

SACRAMENTO REPORT

July 24, 2019

SUMMER RECESS BRINGS LEGISLATIVE DEADLINE

Friday, July 12th was the deadline for policy committees in both houses of the Legislature to meet and act on bills. Any bill that has not moved through its policy committee is now effectively dead for the year. In addition to the policy committee deadline, Friday was the beginning of summer recess for the Legislature. Upon returning from recess on August 12, the Legislature will only have four weeks to conclude business for the year.

There were two highly contested education bills heard before the deadline, and both of them were passed from committee. AB 1505 (O'Donnell), which seeks to reform charter school law, was moved from the Senate Education Committee by a vote of 4 to 3. SB 328 (Portantino), the bill to prohibit high schools from starting before 8:30 a.m. and middle schools from starting before 8:00 a.m., passed out the Assembly Education Committee on a 4-1-2 vote. Below is a quick recap of the debates and bill amendments that occurred last week.

AB 1505 (O'Donnell) – Charter School Reform

Amendments to the Bill

This bill was significantly amended just days prior to the Senate Education Committee hearing to reflect negotiations between the Governor's Administration, the California Teacher Association (CTA), and the California Charter Schools Association (CCSA). It is a stark contrast from the version that passed out of the Assembly a few weeks ago.

The most significant changes effectively remove the recasting of the charter school approval and appeals process. Under the prior version of the bill, locally elected school boards had the final say in the charter authorization process. The local school board was to approve or deny the charter school petition for any reason, the key phrase stating that school boards "may" authorize a charter school, vs. "shall" approve a petition, unless specified conditions existed. If the petition was denied, the petitioners could appeal to the county board of education, but only for an administrative review of the local school board's action to ensure that the local board followed lawful due process. The appeal process to the State Board of Education was eliminated.

Under the version of the bill that was passed last week, however, the amended bill effectively leaves most of the current law unchanged regarding the initial approval and appeals process. Local boards are required to approve a petition unless they make specific findings, such as a negative fiscal impact. The county board of education and SBE appeal options remain, with some important changes. Of particular interest to county offices, the bill states that any appeal submitted to the county office containing new or different "material terms" shall be remanded back to the denying school district for reconsideration within 30 days. This procedure will be in effect for appeals to the SBE as well. If the appeal is ultimately heard by the SBE, the SBE may reverse the determination of the county board of education upon a determination that there was an abuse of discretion. If the denial of a charter petition is reversed by the SBE, the county board of education shall become the chartering authority.

The bill also adds a determination of "negative fiscal impact" as an initial reason for denial of a charter school petition if it would "substantially undermine" the district's services. However, this determination, like all other findings in a petition denial, can be overturned on appeal. There are a few instances where a fiscal impact denial is taken out of the political appeals process, which is of importance to

county offices of education. If a school district has a “qualified” budget certification with the county office of education and (a) the COE determines that approving the charter school would push the district into a “negative” certification, and (b) that determination is verified by the Fiscal Crisis and Management Assistance Team (FCMAT), then the denial for fiscal impact is not subject to an appeal. This is also true of districts in negative certification and those with a state administrator.

While these are some of the main changes to the bill, additional substantive amendments were made. We have attached a summary of those changes for further review by the board.

Future of the Bill

The Administration will be negotiating through the summer recess the main contenders in this battle, CTA and CCSA. While many on the school district side think the bill does not reform the petitioning process enough, CTA continues to support the bill. CCSA remains opposed to the bill and is pushing to introduce back more language into the bill. It appears virtually everything is still open to negotiation, including:

- The charter school appeals process
- Teacher credentialing requirements for charter schools
- Academic accountability tied to charter school reauthorization periods
- Fiscal impact as a new reason for denial of a charter petition

Governor Newsom hoped the Charter School Taskforce report facilitated by State Superintendent Tony Thurmond would have provided more clarity regarding how to proceed, but the report did little to guide resolution on the most contentious issues. Instead, Newsom now finds himself as the referee in a fight between CTA and CCSA, two organizations far apart in negotiations and who both have the ability to complicate Newsom’s political future.

CCSA has opened a committee to push a referendum on AB 1505, should it pass in a form they don’t like. Rumors have also circulated that CCSA might consider broader charter school reform at the ballot. Since state referendums are now only permitted on general election ballots, any voter initiative CCSA might push is only logistically possible for November 2020. A charter school initiative on the November 2020 ballot is undesirable for several reasons. Key education stakeholders want to explore a revenue-raising measure for schools and there is need for another state bond on the ballot. All of those efforts will require well-funded campaigns that would only suffer if a fight over charter school policy ended up on the same ballot.

AB 1505 is currently pending before the Senate Appropriations Committee, which has to act on the bill by August 31.

On a further note, AB 1507 (Smith), which eliminates the authorization for a charter school to be located outside the boundaries of their authorizer and allows a nonclassroom-based charter school to establish one resource center within the jurisdiction of the school district where the charter school is located was passed by the Senate Education Committee by a vote of 4 to 3.

START-TIME BILL PASSES OUT OF COMMITTEE

After weeks of speculation around whether or not the Chair of the Assembly Education Committee, Assembly Member Patrick O’Donnell, would set Senator Anthony Portantino’s school start-time bill for hearing, the bill was finally heard on the last day for fiscal bills to pass out of policy committees.

As you know, SB 328 would prohibit high schools from starting before 8:30 a.m. and middle schools from starting before 8:00 a.m. Assembly Member O'Donnell has been a vocal opponent of this effort, voting against a similar bill when it came before him in his committee and on the Assembly floor last session.

After substantive debate, SB 328 passed out the Assembly Education Committee on a 4-1-2 vote. Chair O'Donnell was the only no vote against the bill with Assembly Member Christy Smith and newly appointed Committee member, Assembly Member Tyler Diep, not voting. Assembly Member Diep was appointed to the committee just ahead of Wednesday's hearing, filling the vacancy on the committee left by Assembly Member Brian Maienschein, who was removed from the committee back in February after switching his party affiliation from Republican to Democrat.

OTHER BILLS OF INTEREST

A short recap of other legislation of interest includes:

AB 125 (McCarty) was passed from the Senate Education Committee with a vote of 7 to 0. This bill modifies the state's system and rates for reimbursing subsidized childcare and development programs by creating a more uniform reimbursement system reflecting regional costs of care adjusted for certain factors and subjects the provisions of this bill to the contingent enactment of SB 174.

SB 174 (Leyva), the companion bill referred to above, requires that specified providers of subsidized childcare be reimbursed based upon an updated regional market rate as of January 1, 2021, and establishes the "Quality Counts California Pilot Reimbursement Program," to provide higher reimbursement rates to alternative payment program providers for meeting certain quality standards. The bill is contingent upon the enactment of AB 125 and was passed 7-0 by the Senate Education Committee.

AB 1354 (Gipson) would require COEs to ensure that a student enrolled in a juvenile court school for more than 20 school days has an individualized transition plan and access to specified educational records upon release. It too was passed by unanimous vote by the Senate Education Committee.

AB 1240 (Weber) would require school districts and county boards of education to measure pupil achievement in their respective local control and accountability plans by calculating the percentage of pupils who have successfully completed courses that satisfy the requirements for:

- (1) Entrance to the University of California and the California State University,
- (2) Career technical education sequences or programs of study that align with state board-approved career technical education standards and frameworks, and
- (3) The percentage of pupils who have successfully completed both types of courses described in (1) and (2).

To the extent this bill would impose additional duties on school districts and county boards of education regarding local control and accountability plans, the bill would impose a state-mandated local program. Passed from the Senate Education Committee, 7 to 0.