K-12 Sector May Be Spared Brunt of State Budget Shortfall

In early January Governor Gray Davis announced his proposed state budget for the upcoming 2002-03 fiscal year. The good news is that charter schools, along with the rest of the K-12 system, would receive a modest cost-of-living adjustment and would be spared from major cuts. The bad news is that the governor is proposing further reductions in charter schools’ expenditure flexibility by requiring charter schools to spend state instructional materials funding on state-adopted texts.

Despite a potential state budget shortfall of $12 billion or more, the governor is proposing to increase overall K-12 funding and “balance” the state’s budget through a far-ranging mix of spending cuts, tax increases, and budgetary “tricks.” The governor also proposes to cut funding for all “Independent Study” programs by 10 percent. The following provides a brief summary of our latest estimates in charter school funding rates for both the current and upcoming fiscal years.

Current year cuts

As noted in the Fall 2001 issue of Charter Currents (see the CSDC website under “News”), Governor Davis proposed cutting a number of funding sources from the current year (2001-02) state budget and called a special session of the legislature to consider the cuts. The legislature recently enacted most, but not all, of the governor’s proposals in two special session bills that the governor recently signed into law.

The major, current-year (fiscal year 2001-02) charter school-related items addressed by the legislature’s recent actions include the following:

- Cutting charter school facilities funding (SB 740) in half, from $10 million to $5 million. Contrary to rumors, the California Department of Education has not yet begun to allocate these funds, and we anticipate that the funds may not be distributed until after the close of the fiscal year. It is unknown whether the $5 million (or the original $10 million for that matter) will be
sufficient to fund all eligible charter schools’ facilities entitlements.

• Cutting one-time “energy grant” funding from $250 million to $75 million, but not eliminating it as the governor had proposed. The enabling legislation states that each qualifying school will be eligible for an energy grant of at least $3,750 (down from the previous minimum of $14,000). Large schools will be funded above the minimum level, based on average daily attendance. The California Department of Education does not anticipate beginning the apportionment process until after March and has no current estimates of the per-ADA funding rate. To qualify for the funds, charter schools must have enrolled students for the entire 2000-01 school year, and their governing boards must pass a board resolution containing specific energy saving measures. For a sample resolution, call CSDC.

• Cutting funding for new high-tech high schools from $10 million to $6 million.

• Maintaining funding for equalization and pension system “offset” (a.k.a. “PERS reduction”) funding in school district general-purpose (“revenue limit”) funding. Maintaining this funding for school districts will result in slightly higher-than-estimated funding rates for charter schools (see below). The legislation states, however, that this funding is “one-time” only and may not continue in the upcoming fiscal year. The reduction in funding has been factored into the estimates for the upcoming year.

More information on these funding sources is available in our Fall 2001 issue of Charter Currents, available online at www.cacharterschools.org under “News.”

CURRENT YEAR BLOCK GRANT ESTIMATES

Due to the legislature’s refusal to cut school district equalization and pension “offset” (“PERS reduction”) funding, we have slightly increased our estimates for charter school funding for the current year. These general purpose funding estimates are subject to additional changes as the California Department of Education gathers and processes actual current-year funding data. In addition, the Department is also re-certifying prior-year (2000-01) revenue limit data, which could also result in changes. Categorical block grant funding for the current year, however, is not anticipated to change, despite recent cuts, because the rates are “locked in” based on data from last May. Our estimates are summarized in the table, below.

<table>
<thead>
<tr>
<th>Estimated Charter School Funding Rates</th>
<th>K-3</th>
<th>4-6</th>
<th>7-8</th>
<th>9-12</th>
</tr>
</thead>
<tbody>
<tr>
<td>General-Purpose Block Grant</td>
<td>$ 4,418</td>
<td>$ 4,478</td>
<td>$ 4,606</td>
<td>$ 5,338</td>
</tr>
<tr>
<td>Categorical Block Grant**</td>
<td>309</td>
<td>317</td>
<td>232</td>
<td>294</td>
</tr>
<tr>
<td>Totals</td>
<td>$ 4,727</td>
<td>$ 4,795</td>
<td>$ 4,838</td>
<td>$ 5,632</td>
</tr>
</tbody>
</table>

*Estimates subject to change
**Estimate not anticipated to change

2002-03 FISCAL YEAR PROPOSALS

COLA “Lite” Despite State Budget Shortfall

General-purpose funding for the upcoming, 2002-03 fiscal year would increase by cost-of-living formulas specified in the Education Code, pursuant to the governor’s proposed budget. Current estimates of the increase are pegged at 2.15 percent. This estimate, however, is very much subject to change and will be revised in May. Funding for the Categorical Block Grant, in contrast, would decrease sharply under the governor’s proposed budget. The decrease is due to the combined effect of (1) expiration of “one-time” funding sources that previously contributed toward the block grant and (2) the governor’s proposed exclusion...
of instructional materials funding. The table below illustrates our current estimates.

