

AMENDED IN ASSEMBLY JANUARY 18, 2012

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AMENDED IN ASSEMBLY MARCH 31, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1172

Introduced by Assembly Members Mendoza and Bonilla

February 18, 2011

An act to amend Section 47605 of, and to add Section 47609 to, the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 1172, as amended, Mendoza. Charter schools: petition for establishment: decision to grant or deny.

Existing law requires the governing board of a school district, within 60 days of the receipt of a petition for the establishment of a charter school, to either grant or deny the charter, as specified. Existing law prohibits the governing board of a school district from denying a petition unless the governing board makes written factual findings in support of one or more specified findings.

This bill would include the finding that the charter school would have a negative fiscal impact on the school district, as specified, among those findings upon which a school district may base denial of a petition for the establishment of a charter school.

~~Existing law requires the Legislative Analyst, by July 1, 2003, to report to the Legislature on the effectiveness of the charter school approach and recommend whether to expand or reduce the annual rate of growth of charter schools. Existing law requires the Legislative Analyst's Office to convene triennially a work group to review;~~

~~commencing with appropriations proposed for the 2008–09 fiscal year, the appropriateness of the funding level provided by the categorical block grant for charter schools.~~

~~This bill would require the Legislative Analyst, on or before July 1, 2016, to submit a report to the Legislature on the best practices and lessons learned from charter school innovation and distribute it to all local educational agencies, to the appropriate education policy committees of the Legislature, and to the Governor.~~

~~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. Section 47605 of the Education Code is amended
2 to read:

3 47605. (a) (1) Except as set forth in paragraph (2), a petition
4 for the establishment of a charter school within a school district
5 may be circulated by one or more persons seeking to establish the
6 charter school. A petition for the establishment of a charter school
7 shall identify a single charter school that will operate within the
8 geographic boundaries of that school district. A charter school
9 may propose to operate at multiple sites within the school district,
10 as long as each location is identified in the charter school petition.
11 The petition may be submitted to the governing board of the school
12 district for review after either of the following conditions are met:

13 (A) The petition has been signed by a number of parents or legal
14 guardians of pupils that is equivalent to at least one-half of the
15 number of pupils that the charter school estimates will enroll in
16 the school for its first year of operation.

17 (B) The petition has been signed by a number of teachers that
18 is equivalent to at least one-half of the number of teachers that the
19 charter school estimates will be employed at the school during its
20 first year of operation.

21 (2) A petition that proposes to convert an existing public school
22 to a charter school that would not be eligible for a loan pursuant
23 to subdivision (b) of Section 41365 may be circulated by one or
24 more persons seeking to establish the charter school. The petition
25 may be submitted to the governing board of the school district for
26 review after the petition has been signed by not less than 50 percent

1 of the permanent status teachers currently employed at the public
2 school to be converted.

3 (3) A petition shall include a prominent statement that a
4 signature on the petition means that the parent or legal guardian
5 is meaningfully interested in having his or her child or ward attend
6 the charter school, or in the case of a teacher's signature, means
7 that the teacher is meaningfully interested in teaching at the charter
8 school. The proposed charter shall be attached to the petition.

9 (4) After receiving approval of its petition, a charter school that
10 proposes to establish operations at one or more additional sites
11 shall request a material revision to its charter and shall notify the
12 authority that granted its charter of those additional locations. The
13 authority that granted its charter shall consider whether to approve
14 those additional locations at an open, public meeting. If the
15 additional locations are approved, they shall be a material revision
16 to the charter school's charter.

17 (5) A charter school that is unable to locate within the
18 jurisdiction of the chartering school district may establish one site
19 outside the boundaries of the school district, but within the county
20 in which that school district is located, if the school district within
21 the jurisdiction of which the charter school proposes to operate is
22 notified in advance of the charter petition approval, the county
23 superintendent of schools and the Superintendent are notified of
24 the location of the charter school before it commences operations,
25 and either of the following circumstances exist:

26 (A) The school has attempted to locate a single site or facility
27 to house the entire program, but a site or facility is unavailable in
28 the area in which the school chooses to locate.

29 (B) The site is needed for temporary use during a construction
30 or expansion project.

31 (6) Commencing January 1, 2003, a petition to establish a charter
32 school shall not be approved to serve pupils in a grade level that
33 is not served by the school district of the governing board
34 considering the petition, unless the petition proposes to serve pupils
35 in all of the grade levels served by that school district.

