charter school estimates will be employed by the school in the first year. Petitions for conversion charter schools are required to be signed by at least 50 percent of the permanent status teachers currently employed at the public school to be converted. **Note: This change is significant because only tenured teachers can request a conversion charter. This may make the petition process more difficult.**

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- Allow charter schools to operate as or be operated by a non-profit public benefit corporation, subject to the laws governing such corporations, and exempt the authority that granted the charter to a non-profit benefit corporation from all liability for debt or obligations of the charter school.
- + • Require that charter schools comply with all laws establishing minimum age for public school attendance, and prohibit apportionment funding to be generated by adults (subject to regulations to be adopted by the SBE) and pupils who are not California residents. This bill would prohibit charter schools from receiving public funds for any pupil who also attends a private school that charges the family tuition.
- + • Require charter schools to meet all statewide standards or pupil assessments authorized in statute for pupils in non-charter public schools and require charter schools to consult regularly with their parents and teachers regarding the school's educational programs.
- Require charter schools to admit all pupils who wish to attend. If the number of those pupils exceeds the school's capacity, the charter shall first admit existing pupils of the charter school and then determine attendance based on a public random drawing.
- + • Change the funding levels for charter schools. This bill would allow non-district pupils attending charter schools in all basic aid districts to generate funding equal to 70 percent of the base revenue limit per ADA of the pupil's district of residence. This bill would also require that, beginning in 1999-2000, charter schools receive operational funding equal to the total funding that would be available to similar school districts serving similar pupil populations, only upon adoption of regulations by the SBE.
- + • Limit the amount that the charter granting agency may charge for the actual costs of supervisory oversight of the charter school to either 1 percent or 3 percent of the revenue of the charter school. This bill would not prohibit charter schools from purchasing administrative or other services.
- Require school districts to permit charter schools within the district to use, at no charge, facilities not currently being used by the district for instructional or administrative purposes.
- + • Add legislative findings that charter schools are part of and under the jurisdiction of the Public School System, and that charter schools shall be entitled to full and fair funding.

B. Fiscal Analysis

Under current law, the State provides apportionment funding to basic aid districts of choice for pupils who reside in other districts, but attend schools, including charter schools, in the basic aid district. This funding is equal to 70 percent of the base revenue limit per ADA of the pupil's district of residence. This bill would extend the 70 percent apportionment funding to all basic aid districts for charter school pupils that do not reside in the basic aid district.

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There is currently only one charter school operating in a basic aid district, the Bellevue-Santa Fe Charter School in the San Luis Coastal Unified School District. This charter school has 10 pupils enrolled who reside in a neighboring school district. Because San Luis Coastal Unified is not a basic aid district of choice and the State is not currently providing apportionment funding for these pupils, this bill would result in additional Proposition 98 General Fund costs of approximately \$25,000. However, there would be additional, unknown savings depending on the extent to which there is an increase in the number of charter schools approved by basic aid school districts that are not currently basic aid districts of choice. This savings would result because the State would only be paying 70 percent of the revenue limit that would otherwise be paid for those non-resident pupils who attend charter schools in basic aid districts.

Furthermore, as a result of the reforms proposed by this bill that would limit unintended growth in the charter school program and inflation of the Proposition 98 guarantee, this bill could limit the future fiscal liability of the State for billions of dollars to fund pupils who would not otherwise be included in the Proposition 98 calculation.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)						Fund Code
	LA	(Dollars in Thousands)						
	CO	PROP	FC	1997-1998	FC	1998-1999	FC	1999-2000
6110/Dept of Educ	LA	Yes	-----	See Fiscal Analysis	-----			0001

Legislative panel OKs bill bolstering charter schools

By Phil Garcia
Bee Deputy Capitol Bureau Chief

In a boost to charter-school advocates, a joint state Senate-Assembly committee has approved a bill to greatly expand the number of authorized public charter schools in California and make it easier to launch such institutions.

As a result, backers of a charter-school reform initiative planned for the November ballot said Tuesday they will abandon their effort if the Legislature and Gov. Pete Wilson approve the package of reforms by Friday.

Backers of the proposed measure said they have spent about \$3 million to collect roughly 1.2 million signatures to qualify it for the November ballot and they face a Friday deadline to submit signature petitions.

"If we get this bill passed and signed, we'll line up those 1.2 million signatures in a warehouse and have a big bonfire," said Reed Hastings, a Silicon Valley businessman leading the initiative campaign.

An aide to Wilson said Tuesday the governor is generally supportive of the bill, but "minor" issues must still be resolved.

"We are very close to closure on this bill, although we need to discuss a number of points with the interested parties," said the aide, who did not want to be identified.

Under California's 6-year-old state charter-school law, the number of authorized charter schools is capped at 100. In addition, start-up charter schools require the signatures of 10 percent of a district's teachers, or 50 percent of teachers at any one school site in the district.

Further, local school boards can deny charter applications or renewals for virtually any reason, critics say, and appeal of denials can be made only to the county.

But under a compromise bill, AB 544 by Assemblyman Ted

“
If we get this bill passed and signed, we'll line up those 1.2 million signatures in a warehouse and have a big bonfire.”

”
Reed Hastings
leader of initiative campaign

Lempert, D-Redwood City, which was approved on a 5-0 vote late Monday by the conference committee, those issues would be addressed as follows:

- The cap on charter schools in 1998-99 would be raised to 250. Thereafter, up to 100 more charter schools could be authorized per school year.

- Signature requirements for start-up charter schools could come from 50 percent of likely parents sending children to the school or 50 percent of likely teachers for the charter school's first year.

- Local school boards would be required to grant start-up or renewal charters unless they find that the proposal presents an unsound educational program or that the applicants "are demonstrably unlikely to carry out" the program. In addition, appeals on denied applications could be taken to the state Board of Education.