<table>
<thead>
<tr>
<th>Estimated Charter School Funding Rate</th>
<th>K-3</th>
<th>4-6</th>
<th>7-8</th>
<th>9-12</th>
</tr>
</thead>
<tbody>
<tr>
<td>General-Purpose Grant (&quot;Revenue Limit&quot;)</td>
<td>$ 4,500</td>
<td>$ 4,561</td>
<td>$ 4,692</td>
<td>$ 5,440</td>
</tr>
<tr>
<td>Categorical Block Grant</td>
<td>278</td>
<td>285</td>
<td>208</td>
<td>264</td>
</tr>
<tr>
<td>Totals</td>
<td>$ 4,778</td>
<td>$ 4,846</td>
<td>$ 4,900</td>
<td>$ 5,704</td>
</tr>
</tbody>
</table>

Funding rates for other major, application-based categorical funding programs would also increase by 2.15 percent, as shown in the following programs and rates, all of which are very much subject to change:

- Grades K-3 Class Size Reduction—$907 per eligible enrolled student
- “In-Lieu” Economic Impact Aid—$95 per eligible student
- Staff Development “Buy Out”—$299.72 per day (3 day maximum) for teachers, $155.40 per day (1 day maximum) for classroom aides

Governor Proposes Charters “Apply and Comply” for Instructional Materials Funds

The governor is proposing to “sunset” several existing instructional materials and library funding programs and create four new ones. Specifically, the governor proposes eliminating the existing K-8, 9-12, Shiff-Bustamante, and library materials programs. Under current law, charter schools receive funding from most of these programs through the “no strings attached” categorical block grant. (The library materials programs are an exception due to a drafting error that inadvertently excluded them from the block grant—an error that was never fixed.)

The governor instead proposes that the state fund four instructional materials programs in the upcoming year:

- $200 million in “one-time” funding for reading texts
- $100 million in “one-time” library materials funding
- $75 million in one-time funding for science materials
- $250 million in ongoing funding for instructional materials

Instead of receiving funding for most instructional materials via the block grant, the governor proposes requiring charters to apply separately for funding from each program and comply with associated “red tape.” To receive funding from the ongoing $250 million instructional materials program, for example, charter schools would need to certify that they had purchased state-adopted reading/language arts textbooks. Such a requirement would represent further departure from the charter school categorical block grant concept and could prove very costly for those charter schools that desire to use alternative instructional materials or approaches. Department of Finance staff indicate that this proposal reflects the Department’s policy of requiring charter schools to comply with laws and regulations governing all new categorical programs.

More Sniping at Independent Study

Governor Davis also proposes cutting funding for independent study programs, both district-run and charter ones, by 10 percent. Department of Finance staff indicate that the governor believes that independent study programs are cheaper to operate than more traditional, classroom-based ones and therefore deserve less funding.

Unlike the cuts authorized under SB 740, however, the governor’s proposed cuts for the upcoming year would be mandatory for all independent study schools, (without regard to charter or non-charter status), and there would be no process for schools to apply to receive full funding. Department of Finance staff also noted that the proposed cut would be coordinated with, and not added to, any cuts related to SB 740. As such, all charter independent study programs would be cut by 10 percent. Additional cuts beyond the 10 percent level
would only be imposed if the cuts from the SB 740-authorized review were recommended in excess of the 10 percent level. Thus, there would be no “double cuts” for charter schools, but charter schools could be subject to deeper cuts than similar, non-charter programs if State Board of Education imposed a cut beyond the 10 percent level.

**EDVOICE LOBBIES FOR CHARTER SET-ASIDE IN STATE FACILITIES BOND PROPOSALS**

EdVoice, an education reform lobbying organization co-founded by State Board of Education President Reed Hastings and former Assemblymember Ted Lempert, is proposing to set aside $1 billion of $26 billion in proposed state school facilities bond measures for charter school facilities. The proposed charter set-aside is just one of many major policy issues under discussion in a highly contentious effort to place a series of multi-billion dollar state facilities bonds in front of state voters during upcoming elections.

In its current proposed form (which is subject to the whim of the legislative process), the facilities bond funds set-aside for charters would be allocated in two loan funds:

- **A “deferred” loan fund of $800 million.** State bond funds would be provided “interest free” to fund charter school facilities, and the “loan” would need to be repaid upon disposition of property or dissolution of the charter school. A substantial local match would be required. Of the $800 million in this fund, $500 million would be made available to districts to help them provide charter schools with facilities under the requirements of Proposition 39. Severely overcrowded districts would need to provide a 25 percent local match for these funds, while non-impacted districts would need to provide a more traditional 50 percent match. The remaining $300 million in this fund would be made available directly to charter schools that wish to acquire their own facilities, independent of the district.

