

ASSEMBLY BILL

No. 637

Introduced by Assembly Member Knight

February 16, 2011

An act to add and repeal Article 3.5 (commencing with Section 33355) of Chapter 3 of Part 20 of Division 2 of Title 2 of the Education Code, relating to school choice.

LEGISLATIVE COUNSEL'S DIGEST

AB 637, as introduced, Knight. School choice: G.I. Jr. Grant Program.

(1) Existing law establishes the system of public elementary and secondary schools in this state, and provides for the establishment of the local educational agencies, including school districts and county offices of education, that establish and operate the schools and provide instruction to pupils throughout the state. Numerous private elementary and secondary schools also provide instruction to pupils throughout the state.

This bill would establish the G.I. Jr. Grant Program, under which, beginning with the 2012–13 school year, a parent or legal guardian of a qualifying pupil, who completes an application for a grant under this bill, would receive a grant that is redeemable to pay tuition and fees at a qualifying grant school. The bill would define a qualifying pupil as a California resident who is under 22 years of age and has not graduated from high school or obtained a general equivalency diploma, has enrolled as a full-time pupil at a grant school, as defined, and is the natural or adopted child of a person who is or was a member of the United States Armed Forces, including a member of the California National Guard or a member of the reserves of any branch of the United

States Armed Forces, and who is currently on active duty, or who was on federal active duty, at any time after January 1, 1995.

The bill would define a grant school as a nonsectarian, nondenominational private school that chooses to participate in the G.I. Jr. Grant Program, and that files a notice of intent to participate with the State Department of Education. The bill would establish the G.I. Jr. Grant Fund, to be administered by the State Department of Education. The department would pay, from the fund, the grants, in an annual amount of \$5,000 per pupil, as annually adjusted as prescribed, or the total amount of tuition and fees charged by the grant school, whichever is less.

The bill would specify unauthorized behavior with respect to the use of grant certificates or grant moneys that would constitute a misdemeanor. Because this bill would create new crimes, the bill would impose a state-mandated local program.

These provisions would become inoperative on July 1, 2017, and would be repealed on January 1, 2018.

(2) 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 no reimbursement is required by this act for a specified reason.

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. The Legislature finds and declares all of the
2 following:

3 (a) There is a crisis in elementary and secondary education in
4 this country. Many schoolchildren, particularly those whose parents
5 are poor, are performing significantly below national standards.
6 Other children are dropping out of school before completing the
7 ordinary course of secondary education. Substantial numbers of
8 young people are leaving school without the basic skills and
9 knowledge that will enable them to find and hold a job or otherwise
10 function as productive citizens.

11 (b) The freedom of parents to choose schools for their children
12 that are acceptable to their personal educational convictions is an
13 inherent and inalienable personal right under the state and federal

1 constitutions. The current system of school finance limits parents’
2 freedom to select schools that they believe can provide their
3 children with a quality education.

4 (c) Allowing parents to choose schools, public as well as private,
5 for their children will promote a healthy competition among
6 schools and empower parents to influence educational policies and
7 procedures, leading to better quality education. Competition can
8 also lead to lower costs as waste and unnecessary expenditures of
9 public moneys are no longer tolerated.

10 (d) Article 3.5 (commencing with Section 33355) of Chapter 3
11 of Part 20 of Division 2 of Title 2 of the Education Code, as
12 enacted by Section 2 of this act, is in the public interest and for
13 the public benefit, and serves a secular public purpose.

14 SEC. 2. Article 3.5 (commencing with Section 33355) is added
15 to Chapter 3 of Part 20 of Division 2 of Title 2 of the Education
16 Code, to read:

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Article 3.5. G.I. Jr. Grant Program

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20 33355. (a) The G.I. Jr. Grant Program is hereby established
21 under which a parent of a qualifying pupil who completes an
22 application for a grant under this article shall receive a grant that
23 is to be redeemed at the grant school in which the qualifying pupil
24 enrolls and applied toward payment of the tuition and fees payable
25 for the educational and related services provided to the qualifying
26 pupil by that grant school.

