AMENDED IN SENATE JUNE 26, 2012

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY APRIL 11, 2012

AMENDED IN ASSEMBLY MARCH 29, 2012

AMENDED IN ASSEMBLY MARCH 13, 2012

california legislature—2011–12 regular session

ASSEMBLY BILL No. 1576

Introduced by Assembly Member Huber
(Coauthors: Assembly Members Beth Gaines and Williams)
(Coauthor: Senator Gaines)

February 2, 2012

An act to amend, repeal, and add Sections 1042 and 47603 of the Education Code, relating to charter schools.

legislative counsel's digest

AB 1576, as amended, Huber. Charter schools: loans.

(1) Existing law authorizes a county superintendent of schools, with the approval of the county board of education, to temporarily transfer moneys to a school district under specified circumstances.

The Charter Schools Act of 1992 authorizes any one or more persons to submit a petition to the governing board of a school district to establish a charter school that operates independently from the existing school district structure as a method of accomplishing specified goals.

This bill, until July 1, 2017, would authorize a county board of education, subject to the concurrence of the county superintendent of schools, to loan moneys from the proceeds of revenue anticipation notes to a charter school for which the county board of education or the county superintendent of schools has a supervisory responsibility or, regardless of whether the charter school is within or outside of the county, with which a county board of education or county superintendent of schools has a contractual relationship. The bill would require the county superintendent of schools, before the county board of education makes the loan, to take specified actions regarding the advisability of the loan. The bill would provide that any loan of moneys pursuant to these provisions would not constitute a debt or liability for the county superintendent of schools, the county board of education, or the State of California. *The bill would prohibit a charter school from receiving more than one of these loans per fiscal year.*

The bill would require the county board of education, as a condition of making a loan to a charter school, to report to the State Department of Education by September 15 of each prior year specified information on loans made to charter schools within the fiscal year and would require the department to compile that information into one report to be submitted by December 1 of each year to the appropriate policy and fiscal committees of the Legislature, the Department of Finance, and the Legislative Analyst's Office.

(2) Existing law states that existing law governing charter schools does not prohibit a private person or organization from providing funding or other assistance to the establishment or operation of a charter school.

This bill, until July 1, 2017, would authorize a charter school to contract with a county superintendent of schools or a county board of education for purposes of borrowing moneys, as described above. The bill would require the borrowed moneys to be expended by a charter school solely for purposes of meeting the cash management needs of the charter school due to the deferral of apportionment payments and not for purposes of making capital acquisitions.

(3) This bill also would make nonsubstantive changes to these provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

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

SECTION 1. Section 1042 of the Education Code is amended to read:

1042. County boards of education may do all of the following:

(a) Adopt rules and regulations governing the administration of the office of the county superintendent of schools.

(b) Review the county superintendent of schools annual itemized estimate of anticipated revenue and expenditures before the annual itemized estimate is filed with the auditor as required by Section 29040 of the Government Code, and make revisions, reductions, or additions in the annual itemized estimate it deems advisable and proper. An annual itemized estimate shall not be filed by the county superintendent of schools or be approved by the board of supervisors until it has first been so reviewed and approved by the county board of education.

(c) In the name by which the county board of education is designated, acquire, lease, lease-purchase, hold, and convey real property for the purpose of housing the offices and the services of the county superintendent of schools, except that this subdivision shall only apply to the county boards of education to which all or a portion of the duties and functions of the county board of supervisors specified in subdivision (b) of Section 1080 have been transferred, with the exception of the recreational duties and recreational functions specified in subdivisions (c) and (d) of Section 1080.

(d) Contract with and employ any persons for the furnishing to the county board of education of special services and advice in financial, economic, accounting, engineering, legal, or administrative matters if these persons are specially trained and experienced and competent to perform the special services required. The county board of education may pay to these persons from any available funds the compensation that it deems proper for the services rendered.

(e) (1) Notwithstanding Section 25304 of the Government Code, fill by appointment any vacancy that occurs during the term of office of the county superintendent of schools. In a county in which the county superintendent of schools is elected, the appointee shall hold office until the office is filled by election at the next gubernatorial election.

(2) The authority described in this subdivision shall be vested in a county board of education only upon its adoption by the county board of education at a public meeting held pursuant to Article 1 (commencing with Section 1000).

(f) (1) Subject to the concurrence of the county superintendent of schools pursuant to paragraph (3), use and expend moneys, from the proceeds of notes issued pursuant to the authority granted in Article 7.6 (commencing with Section 53850) of Chapter 4 of Part 1 of Division 2 of Title 5 of the Government Code, to make loans to a charter school for which the county board of education or the county superintendent of schools has a supervisory responsibility or, regardless of whether the charter school is within or outside of the county, with which the county board of education or the county superintendent of schools has a contractual relationship pursuant to subdivision (b) of Section 47603. Moneys borrowed by the county board of education for the purpose of making a loan to a charter school shall be payable solely from the funds of the charter school and shall not constitute a debt or liability of the county board of education or the county superintendent of schools, notwithstanding the provisions of Section 53857 of the Government Code, or any other law.