The legislation also allows a charter school to operate as a non-profit public benefit corporation and requires that school districts allow charters schools to be housed at unused school facilities.

Sue Burr, president of California Network of Educational Charters, praised the legislation, which

is scheduled to be considered Thursday on the floor of the Senate and Assembly.

"This provides much-needed flexibility in the granting of charters and is an important message from the Legislature that this is a viable education reform effort and to look at it," Burr said.

Burr said that through January, there were 134 charter schools authorized statewide, including six in Sacramento County, as the state school board granted waivers to the existing cap to nearly three dozen charter school applicants. About 110 charter schools are actually in operation, she said.

Lempert, chairman of the Assembly Select Committee on Education Technology and the joint conference committee, said the negotiations on the bill were a good example of how "the process should work."

"Too often, there's an initiative because the Legislature hasn't acted. In this case, the initiative sponsors recognized that it would be preferable to have a legislative compromise ... (and) we've hammered out a compromise that's lasting and sets up a new expansion of the charter school movement," he said.

A spokeswoman for the influential California Teachers Association said the labor group was in opposition to the bill but now supports it.

Backers of the charter school initiative said that in the end the compromise bill contains about 70 percent of what is proposed in their ballot measure. They added they're optimistic the Legislature and the governor will approve it.

Sen. John Lewis, R-Orange, the Senate's Republican representative on the joint committee, voted for the compromise, saying it is "far from perfect but it definitely moves in the right direction."

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- Allow charter petitions to be submitted directly to county offices of education for charter schools that will serve pupils to whom the county would otherwise provide educational services.
- Expand the list of specified requirements that must be addressed in a charter petition to include strengthened fiscal and audit requirements, require charter petitioners to provide specified financial statements related to the operation of the charter school, and clarify the fiscal reasons for which a charter may be revoked.
- Require a school district governing board to approve a charter unless the governing board makes written factual findings that the charter petition presents an "unsound educational program," the petitioners are unlikely to successfully implement the program, the petition does not contain the appropriate number of conditions, the petition does not affirm that the charter school will be non-sectarian and follow specified pupil admission requirements, or the petition does not address other specified requirements.
- Repeal the appeal procedure for denied charter petitions and allow charters to be submitted to and approved by a county office of education or the State Board of Education (SBE) if the charter is denied by the school district governing board. If a petition is denied by the county office, the charter may also be submitted to the SBE for approval. If the county office or SBE fails to act on a petition within 120 days, the original denial of the petition by the school district governing board shall be subject to judicial review. The bill would require the SBE to adopt regulations to implement this part.
- Allow the SBE to revoke a charter upon recommendation of the Superintendent of Public Instruction (SPI) if the SBE finds fiscal mismanagement of the charter school, illegal or improper use of charter school funds, or substantial departure from "measurably successful" educational practices.
- Require that any renewals of charters are provided for five-year periods. To cases when a charter is being revoked, this bill would require the charter granting authority notify the charter school of the violation and give the school a reasonable opportunity to cure the violation, unless the violation presents a severe and immediate threat to the health and safety of the pupils.
- Require a charter school to promptly respond to all inquiries from the charter granting authority or the SPI, and allow the charter granting authority or the authority to inspect or observe the charter at any time.
- Allow the SBE, by mutual agreement, to designate its supervisory and oversight responsibilities for charter schools it has approved to any local educational agency in the county in which the charter is located or to the school district governing board that originally denied the charter.

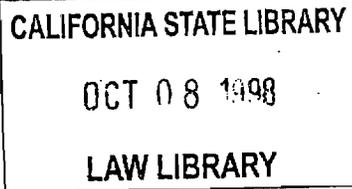
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CHAPTERS

1998

Regular Session

Chapters 1-34



GRAY DAVIS
President of the Senate

ANTONIO R. VILLARAIGOSA
Speaker of the Assembly

GREGORY SCHMIDT
Secretary of the Senate

E. DOTSON WILSON
Chief Clerk of the
Assembly

Assembly Bill No. 544

CHAPTER 34

An act to amend Sections 47601, 47602, 47605, 47607, 47608, 47610, 47612, 47613, and 47616.5 of, and to add Sections 47604, 47604.3, 47604.5, 47605.5, 47613.5, 47613.7, 47614, and 47615 to, the Education Code, relating to charter schools.

[Approved by Governor May 7, 1998. Filed with
Secretary of State May 8, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 544, Lempert. Charter schools.

Existing law, the Charter Schools Act of 1992, permits teachers, parents, pupils, and community members to petition a school district governing board to approve a charter school to operate independently from the existing school district structure as a method of accomplishing, among other things, improved pupil learning.

Existing law, with certain exceptions, establishes the maximum number of charter schools in California at 100 and the maximum number of 10 in any single school district.

This bill would delete this provision, and would instead, establish the statewide maximum at 250 charter schools for the 1998-99 school year with an additional 100 charter schools per school year thereafter.

The bill would require the Legislative Analyst to contract for an evaluation and to report to the Legislature and the Governor by July 1, 2003, regarding the effectiveness of the charter school approach.

This bill would preclude receipt of public funds by a charter school if the pupil also attends a private school that charges the family for tuition, and would authorize the State Board of Education to adopt implementing regulations.

This bill would provide that a charter school may elect to operate as a nonprofit public benefit corporation and would entitle the school district that grants the charter to have one representative on the board of directors of the nonprofit public benefit corporation.

Existing law permits a petitioner to submit for the approval of the governing board of a school district, a petition for the establishment of a charter school after the petition has been signed by at least 10% of the teachers currently employed in the district, or by at least 50% of the teachers currently employed at one school of the district and establishes a process for review of a denial of the petition, including, but not limited to, the convening of a review panel, and the granting of the charter by the county board of education.