27 (b) Notwithstanding any other provision of law, a grant provided
28 under this article constitutes a grant of aid to a qualifying pupil
29 through the qualifying pupil’s parent and is not a grant to the grant
30 school in which the qualifying pupil is enrolled. The grant does
31 not constitute taxable income to the parent or the qualifying pupil.

32 (c) A qualifying pupil shall not receive a grant for any portion
33 of a school year in which the qualifying pupil is enrolled in a
34 private school that does not redeem grants under this article.

35 (d) A parent is free to choose any grant school for enrollment
36 of the qualifying pupil, and that choice or selection is not, and shall
37 not be deemed, a decision or act of this state or any of its political
38 subdivisions.

39 33355.3. As used in this article:

40 (a) “Department” means the State Department of Education.

1 (b) “Grant” means a grant of aid made under this article to a
2 qualifying pupil, through the qualifying pupil’s parent, to be used
3 by and for the benefit of the pupil as provided in this article.

4 (c) “Grant school” means a nonsectarian, nondenominational
5 private school, that maintains one or more grade levels from
6 kindergarten to grade 12, inclusive, and that elects to, and is entitled
7 to, participate in and redeem grants pursuant to this article.

8 (d) “Parent” means a resident of this state who is the natural or
9 adopted parent or the legal guardian of a qualifying pupil.

10 (e) “Qualifying pupil” means a pupil who is eligible to receive
11 a grant under this article.

12 33355.5. (a) A pupil is eligible to receive a grant under this
13 article if, during the school year in which the grant is to be
14 effective, the pupil meets all of the following conditions:

15 (1) Is a California resident within the meaning of Section 68017.

16 (2) Is under 22 years of age, and has neither graduated from
17 high school nor obtained a general equivalency diploma.

18 (3) Enrolls as a full-time pupil in a grant school at a grade level
19 in which all qualifying pupils in that grade are entitled to receive
20 a grant pursuant to this article.

21 (4) Is the natural or adopted child of a person who is or was a
22 member of the United States Armed Forces, including a member
23 of the California National Guard or a member of the reserves of
24 any branch of the United States Armed Forces, and who is currently
25 on federal active duty or who was on federal active duty at any
26 time after January 1, 1995.

27 (b) A qualifying pupil who receives a grant pursuant to this
28 article shall continue to receive a grant each year if the qualifying
29 pupil completed all necessary coursework to be promoted to at
30 least the next grade level in the grant school, the qualifying pupil
31 is in good academic standing with the grant school, and the parent
32 completes all applications required by the grant school and the
33 department.

34 (c) Beginning with the 2012–13 school year, each qualifying
35 pupil is entitled to receive a grant pursuant to this article.

36 33355.7. (a) A nonsectarian, nondenominational private school
37 that maintains any grade in which an enrolled qualifying pupil is
38 entitled to receive a grant pursuant to this article shall opt each
39 school year to either participate or not participate in the grant
40 program established under this article. A school that wishes to

1 participate in the program as a grant school shall complete a notice
2 of intent to participate, and file it with the department, by February
3 15 of each calendar year for inclusion in the program for the
4 following school year.

5 (b) (1) A private school that participates in the grant program,
6 and that is entitled to redeem a grant for a qualifying pupil who
7 enrolls in that grant school, is not required to accept the grant as
8 full payment for the educational and related services that the school
9 provides to that qualifying pupil, and may charge the qualifying
10 pupil an additional amount representing the balance of the tuition
11 and fees that remains payable after crediting the qualifying pupil
12 with the amount of the grant received by the qualifying pupil under
13 this article.

