

AMENDED IN SENATE JUNE 15, 2011

AMENDED IN ASSEMBLY APRIL 26, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1085

Introduced by Assembly Member Davis

February 18, 2011

An act to ~~amend~~ *amend, repeal, and add* Section 46601 of the Education Code, relating to school attendance.

LEGISLATIVE COUNSEL'S DIGEST

AB 1085, as amended, Davis. School attendance: interdistrict attendance.

Existing law authorizes the governing boards of 2 or more school districts to enter into an agreement for the interdistrict attendance of pupils who are residents of the school districts. If either school district fails to approve the interdistrict attendance of a pupil, or in the case of the failure or refusal of the school districts to enter into an agreement, existing law authorizes the person having legal custody of the pupil to appeal to the county board of education in accordance with a prescribed procedure. Existing law requires the county board of education to determine, within 30 calendar days, whether the pupil should be permitted to attend in the school district in which the pupil desires to attend and the applicable period of time.

This bill would state the intent of the Legislature that school districts and county boards of education use their best efforts to expeditiously process interdistrict attendance appeals. The bill also would require, *until July 1, 2015*, that, in a class 1 county, which is defined in existing law as a county with 1994–95 average daily attendance of more than

500,000, or a class 2 county, which is defined in existing law as a county with 1994–95 average daily attendance of at least 180,000 but less than 500,000, the county board of education determine whether the pupil should be permitted to attend the school district ~~that~~ *in which* the pupil desires to attend and the applicable period of time within 40 schooldays rather than 30 calendar days.

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

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

- 1 SECTION 1. It is the intent of the Legislature that school
- 2 districts and county boards of education make best efforts to
- 3 process interdistrict attendance appeals in an expeditious fashion.
- 4 SEC. 2. Section 46601 of the Education Code is amended to
- 5 read:
- 6 46601. (a) If, within 30 calendar days after the person having
- 7 legal custody of a pupil has so requested, the governing board of
- 8 either school district fails to approve interdistrict attendance in the
- 9 current term, or, in the absence of an agreement between the
- 10 districts, fails or refuses to enter into an agreement, the district
- 11 denying the permit, or, in the absence of an agreement, the district
- 12 of residence, shall advise the person requesting the permit of the
- 13 right to appeal to the county board of education.
- 14 (b) If, within 14 calendar days after the commencement of
- 15 instruction in a new term in each of the school districts,
- 16 respectively, when the person having legal custody of a pupil has
- 17 so requested separately of each district not later than 30 calendar
- 18 days prior to the commencement of instruction in that term in that
- 19 district, the governing board of either district fails to approve
- 20 interdistrict attendance in that term, or, in the absence of an
- 21 agreement between the districts to permit that attendance, fails or
- 22 refuses to enter an agreement, the district denying the permit, or,
- 23 in the absence of an agreement, the district of residence, shall
- 24 advise the person requesting the permit of the right to appeal to
- 25 the county board of education.
- 26 (c) Notifying districts shall also, in all instances, advise persons
- 27 making unsuccessful requests for interdistrict attendance of all of
- 28 the following:

1 (1) The person having legal custody may appeal, within 30
2 calendar days of the failure or refusal to issue a permit, or to enter
3 into an agreement allowing the attendance, to the county board of
4 education having jurisdiction over the district of residence of the
5 parent or legal guardian or person having legal custody. Failure
6 to appeal within the required time is good cause for denial of an
7 appeal. An appeal shall be accepted only upon verification by the
8 county board's designee that appeals within the districts have been
9 exhausted. If new evidence or grounds for the request are
10 introduced, the county board may remand the matter for further
11 consideration by the district or districts. In all other cases, the
12 appeal shall be granted or denied on its merits.

13 (2) (A) (i) The county board of education shall, unless clause
14 (ii) is applicable, within 30 calendar days after the appeal is filed,
15 determine whether the pupil should be permitted to attend in the
16 district in which the pupil desires to attend and the applicable
17 period of time.

18 (ii) The county board of education in a class 1 or class 2 county
19 shall, within 40 schooldays after the appeal is filed, determine
20 whether the pupil should be permitted to attend in the district in
21 which the pupil desires to attend and the applicable period of time.