This bill would delete these provisions and would, instead, authorize the submission of a petition after the petition has been

signed by a number of parents or guardians of pupils equal to at least $\frac{1}{2}$ of the pupils that the charter school estimates it will enroll in its first year, or after the petition has been signed by a number of teachers equal to at least $\frac{1}{2}$ of the number of teachers that the charter school estimates will be employed at the charter school during its first year. In the case of petitions for establishment of a charter school by converting an existing public school, the bill would permit filing of the petition after the petition has been signed by at least 50% of the permanent status teachers currently employed at the public school to be converted.

This bill would authorize the State Board of Education to grant a charter for the establishment of a charter school. This bill would permit the petitioner to elect to file the petition with either the county board of education or directly with the State Board of Education, and in the case of a denial by the county board of education, the bill would permit petitioners to file with the State Board of Education. The bill would permit the State Board of Education to, by mutual agreement, designate a local educational agency to perform the State Board of Education's supervisory and oversight responsibilities as a chartering agency, and would grant the local educational agency all related powers, excluding the power of revocation of the charter.

This bill would authorize the State Board of Education to take action, including, but not limited to, revocation of the charter if, based upon the recommendation of the Superintendent of Public Instruction the State Board of Education makes certain findings relating to, financial mismanagement, illegal or improper use of funds, or substantial and sustained departure from measurably successful practice.

This bill would require that teachers in charter schools be required to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a public school teacher would be required to hold.

Existing law requires a charter school to comply with its charter but generally exempts it from all laws governing school districts, with certain exceptions relating to the State Teachers' Retirement System and the Charter School Revolving Loan Fund.

This bill would add all laws establishing a minimum age for public school attendance to the provisions from which a charter school is not exempt.

Existing law requires the Superintendent of Public Instruction to make certain apportionments to each charter school for each fiscal year.

This bill would require that, only upon adoption of implementing regulations, charter school operational funding, as defined, be equal to the total funding that would be available to a similar school district, as defined, serving a similar pupil population, and would require the

State Department of Education to propose, and the State Board of Education to adopt, implementing regulations. The bill would, with certain exceptions, permit a chartering agency to charge up to a 1% charge for actual costs of oversight, or up to 3% for these costs if the chartering agency provides substantially rent free facilities to the charter school, or if the agency is a designated local education agency in the case of charters granted by the State Board of Education.

This bill would require a charter school to admit all pupils, would provide for a selection by random drawing in cases where the demand exceeds the capacity and would require that certain preferences be given in the case of pupils currently in the charter school. The bill would preclude the generating of average daily attendance in a charter school by a pupil who is not a resident of California. The bill would require a pupil over 19 to be continuously enrolled in public school and make satisfactory progress towards a high school diploma in order to remain eligible for generating charter school apportionments, and would require the State Board of Education to adopt implementing regulations by January 1, 2000.

By requiring local agencies to perform these additional duties relating to the formation, monitoring, and administration of charter school, this bill would impose a state-mandated local program.

The bill would declare that certain of its provisions are severable if held invalid, and would make conforming changes and other changes of a technical, nonsubstantive nature.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 47601 of the Education Code is amended to read:

47601. It is the intent of the Legislature, in enacting this part, to provide opportunities for teachers, parents, pupils, and community members to establish and maintain schools that operate independently from the existing school district structure, as a method to accomplish all of the following:

- (a) Improve pupil learning.

(b) Increase learning opportunities for all pupils, with special emphasis on expanded learning experiences for pupils who are identified as academically low achieving.

(c) Encourage the use of different and innovative teaching methods.

(d) Create new professional opportunities for teachers, including the opportunity to be responsible for the learning program at the schoolsite.

(e) Provide parents and pupils with expanded choices in the types of educational opportunities that are available within the public school system.

(f) Hold the schools established under this part accountable for meeting measurable pupil outcomes, and provide the schools with a method to change from rule-based to performance-based accountability systems.

(g) Provide vigorous competition within the public school system to stimulate continual improvements in all public schools.

SEC. 2. Section 47602 of the Education Code is amended to read:

47602. (a) (1) In the 1998–99 school year, the maximum total number of charter schools authorized to operate in this state shall be 250. In the 1999–2000 school year, and in each successive school year thereafter, an additional 100 charter schools are authorized to operate in this state each successive school year. The limits contained in this paragraph may not be waived pursuant to Section 33050 or any other provision of law.

(2) By July 1, 2003, the Legislative Analyst shall, pursuant to the criteria in Section 47616.5, report to the Legislature on the effectiveness of the charter school approach authorized under this part and recommend whether to expand or reduce the annual rate of growth of charter schools authorized pursuant to this section.

(b) No charter shall be granted under this part that authorizes the conversion of any private school to a charter school. No charter school shall receive any public funds for a pupil if the pupil also attends a private school that charges the pupil's family for tuition. The State Board of Education shall adopt regulations to implement this section.

SEC. 3. Section 47604 is added to the Education Code, to read:

47604. (a) Charter schools may elect to operate as, or be operated by, a nonprofit public benefit corporation, formed and organized pursuant to the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1) of the Corporations Code).

(b) The governing board of a school district that grants a charter for the establishment of a charter school formed and organized pursuant to this section shall be entitled to a single representative on the board of directors of the nonprofit public benefit corporation.

(c) It is the intent of the Legislature that an authority that grants a charter to a charter school to be operated by, or as, a nonprofit

public benefit corporation shall not be liable for the debts or obligations of the charter school.

SEC. 4. Section 47604.3 is added to the Education Code, to read:

47604.3. A charter school shall promptly respond to all reasonable inquiries, including, but not limited to, inquiries regarding its financial records, from its chartering authority or from the Superintendent of Public Instruction and shall consult with the chartering authority or the Superintendent of Public Instruction regarding any inquiries.

