

ASSEMBLY THIRD READING
AB 2882 (Chu and Cristina Garcia)
As Amended May 13, 2020
Majority vote

SUMMARY:

Requires charter schools and private schools to follow the same siting requirements as public schools for evaluating a schoolsite for potential hazardous substances, hazardous emissions, or hazardous waste. Requires the evaluation of a potential charter schoolsite under the California Environmental Quality Act (CEQA) to follow the same process as public schools under CEQA.

COMMENTS:

Evaluation of proposed schoolsites for potential hazardous substance contamination: All proposed public school sites that will receive state funding for acquisition or construction are required to go through a rigorous environmental review and cleanup process under oversight by the Department of Toxic Substances Control (DTSC). School districts conduct environmental assessments to provide basic information for determining if there has been a release of hazardous material at the sites, or if a naturally occurring hazardous material that presents a risk to human health or the environment may be present. Outreach activities integrated into the process allow a more active role for stakeholders in the selection process for school sites.

California Environmental Quality Act (CEQA): CEQA generally requires state and local government agencies to inform decision makers and the public about the potential environmental impacts of proposed projects, and to reduce those environmental impacts to the extent feasible. If a project subject to CEQA will not cause any adverse environmental impacts, a public agency may adopt a brief document known as a negative declaration. If the project may cause adverse environmental impacts, the public agency must prepare a more detailed study called an Environmental Impact Report (EIR). An EIR contains in-depth studies of potential impacts, measures to reduce or avoid those impacts, and an analysis of alternatives to the project. A key feature of the CEQA process is the opportunity for the public to review and provide input on both negative declarations and EIRs.

Siting of schools is a complicated process: Siting schools is not an easy process. Existing law and state regulations prohibit school districts seeking state bond funds from being located on land that was previously a hazardous waste disposal site, that contains pipelines that carry hazardous substances, or that is near a freeway and other busy traffic corridors and railyards that have the potential to expose students and school staff to hazardous air emissions. Existing law also requires school districts to comply with CEQA requirements, review by DTSC, and approval by the California Department of Education (CDE) to ensure the design plans meet the academic need of the school. School districts must also comply with the Field Act, which ensures that school buildings can withstand earthquakes. School districts must submit all school design plans to the Division of State Architect to ensure that the architectural design plans meet fire, life, and safety requirements, Field Act requirements, and access requirements under the Americans with Disability Act. Charter schools are not required to comply with school siting requirements unless they receive state school bond funds. Private schools are not subject to the requirements in the Education Code unless specified, typically related to health and safety issues.

Charter schools: Charter schools are authorized by school district boards and county boards of education. A charter school is generally exempt from most laws governing school districts, except where specifically noted in the law. Specific goals and operating procedures for the charter school are detailed in an agreement (or "charter") between the authorizing board and charter organizers. Some charter schools are new, while others are conversions from existing public schools. Charter schools are part of the state's public education system and are funded by public dollars. A charter school is usually created or organized by a group of teachers, parents, community leaders, a community-based organization, or an education management organization.

This bill amends existing law to require charter schools and private schools to perform the same evaluation for a proposed school site as is required for public schools. It seems very reasonable to provide the students of charter schools and private schools with the same protections from potential hazardous chemicals at a potential school site that is afforded to students who attend public schools. In addition, this bill requires the lead agency, under CEQA, over a charter school, to complete the same evaluations as is required for a lead agency of a public school.

There are thousands of known contaminated sites in California and there are estimates of tens of thousands of unknown contaminated sites in the state. For example, a site may have been an industrial site in the early 1900's and sat vacant for decades. Its potential of containing hazardous substances is unknown until there is an environmental assessment of the property. It is important that potential school sites, regardless of whether the school is a public school, private school, or charter school, be properly evaluated in order to protect the health and well-being of the future students who will attend that school.

According to the Author:

"Private schools and charter schools need to meet the same health and safety requirements as public schools to prevent schools from being built at unsafe locations. With AB 2882, we will ensure the health and safety of all students and school employees in California by requiring proper assessments and evaluations of potential private and charter school sites."

Arguments in Support:

According to the Bay Area Air Quality Management District, "Existing law requires public schools to follow certain requirements before approving and building a new school. These requirements include that the public school district determines that the proposed school site is not hazardous and that the public school district consults with its local air district to identify sources of air pollution that may affect the health of the children and employees at the proposed school. In order to ensure the public health and safety of all students and school employees in California, the potential location for a new private school or charter school needs to be properly evaluated. AB 2882 will achieve this by requiring that private schools and charter schools meet the same siting requirements as public schools."

Arguments in Opposition:

According to the Charter Schools Development Center, "[AB 2882] would impose numerous restrictions on the siting of charter school facilities and add additional burdens to the already-complex CEQA review process. We believe this bill would generate millions of dollars per year in costs, many of which would be reimbursable and/or would create additional cost pressures on the state's School Facilities Program. It would limit charter schools' authority to locate and use necessary school sites and take key decisions out of the hands of charter schools and place them in the hands of other agencies."

FISCAL COMMENTS:

According to the Assembly Appropriations Committee, enactment of this bill could create a state mandated local program by placing requirements on local education agencies (LEAs) serving as chartering authorities, and the costs incurred by the LEAs could become reimbursable by the state's General Fund.

VOTES:

ASM ENVIRONMENTAL SAFETY AND TOXIC MATERIALS: 7-0-2

YES: Melendez, Arambula, Bauer-Kahan, Cristina Garcia, Bloom, Muratsuchi, Holden

ABS, ABST OR NV: Mathis, Obernolte

ASM APPROPRIATIONS: 15-0-3

YES: Gonzalez, Bauer-Kahan, Bloom, Bonta, Calderon, Carrillo, Chau, Diep, Eggman, Fong, Gabriel, Eduardo Garcia, Petrie-Norris, McCarty, Robert Rivas

ABS, ABST OR NV: Bigelow, Megan Dahle, Voepel

UPDATED:

VERSION: May 13, 2020

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