14 (2) A private school that redeems grants under this act shall use
15 the grant proceeds solely to provide educational goods, services,
16 and facilities for its qualifying pupils and is not entitled to receive,
17 for redeeming a grant, any amount in excess of the tuition and fees
18 customarily charged by the school to cover the cost of providing
19 those educational goods, services, and facilities.

20 (c) Each grant school shall do all of the following:

21 (1) Ensure the eligibility of each applicant for a grant issued
22 pursuant to this article.

23 (2) On or before August 1 of each year, submit a list of
24 qualifying pupils and the contact information of each parent of a
25 qualifying pupil accepted into the school for that school year to
26 the department.

27 (3) Submit a list of qualifying pupils enrolled in and attending
28 the school with a grant as of the date of the report to the department
29 on August 15, October 15, January 15, and April 15 of each school
30 year. The report shall constitute the base pupil level of qualifying
31 pupils. The base pupil level shall accurately reflect the number of
32 qualifying pupils enrolled in and attending the grant school.

33 (4) Annually meet at least one of the following standards:

34 (A) At least 70 percent of the qualifying pupils in the program
35 at the school advance at least one grade level each year.

36 (B) The grant school's average daily attendance rate for the
37 pupils in the program is at least 90 percent.

38 (C) At least 80 percent of the qualifying pupils in the program
39 at the school demonstrate significant academic progress, measured
40 by criteria established by the grant school including, but not

1 necessarily limited to, a nationally standardized norm-referenced
2 achievement test.

3 (D) At least 70 percent of the families of qualifying pupils in
4 the program at the school meet the parental involvement criteria
5 established by the grant school.

6 (5) Provide test results to the parent of each pupil if the school
7 administers a nationally standardized norm-referenced achievement
8 test.

9 33356. (a) On or before March 31, 2012, and each March 31
10 thereafter, the department shall issue a press release, and shall
11 publish on its Internet Web site, a list of all grant schools in the
12 state that will redeem grants under this article for the school year
13 that begins in that calendar year. Each school on the list shall be
14 identified by at least contact information and by the grade level or
15 levels for which the grant school will redeem grants for that school
16 year.

17 (b) A parent who wishes to enroll a qualifying pupil in a grant
18 school for any school year on a grant that is to be issued under this
19 article shall complete and submit, not later than June 15 of the
20 calendar year in which the school year that the grant is to be
21 effective, an application to the grant school on a form provided by
22 the school. The application shall be filed at the same time that the
23 parent submits the application for a grant to the department
24 pursuant to subdivision (c). Within 45 calendar days after receiving
25 the application, the grant school shall notify the applicant, in
26 writing, whether the application has been accepted. If the grant
27 school rejects an applicant, the qualifying pupil may use the grant
28 to apply for enrollment before June 15 of each year to another
29 participating grant school that has space available.

30 (c) A parent who wishes to enroll a qualifying pupil in a grant
31 school shall submit an application for a grant to the department.
32 The department shall develop the form of application for a grant,
33 and shall publish the form on its Internet Web site in a format that
34 may be downloaded by pupils or parents who request the form.
35 The grant form shall provide for identification of a qualifying pupil
36 by at least the pupil's name, date of birth, address, school district
37 of residence, school and grade of current enrollment, grant school
38 to which application for admission under a grant is being made,
39 and grade of school in which the grant applied for is to be effective.

1 33356.3. (a) A grant issued under this article for the benefit
2 of a qualifying pupil in the 2012–13 school year shall have a value
3 equal to five thousand dollars (\$5,000), or the total amount of
4 tuition and fees charged by the grant school, whichever is less.

5 (b) Commencing with the 2013–14 school year, the grant value
6 shall be annually adjusted to reflect the percentage increase, if any,
7 from the prior fiscal year in the amount appropriated from the
8 General Fund in the annual Budget Act to meet the minimum
9 constitutional funding guarantee under Section 8 of Article XVI
10 of the California Constitution.