SEC. 5. Section 47604.5 is added to the Education Code, to read:

47604.5. The State Board of Education, whether or not it is the authority that granted the charter, may, based upon the recommendation of the Superintendent of Public Instruction, take appropriate action, including, but not limited to, revocation of the school's charter, when the State Board of Education finds any of the following:

(a) Gross financial mismanagement that jeopardizes the financial stability of the charter school.

(b) Illegal or substantially improper use of charter school funds for the personal benefit of any officer, director, or fiduciary of the charter school.

(c) Substantial and sustained departure from measurably successful practices such that continued departure would jeopardize the educational development of the school's pupils.

SEC. 6. Section 47605 of the Education Code is amended to read:

47605. (a) (1) Except as set forth in paragraph (2), a petition for the establishment of a charter school within any school district may be circulated by any one or more persons seeking to establish the charter school. The petition may be submitted to the governing board of the school district for review after either of the following conditions are met:

(A) The petition has been signed by a number of parents or guardians of pupils that is equivalent to at least one-half of the number of pupils that the charter school estimates will enroll in the school for its first year of operation.

(B) The petition has been signed by a number of teachers that is equivalent to at least one-half of the number of teachers that the charter school estimates will be employed at the school during its first year of operation.

(2) In the case of a petition for the establishment of a charter school through the conversion of an existing public school, that would not be eligible for a loan pursuant to subdivision (b) of Section 41365, the petition may be circulated by any one or more persons seeking to establish the converted charter school. The petition may be submitted to the governing board of the school district for review after the petition has been signed by not less than 50 percent of the

permanent status teachers currently employed at the public school to be converted.

(3) A petition shall include a prominent statement that a signature on the petition means that the parent or guardian is meaningfully interested in having his or her child, or ward, attend the charter school, or in the case of a teacher's signature, means that the teacher is meaningfully interested in teaching at the charter school. The proposed charter shall be attached to the petition.

(b) No later than 30 days after receiving a petition, in accordance with subdivision (a), the governing board of the school district shall hold a public hearing on the provisions of the charter, at which time the governing board of the school district shall consider the level of support for the petition by teachers employed by the district, other employees of the district, and parents. Following review of the petition and the public hearing, the governing board of the school district shall either grant or deny the charter within 60 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension. In reviewing petitions for the establishment of charter schools pursuant to this section, the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged. A school district governing board shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one, or more, of the following findings:

(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.

(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

(3) The petition does not contain the number of signatures required by subdivision (a).

(4) The petition does not contain an affirmation of each of the conditions described in subdivision (d).

(5) The petition does not contain reasonably comprehensive descriptions of all of the following:

(A) A description of the educational program of the school, designed, among other things, to identify those whom the school is attempting to educate, what it means to be an "educated person" in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

(B) The measurable pupil outcomes identified for use by the charter school. "Pupil outcomes," for purposes of this part, means the extent to which all pupils of the school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the school's educational program.

(C) The method by which pupil progress in meeting those pupil outcomes is to be measured.

(D) The governance structure of the school, including, but not limited to, the process to be followed by the school to ensure parental involvement.

(E) The qualifications to be met by individuals to be employed by the school.

(F) The procedures that the school will follow to ensure the health and safety of pupils and staff. These procedures shall include the requirement that each employee of the school furnish the school with a criminal record summary as described in Section 44237.

(G) The means by which the school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

(H) Admission requirements, if applicable.

(I) The manner in which annual, independent, financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority.

(J) The procedures by which pupils can be suspended or expelled.

(K) The manner by which staff members of the charter schools will be covered by the State Teachers' Retirement System, the Public Employees' Retirement System, or federal social security.

(L) The public school attendance alternatives for pupils residing within the school district who choose not to attend charter schools.

(M) A description of the rights of any employee of the school district upon leaving the employment of the school district to work in a charter school, and of any rights of return to the school district after employment at a charter school.

(N) The procedures to be followed by the charter school and the entity granting the charter to resolve disputes relating to provisions of the charter.

(c) (1) Charter schools shall meet all statewide standards and conduct the pupil assessments required pursuant to Section 60605 and any other statewide standards authorized in statute or pupil assessments applicable to pupils in noncharter public schools.

(2) Charter schools shall on a regular basis consult with their parents and teachers regarding the school's educational programs.

(d) (1) In addition to any other requirement imposed under this part, a charter school shall be nonsectarian in its programs, admission

policies, employment practices, and all other operations, shall not charge tuition, and shall not discriminate against any pupil on the basis of ethnicity, national origin, gender, or disability. Except as provided in paragraph (2), admission to a charter school shall not be determined according to the place of residence of the pupil, or of his or her parent or guardian, within this state, except that any existing public school converting partially or entirely to a charter school under this part shall adopt and maintain a policy giving admission preference to pupils who reside within the former attendance area of that public school.

(2) (A) A charter school shall admit all pupils who wish to attend the school.

(B) However, if the number of pupils who wish to attend the charter school exceeds the school's capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school and pupils who reside in the district. Other preferences may be permitted by the chartering authority on an individual school basis and only if consistent with the law.

(C) In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the charter school and, in no event, shall take any action to impede the charter school from expanding enrollment to meet student demand.

(e) No governing board of a school district shall require any employee of the school district to be employed in a charter school.

(f) No governing board of a school district shall require any pupil enrolled in the school district to attend a charter school.

(g) The governing board of a school district shall require that the petitioner or petitioners provide information regarding the proposed operation and potential effects of the school, including, but not limited to, the facilities to be utilized by the school, the manner in which administrative services of the school are to be provided, and potential civil liability effects, if any, upon the school and upon the school district. The petitioner or petitioners shall also be required to provide financial statements that include a proposed first-year operational budget, including startup costs, and cash-flow and financial projections for the first three years of operation.