(2) The State of California is not liable for any debt or liability within the meaning of Section 1 of Article XVI of the California Constitution, or otherwise, for loans made pursuant to this subdivision.

(3) Before the county board of education makes a loan pursuant to this subdivision, the county superintendent of schools shall do all of the following:

(A) Advise the chartering authority of the charter school and the county office of education in which the charter school is primarily located that the charter school has requested the loan.

(B) Allow the chartering authority and county office of education to provide input regarding the advisability of making the loan.

(C) Solicit a recommendation from a recognized authority on school district financial management who is not an employee of the county office of education about the advisability of making the loan. The recommendation shall consider the financial condition of the charter school, the level of risk assumed by the county office of education, and the potential impact on the county office of education if the charter school is unable to repay the loan.

(D) Disclose the information received pursuant to subparagraphs (B) and (C) at a regularly scheduled meeting of the county board of education.

(E) Determine whether to concur with the intent of the county board of education to make the loan.

(4) In any fiscal year, a charter school shall not receive more than one loan that is made pursuant to this subdivision.

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(5) (A) As a condition of making a loan to a charter school pursuant to this subdivision, a county board of education shall report to the department by September 15 of each year, the following information on loans made to charter schools within the prior fiscal year:

(i) The name and address of each charter school that received a loan, including the name of the county in which the charter school is located.

(ii) The amount of the loan, including the interest rate, that each charter school received.

(iii) The total amount of money loaned to charter schools by the county board of education.

(iv) The average duration of loans made to charter schools.

(v) The current status of each loan, including whether or not the charter school has repaid the loan.

(B) No later than December 1 of each year, the department shall compile the information reported by the county boards of education pursuant to subparagraph (A) into one report and submit this information to the appropriate policy and fiscal committees of the Legislature, the Department of Finance, and the Legislative Analyst's Office.

(g) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1~~, 20108~~ *2018*, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 2. Section 1042 is added to the Education Code, to read:

1042. County boards of education may do all of the following:

(a) Adopt rules and regulations governing the administration of the office of the county superintendent of schools.

(b) Review the county superintendent of schools annual itemized estimate of anticipated revenue and expenditures before the annual itemized estimate is filed with the auditor as required by Section 29040 of the Government Code, and make revisions, reductions, or additions in the annual itemized estimate it deems advisable and proper. An annual itemized estimate shall not be filed by the county superintendent of schools or be approved by the board of supervisors until it has first been so reviewed and approved by the county board of education.

(c) In the name by which the board of education is designated, acquire, lease, lease-purchase, hold, and convey real property for the purpose of housing the offices and the services of the county superintendent of schools, except that this subdivision shall only apply to the county boards of education to which all or a portion of the duties and functions of the county board of supervisors specified in subdivision (b) of Section 1080 have been transferred, with the exception of the recreational duties and recreational functions specified in subdivisions (c) and (d) of Section 1080.

(d) Contract with and employ any persons for the furnishing to the county board of education of special services and advice in financial, economic, accounting, engineering, legal, or administrative matters if these persons are specially trained and experienced and competent to perform the special services required. The county board of education may pay from any available funds the compensation that it deems proper for the services rendered.

(e) (1) Notwithstanding Section 25304 of the Government Code, fill by appointment any vacancy that occurs during the term of office of the county superintendent of schools. In a county in which the superintendent is elected, the appointee shall hold office until the office is filled by election at the next gubernatorial election.

(2) The authority described in this subdivision shall be vested in a county board of education only upon its adoption by the board at a public meeting held pursuant to Article 1 (commencing with Section 1000).

(f) This section shall become operative on July 1, 2017.

SEC. 3. Section 47603 of the Education Code is amended to read:

47603. (a) This part shall not be construed to prohibit any private person or organization from providing funding or other assistance to the establishment or operation of a charter school.

(b) (1) A charter school may contract with a county superintendent of schools or a county board of education for purposes of borrowing moneys pursuant to subdivision (f) of Section 1042.

(2) Moneys borrowed pursuant to subdivision (f) of Section 1042 shall be expended by a charter school solely for purposes of meeting the cash management needs of the charter school due to the deferral of apportionment payments pursuant to Sections 14041.5, 14041.6, 14041.65, and 14041.7 and pursuant to Sections 16325, 16325.5, and 16326 of the Government Code and shall not be used for purposes of making capital acquisitions.

(c) This section shall become inoperative on July 1, 2017, and, as of January 1, 2018, is repealed, unless a later enacted statute, that becomes operative on or before January 1~~, 20108~~ *2018*, deletes or extends the dates on which it becomes inoperative and is repealed.

SEC. 4. Section 47603 is added to the Education Code, to read:

47603. (a) This part shall not be construed to prohibit any private person or organization from providing funding or other assistance to the establishment or operation of a charter school.

(b) This section shall become operative on July 1, 2017.

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