- **A “standard” loan fund of $200 million.** This loan pool would provide financing at tax-exempt interest rates to charter schools for terms of up to 30 years. It is anticipated that schools and/or districts might use some of these loan funds to finance a local match on the “deferred” loan program.

In an effort to avoid the often messy bureaucracy associated with existing K-12 facilities bond programs, both programs would be administered by the California Educational Facilities Authority, an arm of the State Treasurer’s Office that pools and issues tax-exempt debt on behalf of education institutions. EdVoice Legislative Director Brad Strong believes that, with strong advocacy, there is a good chance that a charter allocation will become a part of a state facilities bond package, noting that legislators have greeted the proposal “with open minds.” Doubtless, legislators are aware of the key role that EdVoice’s supporters played in financially backing Proposition 39 and other ballot measures.

**LEGISLATION TO EXTEND FUNDING MODEL**

Assembly Bill 168 (Nation, D-San Rafael) would extend key provisions authorizing the charter school direct funding mechanism. Under current law, the direct funding mechanism “sunsets” at the end of the current fiscal year. AB 168 would extend this sunset for another three years. This simple, but important bill passed the Assembly on a 73-0 vote and is now pending action in the Senate. Its passage is critical to continue the existing charter school funding model process.

These proposals will provide fodder for discussion and negotiations for the next several months as the governor and legislature wrestle over how to bridge the state’s fiscal and school facilities challenges. CSDC will continue to monitor these issues and update our estimates throughout the state budget and legislative process.

—Eric Premack
State Board Issues Proposition 39 Regulations

The State Board of Education issued two sets of proposed regulations to implement key provisions of Proposition 39 at its December and February meetings. The proposed regulations define key terms and outline an implementation process and timeline that includes a controversial dispute resolution process.

BACKGROUND

Proposition 39 requires school districts to provide charter schools with facilities that are sufficient to accommodate its “in-district” charter school students in conditions that are “reasonably equivalent” to those in which the students would be accommodated if they were attending public schools of the district. This obligation becomes effective statewide in November of 2003, or earlier on a district-by-district basis if the local district passes a facilities bond.

Since many districts have already passed bonds, and dozens of others will likely do so in the March 2002 elections, the Proposition 39 obligation to provide facilities will be effective in dozens of districts starting July of this year. The terms of Proposition 39, however, are rather vague. The proposition authorizes, but does not require, the State Board of Education to develop regulations to define key terms and processes. (For additional information regarding Proposition 39, see the March 2001 and October 2000 editions of Charter Currents.) This article provides a brief summary of many of the key features of the proposed regulations.

KEY TERMS AND DEFINITIONS

The proposed regulations contain several key definitions and terms designed to clarify and implement Proposition 39. Some of the key ones include:

- **“Average Daily Classroom Attendance”**
  This definition is key because it determines the size of facilities to be provided. The proposed regulations cross-reference the definitions of “classroom-based” contained in Senate Bill 740. They would presumably exclude virtually all independent study programs and many non-traditional, site-based programs from qualifying for facilities.

- **“In-District Students”**
  This definition is key because Proposition 39 requires districts to provide facilities for “in-district students.” The proposed regulations would generally define a student as in-district if s/he would be eligible to attend other public schools in the district. It excludes students on inter-district attendance agreements. Presumably, elementary districts would not be responsible for housing high school students and vice-versa. This definition could make it difficult to house students who do not reside in the district and would put charter schools in the difficult position of seeking facilities from multiple districts if their students do not reside in one district.

- **“Conditions Reasonably Equivalent”**
  Proposition 39 requires that the facilities provided should be “reasonably equivalent” to other district facilities. The proposed definition would focus on a variety of factors, including capacity, space, condition, availability of technology infrastructure, learning environment, furnishings, and equipment. Each of these factors is further defined in somewhat loose terms. The proposed definition would also set the standard of comparison as the schools in the high school attendance area where the charter school students reside. This is intended to help focus the comparison on a small number of sites in large districts.

- **Availability.**
  The proposed regulations require that facilities be available throughout the charter school’s instructional year, without regard to the district’s instructional calendar, but also prohibit the charter school from subletting the space or using it for purposes inconsistent with district policy.
• “Contiguous”
Proposition 39 requires that facilities provided to charter schools should be “contiguous,” presumably to prevent a charter school from being scattered over multiple locations. The proposed regulations appear to create a rather large loophole in this requirement by defining “contiguous” as “on the school site or immediately adjacent,” but also permitting them to be “located at more than one site, provided that the school district shall minimize the number of sites assigned and shall consider student safety.”