(h) In reviewing petitions for the establishment of charter schools within the school district, the school district governing board shall give preference to petitions that demonstrate the capability to provide comprehensive learning experiences to pupils identified by the petitioner or petitioners as academically low achieving pursuant to the standards established by the State Department of Education under Section 54032.

(i) Upon the approval of the petition by the governing board of the school district, the petitioner or petitioners shall provide written

notice of that approval, including a copy of the petition, to the State Board of Education.

(j) (1) If the governing board of a school district denies a petition, the petitioner may elect to submit the petition for the establishment of a charter school to either the county board of education or directly to the State Board of Education. The county board of education or the State Board of Education, as the case may be, shall review the petition pursuant to subdivision (b). If the petitioner elects to submit a petition for establishment of a charter school to the county board of education and the county board of education denies the petition, the petitioner may file a petition for establishment of a charter school with the State Board of Education.

(2) A charter school for which a charter is granted by either the county board of education or the State Board of Education pursuant to this subdivision shall qualify fully as a charter school for all funding and other purposes of this part.

(3) If either the county board of education or the State Board of Education fails to act on a petition within 120 days of receipt, the decision of the governing board of the school district to deny a petition shall, thereafter, be subject to judicial review.

(4) The State Board of Education shall adopt regulations implementing this subdivision.

(k) (1) The State Board of Education may, by mutual agreement, designate its supervisory and oversight responsibilities for a charter school approved by the State Board of Education to any local education agency in the county in which the charter school is located or to the governing board of the school district that first denied the petition.

(2) The designated local education agency shall have all monitoring and supervising authority of a chartering agency, including, but not limited to, powers and duties set forth in Section 47607, except the power of revocation, which shall remain with the State Board of Education.

(3) A charter school that has been granted its charter by the State Board of Education and elects to seek renewal of its charter shall, prior to expiration of the charter, submit its petition for renewal to the governing board of the school district that initially denied the charter. If the governing board of the school district denies the school's petition for renewal, the school may petition the State Board of Education for renewal of its charter.

(l) Teachers in charter schools shall 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. These documents shall be maintained on file at the charter school and shall be subject to periodic inspection by the chartering authority. It is the intent of the Legislature that

charter schools be given flexibility with regard to noncore, noncollege preparatory courses.

SEC. 7. Section 47605.5 is added to the Education Code, to read:

47605.5. A petition may be submitted directly to a county board of education in the same manner as set forth in Section 47605 for charter schools that will serve pupils for whom the county office of education would otherwise be responsible for providing direct education and related services. Any denial of a petition shall be subject to the same process for any other county board of education denial of a charter school petition pursuant to this part.

SEC. 8. Section 47607 of the Education Code is amended to read:

47607. (a) (1) A charter may be granted pursuant to Sections 47605, 47605.5, and 47606 for a period not to exceed five years. A charter granted by a school district governing board, a county board of education or the State Board of Education, may be granted one or more subsequent renewals by that entity. Each renewal shall be for a period of five years. A material revision of the provisions of a charter petition may be made only with the approval of the authority that granted the charter. The authority that granted the charter may inspect or observe any part of the charter school at any time.

(2) Renewals and material revisions of charters shall be governed by the standards and criteria in Section 47605.

(b) A charter may be revoked by the authority that granted the charter under this chapter if the authority finds that the charter school did any of the following:

(1) Committed a material violation of any of the conditions, standards, or procedures set forth in the charter.

(2) Failed to meet or pursue any of the pupil outcomes identified in the charter.

(3) Failed to meet generally accepted accounting principles, or engaged in fiscal mismanagement.

(4) Violated any provision of law.

(c) Prior to revocation, the authority that granted the charter shall notify the charter public school of any violation of this section and give the school a reasonable opportunity to cure the violation, unless the authority determines, in writing, that the violation constitutes a severe and imminent threat to the health or safety of the pupils.

SEC. 9. Section 47608 of the Education Code is amended to read:

47608. All meetings of the governing board of the school district and the county board of education at which the granting, revocation, appeal, or renewal of a charter petition is discussed shall comply with the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Division 2 of Title 5 of the Government Code).

SEC. 10. Section 47610 of the Education Code is amended to read:

47610. A charter school shall comply with this part and all of the provisions set forth in its charter, but is otherwise exempt from the laws governing school districts except all of the following:

- (a) As specified in Section 47611.
- (b) As specified in Section 41365.
- (c) All laws establishing minimum age for public school attendance.

SEC. 11. Section 47612 of the Education Code is amended to read:

47612. (a) The Superintendent of Public Instruction shall make all of the following apportionments to each charter school for each fiscal year:

(1) From funds appropriated to Section A of the State School Fund for apportionment for that fiscal year pursuant to Article 2 (commencing with Section 42238) of Chapter 7 of Part 24, an amount for each unit of regular average daily attendance in the charter school that is equal to the current fiscal year base revenue limit for the school district to which the charter petition was submitted. In no event shall average daily attendance in a charter school be generated by a pupil who is not a California resident. To remain eligible for generating charter school apportionments, a pupil over 19 years of age shall be continuously enrolled in public school and make satisfactory progress towards award of a high school diploma. The State Board of Education shall, on or before January 1, 2000, adopt regulations defining "satisfactory progress."

(2) For each pupil enrolled in the charter school who is entitled to special education services, the state and federal funds for special education services for that pupil that would have been apportioned for that pupil to the school district to which the charter petition was submitted.

(3) Funds for the programs described in clause (i) of subparagraph (B) of paragraph (1) of subdivision (a) of Section 54761, and Sections 63000 and 64000, to the extent that any pupil enrolled in the charter school is eligible to participate.

