

Senate Bill No. 4

CHAPTER 3

An act to add Article 10 (commencing with Section 48350) to Chapter 2 of Part 27 of Division 4 of Title 2 of, and to add Article 3 (commencing with Section 53300) to Chapter 18 of Part 28 of Division 4 of Title 2 of, the Education Code, relating to public schools.

[Approved by Governor January 7, 2010. Filed with
Secretary of State January 7, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 4, Romero. Public schools: Race to the Top.

(1) Existing law requires each person between the ages of 6 and 18 years not otherwise exempted to attend the public full-time day school or continuation school or classes in the school district in which his or her parent or guardian is a resident. Existing law authorizes 2 school districts to enter into an agreement that allows pupils to transfer between the 2 districts.

This bill would establish the Open Enrollment Act to enable pupils residing in the state to attend public schools in school districts other than their school district of residence, as defined. The bill would authorize the parent or guardian of a pupil enrolled in a low-achieving school, as defined, to submit an application for the pupil to attend a school in a school district of enrollment, as defined. The bill would authorize a school district of enrollment, as defined, to adopt specific, written standards for acceptance and rejection of applications for enrollment, subject to specified conditions and a specified priority scheme for applicants. Within 60 days of receiving an application for enrollment, the bill would require a school district of enrollment to notify the applicant parent or guardian and the school district of residence, as defined, in writing whether the application has been accepted or rejected and, if an application is rejected, state in the notification the reasons for the rejection. The bill would require the State Board of Education to adopt emergency regulations to implement these provisions. The bill would require the Superintendent to contract for an independent evaluation of the program using federal funds appropriated for that purpose and to provide a final evaluation report to the Legislature, the Governor, and the state board on or before October 1, 2014.

By requiring school districts to perform additional duties regarding the enrollment of nonresident pupils, this bill would impose a state-mandated local program.

(2) The federal American Recovery and Reinvestment Act of 2009 (ARRA), provides \$4.3 billion for the State Incentive Grant Fund (Race to the Top Fund), which is a competitive grant program designed to encourage and reward states that are implementing specified educational objectives.

The ARRA requires a governor to apply on behalf of a state seeking a Race to the Top grant, and requires the application to include specified information. The United States Secretary of Education has issued regulations and guidelines regarding state eligibility under the Race to the Top program.

This bill would require a local educational agency to implement one of several specified reforms for any other school which, after one full school year, is subject to corrective action pursuant to a specified provision of federal law and continues to fail to make adequate yearly progress, and have an Academic Performance Index score of less than 800, and where at least $\frac{1}{2}$ of the parents or legal guardians of pupils attending the school, or a combination of at least $\frac{1}{2}$ of the parents or legal guardians of pupils attending the school and the elementary or middle schools that normally matriculate into a middle or high school, as applicable, sign a petition requesting the local educational agency to implement one of the alternative governance arrangements, unless the local educational agency makes a finding in writing why it cannot implement the recommended arrangement and instead designates in writing which of the other alternative governance arrangements it will implement in the subsequent school year. The bill would require the local educational agency to notify the Superintendent and the state board if it decides to implement a different alternative governance option.

The bill would limit this procedure to no more than 75 schools.

(3) 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.

(4) The bill would provide that it would become operative only if SB 1 of the 5th Extraordinary Session is also enacted and becomes operative.

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

SECTION 1. Article 10 (commencing with Section 48350) is added to Chapter 2 of Part 27 of Division 4 of Title 2 of the Education Code, to read:

Article 10. Open Enrollment Act

48350. This article shall be known, and may be cited, as the Open Enrollment Act.

48351. The purpose of this article is to improve pupil achievement, in accordance with the regulations and guidelines for the federal Race to the Top Fund, authorized under the federal American Recovery and Reinvestment Act of 2009 (Public Law 111-5), and to enhance parental choice in education by providing additional options to pupils to enroll in public schools throughout the state without regard to the residence of their parents.

48352. For purposes of this article, the following definitions apply:

(a) “Low-achieving school” means any school identified by the Superintendent pursuant to the following:

(1) Excluding the schools, and taking into account the impact of the criteria in paragraph (2), the Superintendent annually shall create a list of 1,000 schools ranked by increasing API with the same ratio of elementary, middle, and high schools as existed in decile 1 in the 2008–09 school year.

(2) In constructing the list of 1,000 schools each year, the Superintendent shall ensure each of the following:

(A) A local educational agency shall not have more than 10 percent of its schools on the list. However, if the number of schools in a local educational agency is not evenly divisible by 10, the Superintendent shall round up to the next whole number of schools.

(B) Court, community, or community day schools shall not be included on the list.