22 (B) In the event that compliance by the county board within the
23 time requirement for determining whether the pupil should be
24 permitted to attend in the district in which the pupil desires to
25 attend is impractical, the county board or the county superintendent
26 of schools, for good cause, may extend the time period for up to
27 an additional five school days. The county shall provide adequate
28 notice to all parties of the date and time of any hearing scheduled
29 and of the opportunity to submit written statements and
30 documentation and to be heard on the matter pursuant to rules and
31 regulations adopted by the county board of education in accordance
32 with this chapter. The county board rules may provide for the
33 granting of continuances upon a showing of good cause. The
34 county board of education shall render a decision within three
35 schooldays of any hearing conducted by the board unless the person
36 who filed the appeal requests a postponement.

37 (C) In a class 1 or class 2 county, the county board rules may
38 provide for any hearing pursuant to this section to be conducted
39 by a hearing officer pursuant to Chapter 14 (commencing with
40 Section 27720) of Part 3 of Division 2 of Title 3 of the Government

1 Code, or by an impartial administrative panel of three or more
2 certificated persons appointed by the county board of education.
3 Section 27722 of the Government Code is applicable to a hearing
4 by any impartial administrative panel and, for purposes of this
5 section, the term “hearing officer” in Section 27722 of the
6 Government Code includes an impartial administrative panel. No
7 member of the impartial administrative panel shall be a member
8 of the county board of education, nor be employed by the school
9 district of residence or the district of desired attendance.

10 (D) The definitions of “class 1 county” and “class 2 county” in
11 subdivision (e) of Section 48919.5 apply to this section. If the
12 hearing officer is not authorized to decide whether the pupil should
13 be permitted to attend in the district in which the pupil desires to
14 attend, the county board of education, within 10 days of receiving
15 the recommended decision pursuant to subdivision (b) of Section
16 27722 of the Government Code, shall render a decision.

17 (3) The county supervisor of attendance, or other designee of
18 the county superintendent of schools, shall investigate to determine
19 whether local remedies in the matter have been exhausted and to
20 provide any additional information deemed useful to the county
21 board in reaching a decision.

22 (4) If the interdistrict attendance involves school districts located
23 in different counties, the county board of education having
24 jurisdiction over the district denying a permit, or refusing or failing
25 to enter into an agreement to allow for the issuance of a permit,
26 shall have jurisdiction for purposes of an appeal. If both districts
27 deny a permit, or refuse or fail to enter into an agreement to allow
28 for the issuance of a permit, the county board having jurisdiction
29 over the district of residence shall have jurisdiction for purposes
30 of an appeal and, upon granting a pupil’s appeal, shall seek
31 concurrence in the decision by the county board of the other county
32 which shall provide adequate opportunity for the district under its
33 jurisdiction to be heard on the matter before making a decision. If
34 the two county boards do not then concur, the pupil’s appeal shall
35 be denied.

36 (5) Pupils who are under consideration for expulsion, or who
37 have been expelled pursuant to Sections 48915 and 48918, may
38 not appeal interdistrict attendance denials or rescissions while
39 expulsion proceedings are pending, or during the term of the
40 expulsion.

1 (d) *This section shall become inoperative on July 1, 2015, and,*
2 *as of January 1, 2016, is repealed, unless a later enacted statute,*
3 *that becomes operative on or before January 1, 2016, deletes or*
4 *extends the dates on which it becomes inoperative and is repealed.*

5 SEC. 3. *Section 46601 is added to the Education Code, to read:*

6 46601. (a) *If, within 30 calendar days after the person having*
7 *legal custody of a pupil has so requested, the governing board of*
8 *either school district fails to approve interdistrict attendance in*
9 *the current term, or, in the absence of an agreement between the*
10 *districts, fails or refuses to enter into an agreement, the district*
11 *denying the permit, or, in the absence of an agreement, the district*
12 *of residence, shall advise the person requesting the permit of the*
13 *right to appeal to the county board of education.*

14 (b) *If, within 14 calendar days after the commencement of*
15 *instruction in a new term in each of the school districts,*
16 *respectively, when the person having legal custody of a pupil has*
17 *so requested separately of each district not later than 30 calendar*
18 *days prior to the commencement of instruction in that term in that*
19 *district, the governing board of either district fails to approve*
20 *interdistrict attendance in that term, or, in the absence of an*
21 *agreement between the districts to permit that attendance, fails or*
22 *refuses to enter an agreement, the district denying the permit, or,*
23 *in the absence of an agreement, the district of residence, shall*
24 *advise the person requesting the permit of the right to appeal to*
25 *the county board of education.*

26 (c) *Notifying districts shall also, in all instances, advise persons*
27 *making unsuccessful requests for interdistrict attendance of all of*
28 *the following:*