(b) A charter school shall be deemed to be under the exclusive control of the officers of the public schools for purposes of Section 8 of Article IX of the California Constitution, with regard to the appropriation of public moneys to be apportioned to any charter school, including, but not limited to, appropriations made for the purposes of subdivisions (a) and (b).

(c) A charter school shall be deemed to be a "school district" for purposes of Section 41302.5 and Sections 8 and 8.5 of Article XVI of the California Constitution.

SEC. 12. Section 47613 of the Education Code is amended to read:

47613. Notwithstanding subdivision (c) of Section 48209.11, the full apportionment received by the basic aid district pursuant to this section shall be provided to the charter school, and with respect to any pupil of a charter school located within a basic aid school district who attended a public school in a district other than a basic aid district immediately before transferring to the charter school, the Superintendent of Public Instruction, commencing with the 1998-99

fiscal year, shall calculate for that school an apportionment of state funds that provides 70 percent of the district revenue limit calculated pursuant to Section 42238 that would have been apportioned to the school district of residence for any average daily attendance credited pursuant to Section 48209.11. For purposes of this section, "basic aid district" means a school district that does not receive from the state, for any fiscal year in which the subdivision is applied, an apportionment of state funds pursuant to subdivision (h) of Section 42238.

SEC. 13. Section 47613.5 is added to the Education Code, to read:

47613.5. (a) Notwithstanding Sections 47612 and 47613, commencing with the 1999-2000 school year and only upon adoption of regulations pursuant to subdivision (b), charter school operational funding shall be equal to the total funding that would be available to a similar school district serving a similar pupil population, provided that a charter school shall not be funded as a necessary small school or a necessary small high school, nor receive revenue limit funding that exceeds the statewide average for a school district of a similar type.

(b) The State Department of Education shall propose, and the State Board of Education may adopt, regulations to implement subdivision (a) and, to the extent possible and consistent with federal law, provide for simple and, at the option of the charter school, local or direct allocation of funding to charter schools.

(c) For the purposes of this section, the following terms have the following meanings:

(1) "Operational funding" means all funding other than capital funding.

(2) "School district of a similar type" means a school district that is serving similar grade levels; elementary, high, or unified.

SEC. 14. Section 47613.7 is added to the Education Code, to read:

47613.7. (a) Except as set forth in subdivision (b), a chartering agency may charge for the actual costs of supervisory oversight of a charter school not to exceed 1 percent of the revenue of the charter school.

(b) A chartering agency may charge for the actual costs of supervisory oversight of a charter school not to exceed 3 percent of the revenue of the charter school if the charter school is able to obtain substantially rent free facilities from the chartering agency.

(c) A local agency that is given the responsibility for supervisory oversight of a charter school, pursuant to paragraph (1) of subdivision (k) of Section 47605, may charge for the costs of supervisory oversight, and administrative costs necessary to secure charter school funding, not to exceed 3 percent of the revenue of the charter school. A charter school that is charged for costs under this subdivision shall not be charged pursuant to subdivision (a) or (b).

(d) This section shall not prevent the charter school from separately purchasing administrative or other services from the chartering agency or any other source.

(e) For the purposes of this section, a chartering agency means a school district, county department of education, or the State Board of Education, that granted the charter to the charter school.

SEC. 15. Section 47614 is added to the Education Code, to read:

47614. A school district in which a charter school operates shall permit a charter school to use, at no charge, facilities not currently being used by the school district for instructional or administrative purposes, or that have not been historically used for rental purposes provided the charter school shall be responsible for reasonable maintenance of those facilities.

SEC. 16. Section 47615 is added to the Education Code, to read:

47615. (a) The Legislature finds and declares all of the following:

(1) Charter schools are part of the Public School System, as defined in Article IX of the California Constitution.

(2) Charter schools are under the jurisdiction of the Public School System and the exclusive control of the officers of the public schools, as provided in this part.

(3) Charter schools shall be entitled to full and fair funding, as provided in this part.

(b) This part shall be liberally construed to effectuate the findings and declarations set forth in this section.

SEC. 17. Section 47616.5 of the Education Code is amended to read:

47616.5. The Legislative Analyst shall contract for a neutral evaluator to conduct an evaluation of the effectiveness of the charter school approach authorized under this part and, on or before July 1, 2003, shall report to the Legislature and the Governor accordingly with recommendations to modify, expand, or terminate that approach. The evaluation of the effectiveness of the charter school approach shall include, but shall not be limited to, the following factors:

(a) If available, the pre- and post-charter school test scores of pupils attending charter schools and other pupil assessment tools.

(b) The level of parental satisfaction with the charter school approach compared with schools within the district in which the charter school is located.

(c) The impact of required parental involvement.

(d) The fiscal structures and practices of charter schools as well as the relationship of these structures and practices to school districts, including the amount of revenue received from various public and private sources.

(e) An assessment of whether or not the charter school approach has resulted in increased innovation and creativity.

(f) Opportunities for teachers under the charter school approach.

(g) Whether or not there is an increased focus on low-achieving and gifted pupils.

(h) Any discrimination and segregation in charter schools.

(i) If available, the number of charter school petitions submitted to governing boards of school districts and the number of those proposals that are denied, per year, since the enactment of the charter school law, including the reasons why the governing boards denied these petitions, and the reasons governing boards have revoked charters.

(j) The governance, fiscal liability and accountability practices and related issues between charter schools and the governing boards of the school districts approving their charters.

(k) The manner in which governing boards of school districts monitor the compliance of the conditions, standards, and procedures entered into under a charter.

(l) The extent of the employment of noncredentialed personnel in charter schools.

(m) An assessment of how the exemption from laws governing school districts allows charter schools to operate differently than schools operating under those laws.

(n) A comparison in each school district that has a charter school of the pupil dropout rate in the charter schools and in the noncharter schools.

(o) The role and impact of collective bargaining on charter schools.