• “Furnished and Equipped”
The proposition also requires that the facilities provided shall be “furnished and equipped.” The proposed regulations would deem a facility as furnished and equipped “if it includes all the furnishings and equipment necessary to conduct classroom-based instruction (i.e., at a minimum, desks, chairs, and blackboards).” The proposed regulatory text does not specifically address other types of furnishings and equipment (e.g., computers, copiers, telecommunications equipment, audio visual equipment, etc.). Attached explanatory language, however, does state that the regulation “has the effect of clarifying that the school districts are not responsible for providing such items as computers and office machines.”

• District Charges for Facilities.
Proposition 39 permits districts to charge a pro-rata share of district facilities costs paid from general-purpose resources. Though most facilities costs are paid from restricted districts’ sources (e.g., state and local facility bond proceeds), districts do generally spend a small amount from their general-purpose sources, usually on facilities maintenance and sometimes on capital outlay and leases. The regulations would define the relevant costs as facilities acquisition, construction, rent, and lease costs, plus districts’ contributions toward deferred maintenance, all from unrestricted sources and calculated using prior-year budget data. We anticipate that these costs would be relatively small, but could be substantial in districts that spend an atypically high proportion of general-purpose revenues on facilities maintenance or acquisition.

• Reimbursement for Over-Allocated Space.
Proposition 39 permits the State Board to require charter schools to compensate districts in the event that the charter school requests more space from the district than it actually needs. The proposed regulations would allow a “cushion” of 25 ADA or 10 percent of the school’s ADA (whichever is higher) before any penalties are assessed. Penalties assessed, however, would be stiff at an estimated $1,300 per ADA.

Timelines, Processes, and Dispute Resolution

The proposed regulations outline a somewhat detailed timeline and process that charter schools and school districts would need to follow. They are intended to balance charter schools and districts’ time constraints, attempt to create a process whereby concerns may be aired and resolved, and if necessary, would proceed to a mediation and binding arbitration process.

The process outlined in the proposed regulations would begin early. In October prior to the start of the school year (i.e., almost a year prior to a typical school year), the charter school would submit a written facilities request containing extensive data about their needs (see sidebar). The district would then review the proposal, engage in dialogue with the school, and provide a “final” notification regarding the space to be provided to the charter school by April 1st. This “final” notification would identify the space provided, the terms for sharing space (if any), the data assumptions underlying the district’s offer, and payment terms for reimbursing district facilities costs.

The charter school would notify the district within 30 days (or no later than May 1) of whether it accepts the district’s “final” space offer. If the school does not believe that the “final” offer is reasonable, it could initiate a dispute resolution process. If it accepts the offer, the school is obligated to occupy the space offered (or pay non-use penalties) and would be re-
required to jointly negotiate a use and payment agreement with the district. The space would need to be available and furnished seven days prior to the charter school’s start of the school year.

In the event of a dispute, the proposed regulations outline a multi-stage dispute resolution process. First, the dispute resolution process contained in the charter would be used, though either party could elect to bypass it. If the dispute were not resolved pursuant to the charter process, the district governing board would be permitted 30 days to attempt to resolve the matter. If the board fails to resolve the matter to the satisfaction of the district and school, the California State Mediation and Conciliation Service would appoint a mediator who would attempt to resolve the dispute with structured, yet informal negotiations. If this failed to resolve the dispute, the dispute would proceed to a binding arbitration process.

Charter school advocates generally regard the binding arbitration process as an essential component of the timeline and process, fearing that since districts literally “hold the keys,” they could dominate the process through delay or other evasive tactics. Some district representatives, in contrast, believe that binding arbitration undermines the authority of local governing boards. The Coalition for Adequate School Housing (a coalition lobbying for school district facilities needs) and the California Network of Education Charters negotiated much of the proposed compromise dispute resolution language. The California School Boards Association and Association of California School Administrators are opposing the binding arbitration provisions.

The State Board will hear the proposed regulations again during its April meeting. Though it is unclear at this point whether the proposed regulations will be approved in their proposed form, we believe that they may be a helpful resource for those districts and charter schools that need to implement Proposition 39 now. CSDC plans to offer additional information and resources on Proposition 39 implementation after the regulations are finalized.

-Jerry Simmons and Eric Premack

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**Q:** May a charter school be included in our local school district’s bond measure? Have any other charter schools been included in a local bond measure?