29 (1) *The person having legal custody may appeal, within 30*
30 *calendar days of the failure or refusal to issue a permit, or to enter*
31 *into an agreement allowing the attendance, to the county board*
32 *of education having jurisdiction over the district of residence of*
33 *the parent or legal guardian or person having legal custody.*
34 *Failure to appeal within the required time is good cause for denial*
35 *of an appeal. An appeal shall be accepted only upon verification*
36 *by the county board's designee that appeals within the districts*
37 *have been exhausted. If new evidence or grounds for the request*
38 *are introduced, the county board may remand the matter for further*
39 *consideration by the district or districts. In all other cases, the*
40 *appeal shall be granted or denied on its merits.*

1 (2) (A) *The county board of education shall, within 30 calendar*
2 *days after the appeal is filed, determine whether the pupil should*
3 *be permitted to attend in the district in which the pupil desires to*
4 *attend and the applicable period of time.*

5 (B) *In the event that compliance by the county board within the*
6 *time requirement for determining whether the pupil should be*
7 *permitted to attend in the district in which the pupil desires to*
8 *attend is impractical, the county board or the county superintendent*
9 *of schools, for good cause, may extend the time period for up to*
10 *an additional five school days. The county shall provide adequate*
11 *notice to all parties of the date and time of any hearing scheduled*
12 *and of the opportunity to submit written statements and*
13 *documentation and to be heard on the matter pursuant to rules*
14 *and regulations adopted by the county board of education in*
15 *accordance with this chapter. The county board rules may provide*
16 *for the granting of continuances upon a showing of good cause.*
17 *The county board of education shall render a decision within three*
18 *schooldays of any hearing conducted by the board unless the*
19 *person who filed the appeal requests a postponement.*

20 (C) *In a class 1 or class 2 county, the county board rules may*
21 *provide for any hearing pursuant to this section to be conducted*
22 *by a hearing officer pursuant to Chapter 14 (commencing with*
23 *Section 27720) of Part 3 of Division 2 of Title 3 of the Government*
24 *Code, or by an impartial administrative panel of three or more*
25 *certificated persons appointed by the county board of education.*
26 *Section 27722 of the Government Code is applicable to a hearing*
27 *by any impartial administrative panel and, for purposes of this*
28 *section, the term “hearing officer” in Section 27722 of the*
29 *Government Code includes an impartial administrative panel. No*
30 *member of the impartial administrative panel shall be a member*
31 *of the county board of education, nor be employed by the school*
32 *district of residence or the district of desired attendance.*

33 (D) *The definitions of “class 1 county” and “class 2 county”*
34 *in subdivision (e) of Section 48919.5 apply to this section. If the*
35 *hearing officer is not authorized to decide whether the pupil should*
36 *be permitted to attend in the district in which the pupil desires to*
37 *attend, the county board of education, within 10 days of receiving*
38 *the recommended decision pursuant to subdivision (b) of Section*
39 *27722 of the Government Code, shall render a decision.*

1 (3) *The county supervisor of attendance, or other designee of*
2 *the county superintendent of schools, shall investigate to determine*
3 *whether local remedies in the matter have been exhausted and to*
4 *provide any additional information deemed useful to the county*
5 *board in reaching a decision.*

6 (4) *If the interdistrict attendance involves school districts located*
7 *in different counties, the county board of education having*
8 *jurisdiction over the district denying a permit, or refusing or failing*
9 *to enter into an agreement to allow for the issuance of a permit,*
10 *shall have jurisdiction for purposes of an appeal. If both districts*
11 *deny a permit, or refuse or fail to enter into an agreement to allow*
12 *for the issuance of a permit, the county board having jurisdiction*
13 *over the district of residence shall have jurisdiction for purposes*
14 *of an appeal and, upon granting a pupil's appeal, shall seek*
15 *concurrence in the decision by the county board of the other county*
16 *which shall provide adequate opportunity for the district under*
17 *its jurisdiction to be heard on the matter before making a decision.*
18 *If the two county boards do not then concur, the pupil's appeal*
19 *shall be denied.*

20 (5) *Pupils who are under consideration for expulsion, or who*
21 *have been expelled pursuant to Sections 48915 and 48918, may*
22 *not appeal interdistrict attendance denials or rescissions while*
23 *expulsion proceedings are pending, or during the term of the*
24 *expulsion.*

25 (d) *This section shall become operative on July 1, 2015.*