

SA2005RF0018

January 10, 2005

**VIA PERSONAL DELIVERY**

The Honorable Bill Lockyer  
Attorney General  
1300 I Street  
Sacramento, CA 95814

Re: Request for Title and Summary- Initiative Statutory Amendment

Dear Mr. Lockyer:

Pursuant to Article II, Section 10(d) of the California Constitution and Section 9002 of the Elections Code, I hereby request that a title and summary be prepared for the attached initiative statutory amendment. Enclosed is a check for \$200.00. My residence address is attached.

Thank you for your assistance.

Sincerely,

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Bonnie Garcia, Proponent

Enclosure: Proposed Initiative

**RECEIVED**  
JAN 10 2005

INITIATIVE COORDINATOR  
ATTORNEY GENERAL'S OFFICE

**SECTION 1. Title**

This measure shall be known as the "Fairness for Public Charter Schools Act"

**SECTION 2. Findings and Declarations**

(a) The California Charter Schools Act was enacted in 1992 to improve pupil learning, encourage the use of innovative teaching methods, create new professional opportunities for teachers, and expand public education choices for parents and pupils by establishing schools that operate independently from the existing school district structure.

(b) Public charter schools are held accountable for meeting measurable academic pupil outcomes in exchange for flexibility.

(c) Charter schools are independent public schools that give teachers and the local community, rather than the bureaucracy, flexibility in deciding their own curriculum, staffing and budgets with the goal of improving student achievement.

(d) The non-partisan California Legislative Analyst has determined that "charter schools are a viable reform strategy—expanding families' choices, encouraging parental involvement, increasing teacher satisfaction, enhancing principals' control over school-site decision making, and broadening the curriculum without sacrificing time spent on core subjects."

(e) The non-partisan California Legislative Analyst has found public charter schools to be "cost effective," because they devote a larger portion of their money to direct classroom instruction.

(f) In 1996 the Legislature authorized and appropriated funding for a neutral evaluation of the charter school approach. The neutral evaluation, conducted by the RAND Corporation, under the supervision of the Legislative Analyst, concluded that public charter schools are a viable reform strategy.

(g) Spending more money on classroom instruction rather than on administration costs can be advanced by increasing the number of public charter schools in California. This can be accomplished by authorizing public and non-profit entities to create and operate public charter schools and by providing equitable funding and facilities access for public charter schools.

**SECTION 3. Independent Authorizers**

Education Code Section 47605.9 is added to read:

47605.9. (a) The State Board of Education shall enact regulations within one year of the passage of this measure to create a system that approves qualified public entities and non-profit

entities to authorize and oversee the creation and operation of charter schools. The regulations shall be developed and implemented with the clear intent and purpose of expanding charter school opportunities throughout the state. The regulations shall establish a process for evaluation and approval of chartering authorizers by the state board.

(b) The state board shall approve the chartering authority of any entity that provides a viable plan for the approval and oversight of public charter schools. At a minimum, a viable plan shall include:

(1) A description of the governance and administrative structure of the chartering authority. The description shall include the qualifications of those responsible for the approval and oversight of charter schools. Those persons shall demonstrate the experience and skills necessary to approve and oversee public charter schools.

(2) A description of the process the chartering authority will use to approve and oversee charter schools, including a staffing plan and budget.

(3) The criteria the chartering authority will use to evaluate a charter petition.

(4) The criteria the chartering authority will use to evaluate a charter school it approves.

(5) A plan for oversight of charter schools that ensures significant involvement of the chartering authority in the oversight of and the assistance to the charter school, including a description of specific oversight activities and the intervals for periodic evaluation of the charter school that meet the requirements of Section 47604.32.

(6) A plan for reporting to the state board and the public about the progress and performance of the pupils at each charter schools the entity authorizes.

(c) Each chartering authority approved pursuant to this section is responsible for supervising and overseeing each charter school that it approves in accordance with laws applicable to other chartering authorities in the state. Each charter school approved pursuant to this section shall provide its chartering authority with funding for supervisorial oversight in accordance with subdivision (c) of Section 47613.

(d) Charter schools created and operated pursuant to a charter granted by a public entity or non-profit entity, as authorized herein, shall be subject to all provisions of law otherwise applicable to charter schools, and eligible for all funding and grants available to other charter schools. A charter school approved pursuant to this section shall be funded pursuant to Chapter 6 (commencing with Section 47630) and shall receive its funding directly from the state.

(e) Notwithstanding subdivision (d), the Board may determine that some provisions otherwise applicable to the creation and operation of charter schools unreasonably impede the creation and operation of charter schools pursuant to this section and, to that extent, regulations adopted by

the Board pursuant to this section may relieve public entities, non-profit entities and charter schools of these impediments.

