

Assembly Bill No. 709

Passed the Assembly August 24, 2016

Chief Clerk of the Assembly

Passed the Senate August 19, 2016

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2016, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 47604.1 to the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 709, Gipson. Charter schools.

(1) The Ralph M. Brown Act requires that all meetings of a legislative body, as defined, of a local agency be open and public and all persons be permitted to attend unless a closed session is authorized. The Bagley-Keene Open Meeting Act requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend.

This bill would expressly state that a charter school is subject to the Ralph M. Brown Act, unless it is operated by an entity governed by the Bagley-Keene Open Meeting Act, in which case the charter school would be subject to the Bagley-Keene Open Meeting Act.

(2) The California Public Records Act requires state and local agencies to make their records available for public inspection and to make copies available upon request and payment of a fee unless the records are exempt from disclosure.

This bill would expressly state that a charter school is subject to the California Public Records Act, except as provided for certain charter schools located on federally recognized California Indian reservations or rancherias. For those charter schools, this bill would require each charter school's chartering authority to execute California Public Records Act requests made to the charter school, as provided. To the extent these provisions would impose new duties on local educational agencies, this bill would impose a state-mandated local program.

(3) Existing law prohibits certain public officials, including, but not limited to, state, county, or district officers or employees, from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members, except as provided.

This bill would expressly state that a charter school is subject to these provisions, except that the bill would provide that an

employee of a charter school is not disqualified from serving as such a member of the governing body of the charter school because of that employment status. The bill also would require such a member of the governing body of a charter school to abstain from voting on, or influencing or attempting to influence another member of that body concerning, any matter affecting his or her own employment.

(4) The Political Reform Act of 1974 requires every state agency and local governmental agency to adopt a conflict-of-interest code, formulated at the most decentralized level possible, that requires designated employees of the agency to file statements of economic interest disclosing any investments, business positions, interests in real property, or sources of income that may foreseeably be affected materially by any governmental decision made or participated in by the designated employee by virtue of his or her position.

This bill would expressly state that a charter school is subject to the Political Reform Act of 1974.

(5) 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, 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.

(6) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

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

SECTION 1. It is the intent of the Legislature in enacting this act to do both of the following:

- (a) Ensure that charter school governance is transparent.
- (b) Ensure that monitoring and oversight of charter schools are conducted to protect the public interest.

SEC. 2. Section 47604.1 is added to the Education Code, to read:

47604.1. (a) A charter school is subject to all of the following:

(1) The Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code), except that a charter school operated by an entity governed by the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) is subject to the Bagley-Keene Open Meeting Act regardless of the authorizing entity.

(2) (A) The California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code).

(B) Notwithstanding any other law, a public records request made to a charter school that meets the criteria specified in clauses (i) and (ii) shall be executed by the chartering authority. In order for the chartering authority to meet the public records request, the charter school shall provide all relevant documentation to the chartering authority for the purpose of meeting the public records request.

(i) The charter school is located on a federally recognized California Indian reservation or rancheria.

(ii) The charter school is operated by a nonprofit public benefit corporation that was formed on or before May 31, 2002, and is currently operated by a federally recognized California Indian tribe.

(3) Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code.

(4) The Political Reform Act of 1974 (Title 9 (commencing with Section 81000) of the Government Code). For purposes of Section 87300 of the Government Code, a charter school shall be considered an agency.

(b) Notwithstanding Article 4 (commencing with Section 1090) of Chapter 1 of Division 4 of Title 1 of the Government Code, an employee of a charter school is not disqualified because of that employment status from also serving as a member of the governing body of the charter school. Such a member of the governing body of a charter school shall abstain from voting on, or influencing or attempting to influence another member of the governing body

concerning, all matters uniquely affecting his or her own employment.

SEC. 3. 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.

SEC. 4. The Legislature finds and declares that Section 2 of this act, which adds Section 47604.1 to the Education Code, imposes a limitation on the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

In order to protect tribal sovereignty, it is necessary for the chartering authority of some charter schools located on federally recognized California Indian reservations or rancherias to execute public records requests made to those charter schools.

Approved _____, 2016

Governor