11 33356.5. (a) The moneys to pay a grant that is issued for the
12 benefit of a qualifying pupil, and that is to be effective during the
13 school year with respect to which those moneys are paid, shall be
14 distributed by the department immediately on receipt of proof of
15 the pupil’s enrollment in the grant school during a school year and
16 in the form of a grant to the parent. The parent shall restrictively
17 endorse the grant for the use of the grant school, and surrender the
18 grant to the grant school. The grant school shall immediately credit
19 the account of the parent of the qualifying pupil, and apply the
20 grant for the benefit of the qualifying pupil in payment of the
21 tuition and fees due from, or the costs of providing educational
22 and related services to, that pupil.

23 (b) The department shall annually make four payments to a
24 grant school based on the base pupil level calculated pursuant to
25 paragraph (3) of subdivision (c) of Section 33355.7. The payments
26 shall be issued to the grant schools on September 1, November 1,
27 February 1, and May 1 of each school year.

28 (c) Notwithstanding any other provision of this article, if a
29 qualifying pupil transfers from a grant school to another school
30 during the school year in which a grant issued for the benefit of
31 that pupil is effective, the grant school from which the pupil
32 transfers shall do both of the following:

33 (1) Provide written notice of the transfer, within 10 days after
34 the transfer occurs, to the department.

35 (2) Return to the department, to be held in trust and maintained
36 by the department in the name of the transferring pupil’s parent
37 for the benefit of that pupil, any grant moneys already paid or
38 distributed to the grant school under subdivision (a) for the benefit
39 of that pupil for that school year, and not yet due or earned as

1 tuition and fees or as the cost of providing educational and related
2 services for that pupil for that school year.

3 33356.7. (a) The G.I. Jr. Grant Fund is hereby established.
4 Moneys shall be deposited in the fund pursuant to an appropriation
5 in the annual Budget Act or another measure. The department shall
6 administer the fund. Moneys deposited in the fund are for the
7 purpose of making G.I. Jr. grants pursuant to this article.

8 (b) The department may use up to 1 percent of the annual
9 appropriation for payment of the costs and expenses that are
10 incurred by the department in performing its duties and
11 responsibilities under this article.

12 33357. A person who does any of the following is guilty of a
13 misdemeanor:

14 (a) Uses or attempts to use a grant or certificate of grant for any
15 purpose other than those permitted by this article.

16 (b) With intent to defraud, knowingly forges, alters, or
17 misrepresents information on a grant or certificate of grant or on
18 any documents submitted in an application for a grant.

19 (c) Issues or delivers any grant, certificate of grant, or other
20 grant-related document knowing it has been forged, altered, or
21 based on misrepresentation.

22 (d) Possesses, with intent to issue or deliver, any grant,
23 certificate of grant, or other grant-related document knowing it
24 has been forged, altered, or based on misrepresentation.

25 33357.3. (a) In any legal proceeding challenging the
26 application of this article to a private school, the state bears the
27 burden of establishing that the law is necessary and does not
28 impose any undue burden on private schools.

29 (b) A nonsectarian, nondenominational private school shall not
30 be required to alter its philosophy, practices, or curriculum in order
31 to redeem grants issued pursuant to this article or in order to
32 participate as a grant school.

33 33357.5. This article shall become inoperative on July 1, 2017,
34 and, as of January 1, 2018, is repealed, unless a later enacted
35 statute, that becomes operative on or before January 1, 2018,
36 deletes or extends the dates on which it becomes inoperative and
37 is repealed.

38 SEC. 3. No reimbursement is required by this act pursuant to
39 Section 6 of Article XIII B of the California Constitution because
40 the only costs that may be incurred by a local agency or school

1 district will be incurred because this act creates a new crime or
2 infraction, eliminates a crime or infraction, or changes the penalty
3 for a crime or infraction, within the meaning of Section 17556 of
4 the Government Code, or changes the definition of a crime within
5 the meaning of Section 6 of Article XIII B of the California
6 Constitution.

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