**A:** There are no laws requiring districts to set aside funding for charter schools in district bond measures. However, under the terms of Proposition 39, many districts are beginning to factor charter school facilities needs into their near- and long-term facilities financing plans and a few have included charter school projects in their bond measures. Proposition 39 requires school districts to provide charter schools with facilities that are sufficient to accommodate its “in-district” charter school students in conditions that are “reasonably equivalent” to those in which the students would be accommodated if they were attending public schools of the district. This obligation, which takes effect in November of 2003, or earlier if a local district passes a facilities bond, applies regardless of whether the school district sets aside funding for charter school facilities in its bond proposals. While we anticipate that many districts will opt to implement Proposition 39’s requirements by accommodating charter schools in existing facilities, we also anticipate that many districts will work with charter schools to include charter facilities needs in district bond proposals.

According to the California Department of Education, a record number of school districts across the state will be attempting to pass local school bonds in 2002 in order to utilize the new 55% majority required to pass local bonds under Proposition 39. If charter schools in such districts negotiate with their school district in advance of the bonds being placed on the ballot, they may be able to obtain local bond money to help with facilities leasing, construction and upgrades. Districts, in turn, may wish to reach out to charters to obtain help in reaching the 55% margin that they need to pass a local bond measure.
At least one charter school, the Novato Charter School in Novato Unified School District, has already been included in a local school bond measure that was approved by local voters on November 6.

Diane Pavia, a spokesperson for the Novato District, says the district included $2.8 million in funding for charter school facilities for one existing and one proposed charter school in its bond measure. It will provide facilities for students who reside in the school district and attend the Novato Charter School and funding for the projected number of district residents that will attend a proposed charter high school that is currently in the process of being approved by the school board.

The school district has not identified the specific types of facilities that will be provided for the charter school, but came up with the $2.8 million figure by calculating the cost per child of providing facilities to students who attend the non-charter public schools in the district and multiplying that figure by the number of district residents attending the charter school.

Although school districts are obligated to provide charter schools with facilities once a bond measure passes, the quality and scope of these facilities is largely left to local negotiation under the draft regulations under consideration by the State Board of Education. If the district does not set aside funding for charter school facilities in the school bond, it presumably would have to accommodate the charter school in existing facilities or spend limited general purpose funds to fulfill the facilities obligations.

Though not required by law, we believe the practice of including charters in district bond measures may be mutually beneficial for districts and charter schools for a variety of reasons, including:

- The charter school is arguably more likely to obtain larger and higher quality facilities than if the district were forced to accommodate them in existing facilities or with general purpose funding.

- Charter school parents who are often vocal and well organized are more likely to support the district’s bond measure.

- School districts enjoy a lower interest borrowing capacity with school bonds financed through property tax overrides than the typical charter school. Charter schools, however, enjoy greater legal and operational flexibility to occupy nontraditional facilities. Combined, these advantages may provide a faster and lower-cost solution to district overcrowding.

-Jerry Simmons

Tips on Including Charter Schools in Local School District Bond Measures

In order to ensure that charter school facilities are included in your local bond measure, you might try these strategies:

- Ensure that charter school leaders meet with school district facilities staff to identify charter school facilities needs and include them in district facilities plans.

- Ensure the charter school perspective is represented on facilities advisory committees of the school district.

- In the event there is more than one charter school in your district, consider appointing one representative to work with the district on behalf of all charter schools.

- Make sure charter schools are supportive of district bond measures.

- Explore how the district and charter school can take advantage of more flexible charter school facilities construction laws to reduce overcrowding in district schools and construct facilities in a faster and more economical way.

- Dialogue with local labor leaders about the advantages of charter school facilities being included in school bonds so that they understand that these facilities costs might otherwise come out of the school district’s general fund, which could otherwise be used to pay for salaries of their members.
The Elementary and Secondary Education Act (ESEA), the major body of federal education funding law, was reauthorized by Congress and signed into law by President Bush in January. This bill creates new federal accountability requirements for public schools, increases flexibility in expenditure of certain federal program funding, and adds some flexibility to federal charter school grant programs. This is the first in a series of articles we will feature in Charter Currents on these changes and their implications specific to California’s charter schools.

**Feds “Belly Up” to the Accountability Bar**

The ESEA represents a dramatic expansion of the federal role in education because it requires states to test children in reading and math in grades 3 through 8 beginning in the 2005-06 school year. Test results must be provided to the public in annual report cards on school performance and statewide progress. The statewide reports will be disaggregated by race and gender to show how well particular groups of students are performing.

If test scores failed to improve over two years, the school could receive more federal money. However, if scores still did not improve and a school is identified as failing, parents would have the right to transfer their child to a better-performing public school or charter school. Students in “failing” schools also have the ability to tap into federal Title I funds to provide supplemental educational services, including tutoring, after school services, and summer school programs. The law also includes a reference indicating that the federal law will not override state charter law with regard to oversight of accountability requirements for charters. How this will be interpreted by California has yet to be determined. ESEA also defers to state charter law on certification requirements for teachers.

