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AB-406 Charter schools: operation. (2017-2018)

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Assembly Bill No. 406

CHAPTER 291

An act to amend, repeal, and add Section 47604 of the Education Code, relating to charter schools.

[Approved by Governor September 07, 2018. Filed with Secretary of State September 07, 2018.]

LEGISLATIVE COUNSEL'S DIGEST

AB 406, McCarty. Charter schools: operation.

The Charter Schools Act of 1992 provides for the establishment and operation of a charter school and authorizes a charter school to elect to operate as, or be operated by, a nonprofit public benefit corporation, as specified.

This bill, on and after July 1, 2019, would prohibit a petitioner that submits a charter petition for the establishment of a charter school or a charter school that submits a charter renewal or material revision application from operating as, or being operated by, as defined, a for-profit corporation, a for-profit educational management organization, or a for-profit charter management organization.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 47604 of the Education Code is amended 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) An authority that grants a charter to a charter school to be operated by, or as, a nonprofit public benefit corporation is not liable for the debts or obligations of the charter school, or for claims arising from the performance of acts, errors, or omissions by the charter school, if the authority has complied with all oversight responsibilities required by law, including, but not limited to, those required by Section 47604.32 and subdivision (m) of Section 47605.

(d) This section shall remain in effect only until July 1, 2019, and as of that date is repealed.

SEC. 2. Section 47604 is added to the Education Code, to read:

47604. (a) A charter school 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) (1) On and after July 1, 2019, a petitioner that submits a charter petition or a charter school that submits a charter renewal or material revision application shall not operate as, or be operated by, a for-profit corporation, a for-profit educational management organization, or a for-profit charter management organization. For purposes of this section, a for-profit educational management organization and a for-profit charter management organization are entities that manage or operate a charter school.

(2) (A) "Operate as, or be operated by," as referenced in paragraph (1), means services provided by a for-profit corporation to a charter school that include any of the following:

(i) Nominating, appointing, or removing board members or officers of the charter school.

(ii) Employing, supervising, or dismissing employees of the charter school, including certificated and noncertificated school personnel.

(iii) Managing the charter school's day-to-day operations as its administrative manager.

(iv) Approving, denying, or managing the budget or any expenditures of the charter school that are not authorized by the governing body of the charter school.

(v) Providing services to a charter school before the governing body of the charter school has approved the contract for those services at a publicly noticed meeting.

(B) A charter school shall not enter into a subcontract to avoid the requirements of this paragraph.

(c) A chartering authority that grants a charter to a charter school to be operated as or by a nonprofit public benefit corporation shall be entitled to a single representative on the board of directors of the nonprofit public benefit corporation.

(d) A chartering authority that grants a charter to a charter school to be operated as or by a nonprofit public benefit corporation is not liable for the debts or obligations of the charter school or for claims arising from the performance of acts, errors, or omissions by the charter school if the chartering authority has complied with all oversight responsibilities required by law, including, but not limited to, those required by Section 47604.32 and subdivision (m) of Section 47605.

(e) This section shall become operative on July 1, 2019.