

**SB 1362 (Beall)**  
**Charter School Petitions: Denial for Negative Fiscal Impact, LAO study of SELPA**  
**OPPOSE**  
**As introduced 2/16/18**

SB 1362 is a direct attack on charter schools at a very basic level. It would virtually stop the growth of charter schools in California and potentially cause the closure of hundreds of successfully operating schools by allowing districts to reject a charter petition for reasons unrelated to the quality of the proposed school. In addition, SB 1362 amends requirements in a charter school petition related to special education services that are unworkable and show a lack of understanding of how special education services are provided in general to students.

**Bill summary:** SB 1362 includes three elements, all of which are harmful to charter schools:

1. Allows local school districts to deny a charter school petition or renewal if it finds that the charter school would create a negative fiscal impact on the district, which shall be established if any one of the following conditions is met:
  - The district has experienced declining pupil enrollment in the proposed authorizing district in the previous 3 years,
  - a charter school petitioner operates a charter school in the district or a neighboring district with the same grade span and has less than 90 percent enrollment that was estimated in their petition, or
  - there is a charter school in the district with a similar academic program with less than 90 percent enrollment than was described in its petition.
2. Requires charter school petitions to state the means by which the charter school will achieve and a balance of pupils receiving special education services, that is reflective of school district to which the charter petition is submitted.
3. Requires the Legislative Analyst's Office to conduct a study of the El Dorado County SELPA and its impact on special education provided to California pupils.

**Opposition to the bill:**

This bill violates the Legislature's clear intent stated in the Charter Schools Act:

*"...charter schools are and should become an integral part of the California educational system and that the establishment of charter schools should be encouraged. The governing board of the school district shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice." (Education Code Section 47605(b))*

1. Denying a charter based on negative fiscal impact to the district:
  - Allows charter schools to be denied or not renewed based on negative fiscal impact on the district, as defined, would result in the denial and closure of hundreds of charter

schools throughout the state. This bill perpetuates the false notion that school funding belongs to the district, rather than the students and that district self-interests are more important than education quality. Education funding follows the student, whether they move to another district within the state or choose to attend a public charter school.

- Under this bill, a community or neighborhood with chronically failing schools could be denied a high quality public charter without any regard to the need in the community or the demand for higher quality schools. A district with poor fiscal management should not be rewarded by being allowed to trap parents and students in low quality schools.
- This bill allows a district to base its decision on the needs of the adults at the central district office, not the students nor the parents who only want the best public school option for their child.
- The Charter Schools Act is crafted purposefully to keep authorizing decisions focused on the quality and viability of the proposed charter. That threshold ensures that a school district is basing its decision on the ability of a charter petitioner to improve pupil learning and increase learning opportunities to provide parents and students with expanded choices in public school educational opportunities.
- There are a variety of reasons why a school district may have declining enrollment that are unrelated to charter schools such as housing costs, cost of living, employment opportunities in the area, etc. Declining enrollment alone is not an indicator of poor fiscal condition and should not be the basis to reject a high quality public school option to students and parents.
- Using enrollment of other charters within the district as a means to deny a charter ignores the practicality of school locations within a district. One slightly under-enrolled charter school located in a remote corner of a district should not be used as a condition to deny parents in other communities within the same district access to a high-quality program.
- The fiscal condition and viability of a charter, including enrollment projections, is already considered in charter approval decisions. It is unnecessary and irrelevant to require consideration of the enrollment of other charters in that evaluation.
- Charter school waiting lists and demand are at an all-time high. Any attempt to limit growth or close high performing charter schools violates the public support for charter schools and moves public education in the wrong direction.

2. Requiring a charter school petition to state how it will achieve a special education balance similar to the district it serves:

- Quality special education service delivery should not be a numbers game. Suggesting quotas of special education students in charter schools would violate the educational rights of students with disabilities and provide incentives to identify students for special education to chase a random target.
- While it may be appropriate to evaluate the effectiveness of charter school outreach to and the quality of services provided for students with special needs, this provision shows a lack of understanding of the special education structure in the state and how and whether charter schools have any control over the placement of special education students.
- Any policy regarding special education in charter schools needs to take into account the two legal options with regards to special education responsibility and funding. Charter

schools that are independent LEAs for special education and have access to special education funds (which is about half of charters in state) have full autonomy and responsibility for placement and services. The percentage of students with disabilities served is very close to statewide averages. For charter schools that are dependent on their authorizing districts for special education, there is no control over special education decisions or enrollment.

- The proportion of students receiving special education services varies widely across districts and between schools within a district. Districts often concentrate their own special education services in a particular location, not evenly across a district.
- Forcing charters to enroll a proportional number of special education students ignores the innovation and alternative interventions that many charters are pioneering on behalf of students with disabilities. Charter should be encouraged to innovate, not be forced back into models of service delivery that are often inadequate and unsuccessful.
- Suggesting a district average is the “right” proportion of special education students for a particular charter school ignores the entire notion of specialized learning and placement for high need students. It also presupposes that districts appropriately identify students; however, wide disparities across identification rates in different districts and disproportionate representation of culturally and linguistically diverse students in special education suggests that it is not the case.

### 3. Study of Charter SELPA:

- Special Education service delivery and financing in California is a significant issue that needs considerable attention. An evaluation of charter school special education delivery should only be approached in the context of a broader look at all of California’s SELPAs to ensure appropriate base of comparison and avoid over isolating concerns with charter systems that may indeed be statewide issues for all SELPAs.
- While we do not oppose an evaluation of the El Dorado Charter SELPA or the successes or challenges of special education service delivery models in California’s charter schools, the description and scope of this study appears very biased. Any study should start with an objective scope and allow the researchers to evaluate both benefits and challenges, rather than assume the conclusion at the onset.
- The questions posed for the LAO seemed singularly focused on fiscal issues and do not consider any analysis of the effectiveness of the SELPA or the quality of services provided. Any evaluation needs to look at both financing models and student outcomes.