**Federal Funds Expenditure Flexibility**

The ESEA also allows local school districts, and presumably also charter schools, the opportunity to transfer up to 50 percent of the federal dollars they receive between several federal educational programs without obtaining separate approval. This increased expenditure flexibility reflects a policy shift toward more local control in exchange for accountability, but is still far short of the flexibility of California’s categorical block grant.

**Grant “Co-Applicant” Requirement Dropped**

The bill continues the federal charter school grant program, and removes the requirement that a school district be a co-applicant with a charter school developer in order to receive a start-up grant. However, it is unclear whether this will be implemented in California anytime soon because the California received a 3-year grant from the federal government under the old law.

Authorized funding for the charter school grant program was also increased from $200 million to $300 million, with $200 million going to the existing program and $100 million available for incentive matching grants to states that offer per pupil facilities aid programs. However, Congress appropriated only $200 million of the $300 million authorized, so only the existing grant program will be funded.

Federal officials are now beginning the arduous process of establishing detailed regulations on how to interpret and implement the many changes in ESEA. CSDC is working closely with partner organizations in monitoring this detailed process and we will provide additional updates as this process progresses.

- Jerry Simmons
The Charter School Advisory Commission, an advisory body to the State Board of Education, continues to struggle with how to implement the vaguely drafted provisions of Senate Bill 740 (legislation granting the State Board sweeping powers to cut funding for controversial “non classroom-based” charter schools). The Commission’s deliberations are ongoing, concurrent with a fast-track process whereby the State Board must decide in early March whether to cut funding for an estimated 90-plus charter schools that operate “non classroom-based” programs. The Commission’s February 8th meeting resulted in only the barest of outlines of criteria by which non classroom-based schools will be judged, giving charter schools only vague clues as to whether their budgets may be subject to late-year budget cuts.

**Background**

SB 740 granted the State Board of Education the authority to cut funding for non classroom-based charter schools. It calls upon the Board to promulgate regulations and criteria that would be used to review non classroom-based schools’ budgets and operations and determine whether such schools individual budgets should be cut. The legislation is the result of ongoing controversy over non classroom-based instruction, and allegations of fiscal abuse and “profiteering” by operators of some such schools. The bill also requires the State Board to establish an advisory committee to assist with the process.

The Charter School Advisory Commission worked intensively on drafting recommended regulations during last November and December. Their recommended regulations would have generally created a “safe harbor” for those schools that expended at least 70 percent of their charter school revenues on instructional purposes and that met other operational criteria. These draft regulations, however, were rejected by the State Board at its January meeting in favor of an alternative set drafted just prior to the board meeting by California Department of Education staff and State Board President Reed Hastings. After brief public testimony, the Board adopted the alternative proposal with virtually no discussion or debate.

The alternative regulations instead focus primarily on the proportion of funding expended on certificated staff salaries and benefits. Specifically, they appear to create a so-called “semi-safe harbor” for those schools that spend at least 50 percent of their budget on certificated salaries and benefits. Schools that fail this “safe harbor” test must submit additional detail about their budget, for review pursuant to yet-to-be developed criteria. Anecdotal evidence suggests that many non classroom-based schools would “fail” this primary test, except for those that function as an arm of a more traditionally-structured program or that had an unusually senior or highly-compensated staff.

**Commission Struggles to Establish Criteria**

The Advisory Commission, at its February 8 meeting, began to wrestle with the criteria-setting task. California Department of Education (CDE) staff had been asked to draft criteria and presented a review form containing several implicit criteria. Those schools expending at least 50 percent of their budget on certificated salaries and benefits and which present no other apparent governance or conflicted business interests would be recommended for full funding. Those schools that fail these tests would presumably be subject to additional scrutiny pursuant to additional criteria.

Other implicit criteria in the CDE review form appear to include the following:

- Charter schools whose governing boards are elected and have no apparent conflicts of interest with outside vendors or other interested parties would more likely pass muster than those whose boards include board members with conflicts of interests and/or whose members are appointed by conflicted parties.
- Charter schools whose average certificated staff member costs are within 25 percent of state averages ($50,000 to $80,000) would be viewed more favorably than those with unusually low or high average compensation.
- Charter schools whose student-to-teacher ratio is
below 25:1 would be viewed more favorably than those with higher ratios.

- Charter schools spending at least 70 percent of their total revenues on instructional costs would be viewed more favorably. Those that fail this test, which is much more narrowly drawn than the similar-sounding 70 percent “safe harbor” recommended by the Commission in December, would be recommended for cuts unless the school presented persuasive extenuating circumstances (e.g., one-time facilities costs).