(f) An existing charter school may seek renewal or approval of its charter by an entity authorized pursuant to this section.

(g) Charter schools created and operated under this section shall be considered under the control of the public school system.

(h) For purposes of this section, the Board may, by regulation, conclude that each campus of a school system, including, but not limited to, the University of California, is a separate entity.

(i) This Section shall not be interpreted to impair or affect Section 47605.8.

#### **SECTION 4: Charter Renewals**

Education Code Section 47607 is amended to read:

47607. 1 (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 to fifteen 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) Commencing on January 1, 2005, or after a charter school has been in operation for four years, whichever is later, a charter school shall meet at least one of the following criteria prior to receiving a charter renewal pursuant to paragraph (1) of subdivision (a):

(1) Attained its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years.

(2) Ranked in deciles 4 to 10, inclusive, on the API in the prior year or in two of the last three years.

(3) Ranked in deciles 4 to 10, inclusive, on the API for a demographically comparable school in the prior year or in two of the last three years.

(4)(A) The entity that granted the charter determines that the academic performance of the

charter school is at least equal to the academic performance of the public schools that the charter school pupils would otherwise have been required to attend, as well as the academic performance of the schools in the school district in which the charter school is located, taking into account the composition of the pupil population that is served at the charter school.

(B) The determination made pursuant to this paragraph shall be based upon all of the following:

(i) Documented and clear and convincing data.

(ii) Pupil achievement data from assessments, including, but not limited to, the Standardized Testing and Reporting Program established by Article 4 (commencing with Section 60640) for demographically similar pupil populations in the comparison schools.

(iii) Information submitted by the charter school.

(C) A chartering authority shall submit to the Superintendent of Public Instruction copies of supporting documentation and a written summary of the basis for any determination made pursuant to this paragraph. The Superintendent of Public Instruction shall review the materials and make recommendations to the chartering authority based on that review. The review may be the basis for a recommendation made pursuant to Section 47604.5.

(D) A charter renewal may not be granted to a charter school prior to 30 days after that charter school submits materials pursuant to this paragraph.

(5) Has qualified for an alternative accountability system pursuant to subdivision (h) of Section 52052.

(c) 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.

(d) 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. § 47607. Period of charter; Renewals and revisions;

Criteria for renewal; Grounds for revocation; Notice and opportunity to cure violation

## **SECTION 5. Facility Grants.**

Education Code Section 47614.5.1 is added to read:

47614.5.1. (a) Notwithstanding the provisions of Education Code section 47614.5, the annual budget act shall include an appropriation sufficient to fund no less than 80% of the annual lease cost for charter school facility grants specified in Education Section 47614.5. No money appropriated for this purpose shall be deducted from other monies received by other charter schools. It is the intent of the people that the money authorized for this section augment existing charter schools revenue and that receipt of this money not reduce other money charter schools otherwise receive.

(b) Notwithstanding the provisions of Education Code Section 47614.5, any charter school that enrolls no less than 50% of its enrollment in students who are eligible for free or reduced price meals, or is located within the attending area of a non-charter public elementary school that has 50% students who are eligible for free or reduced price meals, shall be eligible for the lease reimbursement pursuant to subdivision (a) above.

(c) The Program created by Section 47614.5 may be modified by subsequent legislation but only to expand the Program or otherwise promote the purpose of providing decent facilities for charter schools.

(d) The principal purpose of the Program is to provide stable funding and decent facilities for charter schools that operate in low or moderate income areas or serve students from the same areas.

## **SECTION 6. Facility Dispute Resolution**

Education Code Section 47614.1 is added to read:

47614.1. (a) A dispute between a charter school and school district regarding section 47614, or related regulations, may be submitted to binding arbitration by either party. To the maximum extent practicable, a decision shall be rendered promptly to minimize disruption of charter schools.

(b) The State Board of Education shall adopt regulations to implement this section.

## **SECTION 7. Conflicting Ballot Measures**

In the event that this measure and another measure or measures relating to the authorization and funding of charter schools shall appear on the same statewide election ballot, the provisions of the other measures shall be deemed to be in conflict with this measure. In the event that this measure shall receive a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety, and the provisions of the other measures shall be null and void.

## **SECTION 8. Severability**

If any provisions of this act, or part thereof, are for any reason held to be invalid or unconstitutional, the remaining provisions shall not be affected, but shall remain in full force and effect, and to this end the provisions are severable.

## **SECTION 9. Amendment**

This measure may only be amended to further its purposes by a bill passed by a two-thirds vote of the membership of both houses of the Legislature and signed by the Governor, provided that at least 14 days prior to passage in each house, copies of the bill in final form shall be made available by the clerk of each house to the public and the news media.