SEC. 18. The provisions of Sections 1 to 17 of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

SEC. 19. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

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CALIFORNIA LEGISLATURE

1997-98 REGULAR SESSION

ROOM 1997-98 FIRST EXTRAORDINARY SESSION

REF

SUMMARY DIGEST

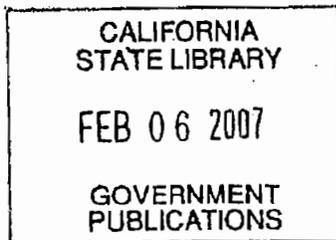
of

Statutes Enacted and Resolutions (Including Proposed
Constitutional Amendments) Adopted in 1998

and

1989-1998 Statutory Record

VOLUME ONE



GREGORY SCHMIDT
Secretary of the Senate

E. DOTSON WILSON
Chief Clerk of the Assembly

Compiled by
BION M. GREGORY
Legislative Counsel

owned, or operated by, a county board of supervisors, unless the standards set forth in this bill are met, and would require that the treatment plan developed pursuant to these provisions be consistent with federal and state medicaid requirements. The bill would provide that nothing in those provisions is intended to alter or abrogate any other requirements of federal or state law with regard to medicaid.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Ch. 32 (AB 546) Floyd. Horse racing: quarter horse breeders.

Existing law defines the term "eligible quarter horse sire" to require that a sire which left the state following a specified date in the year in which a qualifying race was run, must have returned and been present for a specified period of the following year in order for the term to apply.

This bill would instead provide that for the term to apply, the sire must be present in this state for both a specified period in the year of the qualifying race as well as a specified period in the year following that race.

Existing law provides for the division of a portion of moneys deducted from the handle to be deposited with the quarter horse registering agency for the benefit of, and to be paid to, quarter horse breeders, owners, and stallion awards. With regard to breeders, existing law provides that they shall be paid a sum based on a prorated share of first and 2nd place earnings from qualified races by California-bred quarter horses.

This bill would provide that this prorated rate paid to breeders be no less than 10% of the specified earnings, and that if the available pool of funds deposited with the registering agency is insufficient for this purpose, that moneys be taken from the owner and stallion award pools, pursuant to a specified ratio, to make up the difference. The bill would apply earning ceilings to calculations of this breeder premium, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

Ch. 33 (AB 1058) Cardoza. Milk marketing.

Existing law, which is to be repealed on January 1, 1999, prohibits a dairy cow farm that was marketing market milk on August 1, 1996, from marketing manufacturing milk, but permits such a dairy to elect to market manufacturing milk for the 12-month period beginning January 1, 1997, or for the 12-month period beginning January 1, 1998, or for both of those time periods.

This bill would continue that existing law beyond January 1, 1999, by eliminating that repeal date. This bill would also permit a dairy cow farm subject to its provisions to elect annually on January 1 to market manufacturing milk for a 12-month period.

Ch. 34 (AB 544) Lempert. Charter schools.

Existing law, the Charter Schools Act of 1992, permits teachers, parents, pupils, and community members to petition a school district governing board to approve a charter school to operate independently from the existing school district structure as a method of accomplishing, among other things, improved pupil learning.

Existing law, with certain exceptions, establishes the maximum number of charter schools in California at 100 and the maximum number of 10 in any single school district.

This bill would delete this provision, and would instead, establish the statewide maximum at 250 charter schools for the 1998-99 school year with an additional 100 charter schools per school year thereafter.

The bill would require the Legislative Analyst to contract for an evaluation and to report to the Legislature and the Governor by July 1, 2003, regarding the effectiveness of the charter school approach.

This bill would preclude receipt of public funds by a charter school if the pupil also attends a private school that charges the family for tuition, and would authorize the State Board of Education to adopt implementing regulations.

NOTE: Superior numbers appear as a separate section at the end of the digests.

This bill would provide that a charter school may elect to operate as a nonprofit public benefit corporation and would entitle the school district that grants the charter to have one representative on the board of directors of the nonprofit public benefit corporation.

Existing law permits a petitioner to submit for the approval of the governing board of a school district, a petition for the establishment of a charter school after the petition has been signed by at least 10% of the teachers currently employed in the district, or by at least 50% of the teachers currently employed at one school of the district and establishes a process for review of a denial of the petition, including, but not limited to, the convening of a review panel, and the granting of the charter by the county board of education.

This bill would delete these provisions and would, instead, authorize the submission of a petition after the petition has been signed by a number of parents or guardians of pupils equal to at least $\frac{1}{2}$ of the pupils that the charter school estimates it will enroll in its first year, or after the petition has been signed by a number of teachers equal to at least $\frac{1}{2}$ of the number of teachers that the charter school estimates will be employed at the charter school during its first year. In the case of petitions for establishment of a charter school by converting an existing public school, the bill would permit filing of the petition after the petition has been signed by at least 50% of the permanent status teachers currently employed at the public school to be converted.

This bill would authorize the State Board of Education to grant a charter for the establishment of a charter school. This bill would permit the petitioner to elect to file the petition with either the county board of education or directly with the State Board of Education, and in the case of a denial by the county board of education, the bill would permit petitioners to file with the State Board of Education. The bill would permit the State Board of Education to, by mutual agreement, designate a local educational agency to perform the State Board of Education's supervisory and oversight responsibilities as a chartering agency, and would grant the local educational agency all related powers, excluding the power of revocation of the charter.

This bill would authorize the State Board of Education to take action, including, but not limited to, revocation of the charter if, based upon the recommendation of the Superintendent of Public Instruction the State Board of Education makes certain findings relating to, financial mismanagement, illegal or improper use of funds, or substantial and sustained departure from measurably successful practice.

This bill would require that teachers in charter schools be required to hold a Commission on Teacher Credentialing certificate, permit, or other document equivalent to that which a public school teacher would be required to hold.