The Commission debated and discussed the criteria for several hours, including a review of four actual sample submissions already received and reviewed by CDE staff. CDE staff explained how the criteria would affect the four schools, only one of which would have been recommended to receive full funding. Two would have been recommended for a funding cut, and one would have required additional information prior to a decision.

Commission members struggled with the scant information provided in the forms relative to the complex fiscal and operational issues they purport to review, especially relative to the potentially grave fiscal consequences for schools whose budgets could be cut. Commission member Beth Hunkapiller expressed concern over whether the criteria and process were arbitrary and legally defensible. Tom Conry of the California Teachers Association, however, seemed to lose little sleep over the criteria, repeatedly zeroing in on the proportion of budget spent on teacher salaries and benefits and advocating cuts for schools whose expenditures on teachers were below the threshold.

**Fast Track Process**

The Commission will continue its work during several scheduled meetings between now and the State Board’s March meeting. The law calls for the State Board to make funding determinations during its March meetings, or else permit the schools to receive 100 percent of their entitlements.

On February 19, the Commission will read all of the funding forms and CDE staff recommendations and develop some tentative recommendations. It is then their intent to inform charter schools that do not have a tentative recommendation of 100% funding via facsimile and the CDE website so that they may testify on February 20 meeting of the Commission.

On February 25, the Commission intends to finalize all public hearings on individual schools and make its recommendations to the State Board of Education. On March 5th, the Commission has tentatively scheduled a meeting with the staff of the CDE in an attempt to reach consensus wherever possible on a joint recommendation to the State Board.

On March 7th, the State Board of Education plans to hear the Commission’s recommendations and vote on all pending funding determinations for this fiscal year. In April, the Commission will hear and finish funding determination recommendations for all schools that missed the February 13 statutory application deadline.

CSDC recommends that any charter school with pending funding determination forms observe the Commission’s work on February 19 so that they can prepare persuasive responses to Commission and staff questions in time for the meeting on February 20.

-Jerry Simmons and Eric Premack

### Vital Statistics

- There are now 365 active charter schools in California.
- 63 (17%) of those schools opened this school year.
- 199 charter schools have API scores.
  (The others either opened this year, after the test was administered, are in the Alternative Schools Model, have too few students, had too many parents opt out, or have only kindergarten or first graders.)
- The mean API score for charter schools was 653. The median score was 666. This is slightly lower than the statewide average, which is 678 (both mean and median).
New Faces at the CDE Charter Schools Unit

The Charter Schools Unit at the California Department of Education (CDE) serves as a focal point for the development and oversight of state policies, regulations, and procedures relating to charter schools, including fiscal status, liability, and accountability. When a law affecting charter schools is about to be passed or has been approved, the Charter Schools Unit makes recommendations to the State Board of Education on how best to implement the new laws. The Charter Schools Unit also coordinates the Public Charter Schools Grant Program, the Charter School Revolving Loan, and assists the State Board of Education’s Charter Schools Advisory Committee. The Charter Schools Development Center (CSDC) works very closely with all personnel at the CDE Charter Schools Unit.

Recently, there has been a great deal of turnover at the Unit. Gaye Smoot, former head of the Charter Schools Unit, has left and been replaced by Eileen Cubanski. Eileen’s background is primarily financial; she was formerly in charge of principal apportionments at the Department of Finance and categorical programs at the CDE. Working with Eileen are five consultants. Veteran consultants include Colin Miller, Deborah Herrmann, and Janet Wadley. Colin is responsible for legislative and fiscal issues and coordinates the regional assignments (see below). Deborah spearheads special education and is the liaison to the Charter School Advisory Committee. Janet coordinates the Public Charter Schools Grant Program. Two new consultants have recently been hired, Shirley Hazlett and Keith Edmonds. Shirley is in charge of educational program and accountability issues. Keith is the lead contact on independent study. In addition to being responsible for their specific areas of expertise, each charter school consultant also serves as a point person for charter schools in an assigned geographic region divided by county. See the chart below for these county assignments.

Analyst staff supporting the Charter Schools Unit include Jacqueline Henderson, who coordinates the Charter School Revolving Loan, and Lynn Deaton, who coordinates reporting, payment, and workshops for the Public Charter Schools Grant Program. Jennifer Jackson and Nancy Todd provide administrative support to the whole Unit.

Other important staff who are not part of the Charter Schools Unit but who work closely with the Unit include Deborah Connelly and Annette Liccardo. Deborah is staff to the State Board of Education and oversees the five charter schools that have been approved by the state. Annette works for the Financial Systems Management and Assistance Unit and coordinates funding apportionments for charter schools. See below for a summary chart of all charter school-related staff at the CDE and their contact information.