(C) Charter schools shall not be included on the list.

(b) “Parent” means the natural or adoptive parent or guardian of a dependent child.

(c) “School district of enrollment” means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

(d) “School district of residence” means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to Section 48200.

48353. The state board shall adopt emergency regulations to implement this article.

48354. (a) The parent of a pupil enrolled in a low-achieving school may submit an application for the pupil to attend a school in a school district of enrollment pursuant to this article.

(b) (1) Consistent with the requirements of Section 1116(b)(1)(E) of the federal Elementary and Secondary Education Act of 2001 (20 U.S.C. Sec. 6301 et seq.), on or before the first day of the school year, or, if later, on the date the notice of program improvement, corrective action, or restructuring status is required to be provided under federal law the district of residence shall provide the parents and guardians of all pupils enrolled in a school determined in subdivision (a) of Section 48352 with notice of the option to transfer to another public school served by the school district of residence or another school district.

(2) An application requesting a transfer pursuant to this article shall be submitted by the parent of a pupil to the school district of enrollment prior to January 1 of the school year preceding the school year for which the pupil is requesting to transfer. The school district of enrollment may waive the deadline specified in this paragraph.

(3) The application deadline specified in paragraph (2) does not apply to an application requesting a transfer if the parent, with whom the pupil resides, is enlisted in the military and was relocated by the military within 90 days prior to submitting the application.

(4) The application may request enrollment of the pupil in a specific school or program within the school district of enrollment.

(5) A pupil may enroll in a school in the school district of enrollment in the school year immediately following the approval of his or her application.

(6) In order to provide priority enrollment opportunities for pupils residing in the school district, a school district of enrollment shall establish a period of time for resident pupil enrollment prior to accepting transfer applications pursuant to this article.

48355. (a) The school district of residence of a pupil or a school district of enrollment to which a pupil has applied to attend may prohibit the transfer of the pupil pursuant to this article or limit the number of pupils who transfer pursuant to this article if the governing board of the district determines that the transfer would negatively impact either of the following:

(1) A court-ordered or voluntary desegregation plan of the district.

(2) The racial and ethnic balance of the district, provided that any policy adopted pursuant to this paragraph is consistent with federal and state law.

(b) A school district of residence shall not adopt any other policies that in any way prevent or discourage pupils from applying for a transfer to a school district of enrollment.

(c) Communications to parents or guardians by districts regarding the open enrollment options provided by this article shall be factually accurate and not target individual parents or guardians or residential neighborhoods on the basis of a child's actual or perceived academic or athletic performance or any other personal characteristic.

48356. (a) A school district of enrollment may adopt specific, written standards for acceptance and rejection of applications pursuant to this article. The standards may include consideration of the capacity of a program, class, grade level, school building, or adverse financial impact. Subject to subdivision (b), and except as necessary in accordance with Section 48355, the standards shall not include consideration of a pupil's previous academic achievement, physical condition, proficiency in the English language, family income, or any of the individual characteristics set forth in Section 200.

(b) In considering an application pursuant to this article, a nonresident school district may apply its usual requirements for admission to a magnet school or a program designed to serve gifted and talented pupils.

(c) Subject to the rules and standards that apply to pupils who reside in the school district of enrollment, a resident pupil who is enrolled in one of the district's schools pursuant to this article shall not be required to submit an application in order to remain enrolled.

(d) A school district of enrollment shall ensure that pupils enrolled pursuant to standards adopted pursuant to this section are enrolled in a school with a higher Academic Performance Index than the school in which the pupil was previously enrolled and are selected through a random, unbiased process that prohibits an evaluation of whether or not the pupil should be enrolled based on his or her individual academic or athletic performance, or any of the other characteristics set forth in subdivision (a), except that

pupils applying for a transfer pursuant to this article shall be assigned priority for approval as follows:

(1) First priority for the siblings of children who already attend the desired school.

(2) Second priority for pupils transferring from a program improvement school ranked in decile 1 on the Academic Performance Index determined pursuant to subdivision (a) of Section 48352.

(3) If the number of pupils who request a particular school exceeds the number of spaces available at that school, a lottery shall be conducted in the group priority order identified in paragraphs (1) and (2) to select pupils at random until all of the available spaces are filled.

(e) The initial application of a pupil for transfer to a school within a school district of enrollment shall not be approved if the transfer would require the displacement from the desired school of any other pupil who resides within the attendance area of that school or is currently enrolled in that school.

(f) A pupil approved for a transfer to a school district of enrollment pursuant to this article shall be deemed to have fulfilled the requirements of Section 48204.

