

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY APRIL 4, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 47

**Introduced by Assembly Members Huffman and Brownley
(Coauthors: Assembly Members Carter, Eng, ~~Smyth~~, and Swanson)
(Coauthor: Senator Hernandez)**

December 6, 2010

An act to amend Sections 48352, 48356, and 48359 of, to add Section 48362 to, and to repeal Article 10 (commencing with Section 48350) of Chapter 2 of Part 27 of Division 4 of Title 2 of, the Education Code, relating to school enrollment.

LEGISLATIVE COUNSEL'S DIGEST

AB 47, as amended, Huffman. Schools: open enrollment.

Existing law, the Open Enrollment Act, allows the parent of a pupil enrolled in a low-achieving school to submit an application for the pupil to attend school in a school district other than the school district in which the parent of the pupil resides, but in which the parent nevertheless intends to enroll the pupil. Existing law defines a low-achieving school, for purposes of these provisions, as a school identified by the Superintendent of Public Instruction by inclusion on a list of 1,000 schools ranked by increasing Academic Performance Index (API) score. Existing law provides that no local educational agency may have more than 10% of its schools on the list and that specified types of schools, including charter schools, may not be included on the list.

This bill would instead provide that the list created by the Superintendent to define low-achieving schools may include up to 1,000 schools, that a local educational agency shall not have more than 10% of its schools on the list, calculated as specified, and that county offices of education operating a special education program and state special schools not be included on the list. The bill would also provide that a school shall only be identified as a low-achieving school if it is identified on the list for 2 consecutive years and would delete the provision excluding charter schools from inclusion on the list.

Existing law requires a school district of enrollment to conduct a lottery to select pupils at random if the number of pupils who request a particular school exceeds the number of spaces available at that school.

This bill would provide that a school district of enrollment shall not reject the transfer of an individual with exceptional needs or an English learner if he or she is randomly selected through the lottery.

Existing law encourages school districts to keep specified records relating to alternative attendance pursuant to the Open Enrollment Act.

This bill would require school districts to keep those records and to report the information contained therein to adjacent school districts, the county ~~board~~ *office* of education, and the Superintendent, as specified. The bill would also require the Superintendent to ~~annually~~ *biennially* report the information to the Legislature and the Governor.

This bill would repeal the Open Enrollment Act on January 1, 2016.

Because this bill would require school districts to perform additional duties, the bill would impose a state-mandated local program.

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.

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

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

1 SECTION 1. Section 48352 of the Education Code is amended
2 to read:

1 48352. For purposes of this article, the following definitions
2 apply:

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

5 (1) The Superintendent annually shall create a list of up to 1,000
6 schools ranked by increasing Academic Performance Index (API)
7 score, comprised of the same ratio of elementary, middle, and high
8 schools as existed in decile 1 in the 2008–09 school year.

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

11 (A) A local educational agency shall not have more than 10
12 percent of its schools on the list. To calculate the maximum number
13 of schools that a local educational agency may have on the list,
14 the Superintendent shall divide the number of schools in the local
15 educational agency by 10. If the resulting ratio is not a whole
16 number, the Superintendent shall round that ratio up to the next
17 whole number. This rounded whole number is the maximum
18 number of schools in the local educational agency that may be
19 identified on the list.

20 (B) A school shall not be included on the list if either of the
21 following conditions exist:

22 (i) The school has an API score of 700 or above.

23 (ii) The school has prior year API growth of 50 points or more.

24 (C) Court, community, community day schools, county offices
25 of education operating a special education program, and state
26 special schools shall not be included on the list.

27 (3) A school shall only be identified as a low-achieving school
28 for purposes of this article if the school is identified on the list for
29 two consecutive years.

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

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

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

39 SEC. 2. Section 48356 of the Education Code is amended to
40 read:

1 48356. (a) A school district of enrollment may adopt specific,
2 written standards for acceptance and rejection of applications
3 pursuant to this article. The standards may include consideration
4 of the capacity of a program, class, grade level, school building,
5 or adverse financial impact. Subject to subdivision (b), and except
6 as necessary in accordance with Section 48355, the standards shall
7 not include consideration of a pupil's previous academic
8 achievement, physical condition, proficiency in the English
9 language, family income, or any of the individual characteristics
10 set forth in Section 200.

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

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

19 (d) A school district of enrollment shall ensure that pupils
20 enrolled pursuant to standards adopted pursuant to this section are
21 enrolled in a school with a higher Academic Performance Index
22 than the school in which the pupil was previously enrolled and are
23 selected through a random, unbiased process that prohibits an
24 evaluation of whether or not the pupil should be enrolled based
25 on his or her individual academic or athletic performance, or any
26 of the other characteristics set forth in subdivision (a), except that
27 pupils applying for a transfer pursuant to this article shall be
28 assigned priority for approval as follows:

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

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

35 (3) If the number of pupils who request a particular school
36 exceeds the number of spaces available at that school, a lottery
37 shall be conducted in the group priority order identified in
38 paragraphs (1) and (2) to select pupils at random until all of the
39 available spaces are filled. A school district of enrollment shall
40 not reject the transfer of an individual with exceptional needs, as

1 defined in Section 56026, or an English learner if he or she is
2 randomly selected through a lottery.

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

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

11 SEC. 3. Section 48359 of the Education Code is amended to
12 read:

13 48359. (a) Each school district shall keep an accounting of all
14 requests made for alternative attendance pursuant to this article
15 and records of all disposition of those requests that shall include,
16 but are not limited to, all of the following:

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

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

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

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

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

28 (b) The information maintained pursuant to subdivision (a) shall
29 be reported to the governing board of the school district at a
30 regularly scheduled meeting of the governing board. No later than
31 May 15 of each year, the school district shall report the information
32 maintained pursuant to subdivision (a) to each school district that
33 is geographically adjacent to the district electing to accept transfer
34 pupils; *and the county office of education in which the district is*
35 ~~located, and the Superintendent.~~ *located. No later than May 15 of*
36 *every other year, the school district shall report the information*
37 *maintained pursuant to subdivision (a) to the Superintendent.*

38 (c) The Superintendent shall ~~annually~~ *biennially* report the
39 information collected pursuant to subdivision (a) to the Legislature
40 and the Governor.

1 (d) A report to be submitted pursuant to subdivision (c) shall
2 be submitted in compliance with Section 9795 of the Government
3 Code.

4 SEC. 4. Section 48362 is added to the Education Code, to read:
5 48362. This article shall become inoperative on July 1, 2015,
6 and, as of January 1, 2016, is repealed, unless a later enacted
7 statute, that becomes operative on or before January 1, 2016,
8 deletes or extends the dates on which it becomes inoperative and
9 is repealed.

10 SEC. 5. If the Commission on State Mandates determines that
11 this act contains costs mandated by the state, reimbursement to
12 local agencies and school districts for those costs shall be made
13 pursuant to Part 7 (commencing with Section 17500) of Division
14 4 of Title 2 of the Government Code.