Existing law requires a charter school to comply with its charter but generally exempts it from all laws governing school districts, with certain exceptions relating to the State Teachers' Retirement System and the Charter School Revolving Loan Fund.

This bill would add all laws establishing a minimum age for public school attendance to the provisions from which a charter school is not exempt.

Existing law requires the Superintendent of Public Instruction to make certain apportionments to each charter school for each fiscal year.

This bill would require that, only upon adoption of implementing regulations, charter school operational funding, as defined, be equal to the total funding that would be available to a similar school district, as defined, serving a similar pupil population, and would require the State Department of Education to propose, and the State Board of Education to adopt, implementing regulations. The bill would, with certain exceptions, permit a chartering agency to charge up to a 1% charge for actual costs of oversight, or up to 3% for these costs if the chartering agency provides substantially rent free facilities to the charter school, or if the agency is a designated local education agency in the case of charters granted by the State Board of Education.

This bill would require a charter school to admit all pupils, would provide for a selection by random drawing in cases where the demand exceeds the capacity and would require that certain preferences be given in the case of pupils currently in the charter school. The bill would preclude the generating of average daily attendance in a charter school by a pupil who is not a resident of California. The bill would require a pupil over 19 to be continuously enrolled in public school and make satisfactory progress towards a high school diploma in order to remain eligible for generating charter school

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apportionments, and would require the State Board of Education to adopt implementing regulations by January 1, 2000.

By requiring local agencies to perform these additional duties relating to the formation, monitoring, and administration of charter school, this bill would impose a state-mandated local program.

The bill would declare that certain of its provisions are severable if held invalid, and would make conforming changes and other changes of a technical, nonsubstantive nature.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Ch. 35 (SB 147) Kopp. Local agency borrowing.

Under the Marks-Roos Local Bond Pooling Act of 1985, a joint exercise of powers authority may issue bonds to assist local agencies in financing public capital improvements, working capital, liability or other insurance needs, or projects whenever there are significant public benefits for taking that action.

This bill would provide that an authority, with certain exceptions, may not issue bonds to construct, acquire, or finance a public capital improvement unless (a) the authority reasonably expects on the date of issuance of the bonds that the public capital improvement is to be located within the geographic boundaries of one or more members of the authority that is not itself an authority; and (b) a member of the authority within whose boundaries the public capital improvement is to be located has approved the public capital improvement and has made a finding of significant public benefit after a public hearing.

Ch. 36 (SB 411) Peace. Residential care.

Existing law provides for the licensure and regulation of community care facilities and residential care facilities for the elderly by the State Department of Social Services. Existing law requires that, prior to employment, an administrator of an adult residential care facility or a residential care facility for the elderly successfully complete a department approved certification program in accordance with specific requirements for each type of facility.

Under existing law, an administrator of an adult residential care facility or residential care facility for the elderly is required to be recertified every 2 years, on the anniversary date of recertification.

This bill would require an administrator of either of these types of facilities who is initially certified on or after January 1, 1999, to irrevocably elect, at the time of initial certification, to have his or her recertification date, for any subsequent recertification, either on the date 2 years from the date of issuance of the certificate or on the individual's birthday during the 2nd calendar year following certification.

Ch. 37 (AB 1207) Committee on Labor and Employment. Wages of motion picture employees.

Under existing law, an employer who lays off a group of employees engaged in the production of motion pictures whose unusual or uncertain terms of employment require special computation in order to ascertain the amount due, is deemed to have made immediate payment of wages due if the employees are paid within the reasonable time necessary for computation or payment, not exceeding 24 hours.

This bill instead would provide that an employer who lays off one of those type of employees is deemed to have made immediate payment of wages if the wages of the employee are paid by the next regular payday following the layoff, as prescribed. The bill also would provide that if an employee is discharged, payment of wages is required to be made within 24 hours after discharge, as specified.

NOTE: Superior numbers appear as a separate section at the end of the digests.

PROOF OF SERVICE

STATE OF CALIFORNIA)
) ss.
COUNTY OF LOS ANGELES)

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action; my business address is: 301 East Ocean Boulevard, Suite 1750, Long Beach, CA 90802.

On the date set forth below I served the foregoing document described as **RESPONDENT’S MOTION TO TAKE JUDICIAL NOTICE; MEMORANDUM OF POINTS AND AUTHORITIES AND DECLARATION IN SUPPORT THEREOF** on interested parties in this action by placing true copies thereof enclosed in sealed envelopes addressed as follows:

1 Copy:
Jesus Quinonez
John Kim
Holguin, Garfield, Martinez &
Quinonez, APLC
800 West Sixth Street, Suite 950
Los Angeles, CA 90017
Telephone: (213) 623-0170
Facsimile: (213) 623-0171

1 Copy:
Clerk
California Court of Appeal
Second Appellate District
300 South Spring Street
Los Angeles, CA 90012

1 Copy:
Honorable Mary Ann Murphy
Los Angeles Superior Court, Central
District
111 N. Hill Street
Los Angeles, CA 90012

1 Copy:
Clerk
Los Angeles Superior Court,
Central District
111 N. Hill Street
Los Angeles, CA 90012

(VIA U.S. MAIL) I caused such document to be placed in the U.S. Mail at Long Beach, California with postage thereon fully prepaid.

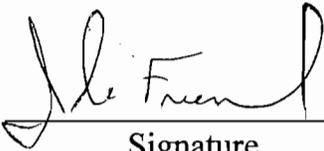
I am “readily familiar” with the firm’s practice of collection and processing correspondence for mailing. It is deposited with the U.S. Postal Service on that same day in the ordinary course of business. I am aware that on motion of party served, service is presumed invalid

if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

(STATE) I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on July 22, 2010 at Long Beach, California.

Ila Friend
Type or Print Name


Signature