48357. Within 60 days of receiving an application pursuant to Section 48354, a school district of enrollment shall notify the applicant parent and the school district of residence in writing whether the application has been accepted or rejected. If an application is rejected, the school district of enrollment shall state in the notification the reasons for the rejection.

48358. A school district of enrollment that enrolls a pupil pursuant to this article shall accept credits toward graduation that were awarded to the pupil by another school district and shall graduate the pupil if the pupil meets the graduation requirements of the school district of enrollment.

48359. (a) Each school district is encouraged to keep an accounting of all requests made for alternative attendance pursuant to this article and records of all disposition of those requests that may include, but are not limited to, all of the following:

(1) The number of requests granted, denied, or withdrawn. In the case of denied requests, the records may indicate the reasons for the denials.

(2) The number of pupils who transfer out of the district.

(3) The number of pupils who transfer into the district.

(4) The race, ethnicity, gender, self-reported socioeconomic status, and the school district of residence of each of the pupils described in paragraphs (2) and (3).

(5) The number of pupils described in paragraphs (2) and (3) who are classified as English learners or identified as individuals with exceptional needs, as defined in Section 56026.

(b) The information maintained pursuant to subdivision (a) may be reported to the governing board of the school district at a regularly scheduled meeting of the governing board.

48359.5. For a school district of enrollment that is a basic aid district, the apportionment of state funds for any average daily attendance credited

pursuant to this article shall be 70 percent of the district revenue limit that would have been apportioned to the school district of residence. Apportionment of these funds shall begin in the second consecutive year of enrollment, and continue annually until the pupil graduates from, or is no longer enrolled in, the school district of enrollment. For purposes of this section, “basic aid school district” means a school district that does not receive an apportionment of state funds pursuant to subdivision (h) of Section 42238 for any fiscal year in which this subdivision may apply.

48360. (a) From federal funds appropriated for this purpose, the Superintendent shall contract for an independent evaluation of the open enrollment program operated pursuant to this article. The evaluation shall, at a minimum, consider all of the following:

(1) The levels of, and changes in, academic achievement of pupils in school districts of residence and school districts of enrollment for pupils who do and do not elect to enroll in a school district of enrollment.

(2) Fiscal and programmatic effects on school districts of residence and school districts of enrollment.

(3) Numbers and demographic and socioeconomic characteristics of pupils who do and do not elect to enroll in a school district of enrollment.

(b) The Superintendent shall provide a final evaluation report to the Legislature, Governor, and state board on or before October 1, 2014.

48361. No exercise of discretion by a district of enrollment in its administration of this article shall be overturned absent a finding as designated by a court of competent jurisdiction that the district governing board acted in an arbitrary and capricious manner.

SEC. 2. Article 3 (commencing with Section 53300) is added to Chapter 18 of Part 28 of Division 4 of Title 2 of the Education Code, to read:

Article 3. Parent Empowerment

53300. For any school not identified as a persistently lowest-achieving school under Section 53201 which, after one full school year, is subject to corrective action pursuant to paragraph (7) of Section 1116(b) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and continues to fail to make adequate yearly progress, and has an Academic Performance Index score of less than 800, and where at least one-half of the parents or legal guardians of pupils attending the school, or a combination of at least one-half of the parents or legal guardians of pupils attending the school and the elementary or middle schools that normally matriculate into a middle or high school, as applicable, sign a petition requesting the local educational agency to implement one or more of the four interventions identified pursuant to paragraphs (1) to (4), inclusive of subdivision (a) of Section 53202 or the federally mandated alternative governance arrangement pursuant to Section 1116(b)(8)(B)(v) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.), the local educational agency shall implement the option requested by the parents unless, in a

regularly scheduled public hearing, the local educational agency makes a finding in writing stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options described in this section it will implement in the subsequent school year consistent with requirements specified in federal regulations and guidelines for schools subject to restructuring under Section 1116(b)(8) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and regulations and guidelines for the four interventions.

53301. (a) The local educational agency shall notify the Superintendent and the state board upon receipt of a petition under Section 53300 and upon its final disposition of that petition.

(b) If the local educational agency indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the local educational agency shall notify the Superintendent and the state board that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in the federally mandated state plan under Section 1111(b)(2) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.).

53302. No more than 75 schools shall be subject to a petition authorized by this article.

(b) A petition shall be counted toward this limit upon the Superintendent and state board receiving notice from the local educational agency of its final disposition of the petition.

53303. A local educational agency shall not be required to implement the option requested by the parent petition if the request is for reasons other than improving academic achievement or pupil safety.

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. This act shall become operative only if Senate Bill 1 of the Fifth Extraordinary Session of 2009–10 is also enacted and becomes operative.