-Laurie Gardner

CHARTER SCHOOLS UNIT

<table>
<thead>
<tr>
<th>Name</th>
<th>Position/Expertise</th>
<th>Contact Information</th>
</tr>
</thead>
</table>
| Eileen Cubanski | *Position:* Administrator.  
*Expertise:* Director of the Charter Schools Unit. | *(916) 322-6029  
ecubanski@cde.ca.gov* |
| Colin Miller     | *Position:* Consultant.  
*Expertise:* Fiscal, legislative, regional coordinator.  
*Counties:* Kern, Los Angeles, San Luis Obispo, Santa Barbara, Ventura. | *(916) 327-5929  
comiller@cde.ca.gov* |
| Deborah Herrmann | *Position:* Consultant.  
*Expertise:* Special education, Charter Schools Advisory Committee. | *(916) 445-1014  
dherrman@cde.ca.gov* |
<table>
<thead>
<tr>
<th>Counties: Alpine, Amador, Calaveras, Colusa, El Dorado, Nevada, Placer Sacramento, San Joaquin, Sierra, Stanislaus, Sutter, Tuolumne, Yolo, Yuba.</th>
</tr>
</thead>
</table>
| **Janet Wadley**  
*Position*: Consultant.  
*Expertise*: Charter Schools Federal Grant Program coordinator.  
*(916) 323-6028*  
jwadley@cde.ca.gov |
| **Shirley Hazlett**  
*Position*: Consultant.  
*Expertise*: Educational program, accountability.  
*Counties*: Butte, Del Norte, Glen, Fresno, Humboldt, Kings, Lake, Lassen, Madera, Mariposa, Mendocino, Merced, Modoc, Plumas, Shasta, Siskiyou, Sonoma, Tehama, Trinity, Tulare.  
*(916) 445-7689*  
shazlett@cde.ca.gov |
| **Keith Edmonds**  
*Position*: Consultant.  
*Expertise*: Independent study.  
*Counties*: Imperial, Inyo, Mono, Orange, Riverside, San Bernardino, San Diego.  
*(916) 327-4628*  
kedmonds@cde.ca.gov |
| **Lynn Deaton**  
*Position*: Analyst.  
*Expertise*: Charter School Grant Program  
*(916) 445-6761*  
lideaton@cde.ca.gov |
| **Jacqueline Henderson**  
*Position*: Analyst.  
*Expertise*: Charter School Revolving Loan.  
*(916) 324-7139*  
jhenders@cde.ca.gov |
| **Jennifer Jackson**  
*Position*: Secretary  
*Expertise*: Administrative support.  
*(916) 322-6029*  
jackson@cde.ca.gov |
| **Nancy Todd**  
*Position*: Secretary  
*Expertise*: Administrative support.  
*(916) 322-6029*  
tondd@cde.ca.gov |
| **Deborah Connelly**  
*Position*: State Board of Education staff.  
*Expertise*: State-approved charter schools.  
*(916) 323-2694*  
dconnell@cde.ca.gov |
| **Annette Liccardo**  
*Position*: Education Fiscal Services Assistant.  
*Expertise*: Charter school funding and apportionment information.  
*(916) 324-4538*  
alliccard@cde.ca.gov |
Mark Your Calendars for Upcoming CSDC Workshops:

- February 20, 2002: Charter Granting Agencies’ Roles and Responsibilities (Sacramento)
- February 26, 2002: Charter Granting Agencies’ Roles and Responsibilities (Burbank)
- March 12, 2002: Charter School Development (San Francisco)
- March 13, 2002: Charter School Accountability (San Francisco)

New Publications for Sale:

- Charter School Design Tool Kit, 1st Edition
- 3rd Annual Charter School Funding, Legal and Accountability Update.
- Operating “Non Classroom-Based” and “Independent Study” Programs

See our website for more information

Leadership Institute Application Available Soon

Applications to attend the 4th Annual Charter School Leadership Institute will be available very soon. The Institute is a six-day, comprehensive leadership training for new and veteran charter school leaders. It will be held from June 23-28, 2002 in beautiful Lake Tahoe. Space is limited; admission is by competitive application only. For more information, please see our website.

Looking for Charter School Incubator Project Participants for 2002-03

The Incubator Project is an opportunity for promising charter school development teams to partner with some of the most experienced charter school experts in the state. The goal of the Project is to foster the development of educationally successful, organizationally sustainable schools by providing expert technical assistance in key aspects of charter school design, focusing on areas where the development teams are less experienced. For more information, please contact Jennifer Feller at CSDC at (916) 278-6069.

New CSDC Staff

A warm welcome to our new student assistants, Jeff Schnoebelen and Tenika Aquino, who are joining our “veteran” student assistant Tendisai Chigwedere. Many of you will be seeing them at our workshops or speaking to them on the phone. We are delighted to have them join our team!

-Kerri Angell