

2023-2024 Budget Trailer Bill Analysis

An apparent 2023-24 state budget accord surfaced Saturday evening, including caustic, anti-charter provisions that are entirely new and had never been previously discussed in the months of deliberations. These surprise provisions are especially shocking given they presumably reflect a deal between the Legislature and governor to adopt a budget just prior to the start of the fiscal year and are not likely to be amended.

The trailer bill does contain one, modestly-helpful provision that would extend the terms of most existing charters by one year. Budget legislation in 2021 had extended charter terms by two years due to the absence of student testing data and the pandemic. With that extension expiring, and effects of the pandemic lingering, charter advocates have asked for an additional two-year extension. The proposed trailer bill language, however, calls for only a single year extension.

The new, anti-charter provisions include the following:

1. Redefining “abuse of discretion” in favor of district/county boards.

In the context of appeal for new schools and charter renewals, the bill redefines this key standard as “the most deferential standard of review” in favor of school district and county boards of education. Under this revised standard, “the state board [of education] must give deference to the decisions of the governing board of the school district and the county board of education to deny the petition.”

Assembly Bill 1505 of 2019 (a major piece of anti-charter legislation) sharply undermined the appeal process by shifting from the prior “*de novo*” standard of review for appeals wherein the State Board of Education would consider an appeal on its own merits, without regard to the school district’s or county board’s denial, and instead call for an “abuse of discretion” standard of review. AB 1505, however, did not contain a specific definition of “abuse of discretion.” The “surprise” trailer bill language would impose a sharply anti-charter definition, perhaps making it nearly impossible to succeed in an appeal of a local denial.

2. Restricting appeals to only when both the district and county board of education abuse their discretion.

Current law is silent as to whether an abuse of discretion must occur at both local levels for the State Board of Education to hear an appeal. California Department of Education attorneys have asserted that abuses must occur at both the district and county levels if charter petitioners want to appeal to the State Board, but have struggled to articulate any legal reasoning to support this assertion. This provision also would increase the difficulty of appealing a denial of a new or renewal charter to the State Board.

3. Extending the moratorium on new, nonclassroom-based charter schools.

The trailer bill would, for the second time, extend the moratorium. The original moratorium was set to expire in January of 2023 until last summer's budget trailer bill extended it until 2025. The new trailer bill proposal would extend it another year until 2026.

4. Mandating study of nonclassroom-based charter school funding.

The new trailer bill calls for the Office of the Legislative Analyst (LAO) and the Fiscal Crisis Management Assistance Team (FCMAT) to “study the processes used to determine funding for nonclassroom-based charter schools.” They are to “identify and make recommendations on potential improvements to the processes, including recommendations for enhancing oversight and reducing fraud, waste, and abuse. The study is to be completed to report to the Legislature by March 1, 2024—a very short turnaround relative to similar studies in the past.

Contact your State Senator and Assemblymember Today!

CSDC believes that these provisions would be extremely detrimental to the interests of charter schools. The amendments to the appeal standards in particular could eviscerate the already-compromised appeal process, negatively impacting all charter schools when they undergo renewal, seek to expand to new sites, and for petitions to establish new charter schools.

If you and your schools share our concerns, now is the time to act. The Legislature is moving rapidly to adopt the budget package. Take action NOW!

1. SEND AN EMAIL

[Click here](#) to use CSDC's automated tool to quickly email your State Senator and Assemblymember.

2. TESTIFY via PHONE

Call into the committee hearing on Monday, June 25, 2023:

- 11:00AM [Assembly Budget Committee](#)
- 3:00PM [Senate Budget Committee](#)
- Click on the above links for information on how you can phone-in to express your opposition to the anti-charter “surprises.”

CSDC is reviewing the other provisions of the budget package and will provide a comprehensive update after the Legislature and governor take official action to approve it.

Questions? Contact Eric Premack epremack@chartercenter.org