36 (b) No later than 30 days after receiving a petition, in accordance
37 with subdivision (a), the governing board of the school district
38 shall hold a public hearing on the provisions of the charter, at
39 which time the governing board of the school district shall consider
40 the level of support for the petition by teachers employed by the

1 district, other employees of the district, and parents. Following
2 review of the petition and the public hearing, the governing board
3 of the school district shall either grant or deny the charter within
4 60 days of receipt of the petition, provided, however, that the date
5 may be extended by an additional 30 days if both parties agree to
6 the extension. In reviewing petitions for the establishment of
7 charter schools pursuant to this section, the chartering authority
8 shall be guided by the intent of the Legislature that charter schools
9 are and should become an integral part of the California educational
10 system and that establishment of charter schools should be
11 encouraged. The governing board of the school district shall grant
12 a charter for the operation of a school under this part if it is satisfied
13 that granting the charter is consistent with sound educational
14 practice. The governing board of the school district shall not deny
15 a petition for the establishment of a charter school unless it makes
16 written factual findings, specific to the particular petition, setting
17 forth specific facts to support one or more of the following
18 findings:

19 (1) The charter school presents an unsound educational program
20 for the pupils to be enrolled in the charter school.

21 (2) The petitioners are demonstrably unlikely to successfully
22 implement the program set forth in the petition.

23 (3) The petition does not contain the number of signatures
24 required by subdivision (a).

25 (4) The petition does not contain an affirmation of each of the
26 conditions described in subdivision (d).

27 (5) The petition does not contain reasonably comprehensive
28 descriptions of all of the following:

29 (A) (i) A description of the educational program of the school,
30 designed, among other things, to identify those whom the school
31 is attempting to educate, what it means to be an “educated person”
32 in the 21st century, and how learning best occurs. The goals
33 identified in that program shall include the objective of enabling
34 pupils to become self-motivated, competent, and lifelong learners.

35 (ii) If the proposed school will serve high school pupils, a
36 description of the manner in which the charter school will inform
37 parents about the transferability of courses to other public high
38 schools and the eligibility of courses to meet college entrance
39 requirements. Courses offered by the charter school that are
40 accredited by the Western Association of Schools and Colleges

1 may be considered transferable and courses approved by the
2 University of California or the California State University as
3 creditable under the “A” to “G” admissions criteria may be
4 considered to meet college entrance requirements.

5 (B) The measurable pupil outcomes identified for use by the
6 charter school. “Pupil outcomes,” for purposes of this part, means
7 the extent to which all pupils of the school demonstrate that they
8 have attained the skills, knowledge, and attitudes specified as goals
9 in the school’s educational program.

10 (C) The method by which pupil progress in meeting those pupil
11 outcomes is to be measured.

12 (D) The governance structure of the school, including, but not
13 limited to, the process to be followed by the school to ensure
14 parental involvement.

15 (E) The qualifications to be met by individuals to be employed
16 by the school.

17 (F) The procedures that the school will follow to ensure the
18 health and safety of pupils and staff. These procedures shall include
19 the requirement that each employee of the school furnish the school
20 with a criminal record summary as described in Section 44237.

21 (G) The means by which the school will achieve a racial and
22 ethnic balance among its pupils that is reflective of the general
23 population residing within the territorial jurisdiction of the school
24 district to which the charter petition is submitted.

25 (H) Admission requirements, if applicable.

26 (I) The manner in which annual, independent financial audits
27 shall be conducted, which shall employ generally accepted
28 accounting principles, and the manner in which audit exceptions
29 and deficiencies shall be resolved to the satisfaction of the
30 chartering authority.

31 (J) The procedures by which pupils can be suspended or
32 expelled.

33 (K) The manner by which staff members of the charter schools
34 will be covered by the State Teachers’ Retirement System, the
35 Public Employees’ Retirement System, or federal social security.

36 (L) The public school attendance alternatives for pupils residing
37 within the school district who choose not to attend charter schools.

38 (M) A description of the rights of any employee of the school
39 district upon leaving the employment of the school district to work

1 in a charter school, and of any rights of return to the school district
2 after employment at a charter school.

3 (N) The procedures to be followed by the charter school and
4 the entity granting the charter to resolve disputes relating to
5 provisions of the charter.

6 (O) A declaration whether or not the charter school shall be
7 deemed the exclusive public school employer of the employees of
8 the charter school for the purposes of Chapter 10.7 (commencing
9 with Section 3540) of Division 4 of Title 1 of the Government
10 Code.

11 (P) A description of the procedures to be used if the charter
12 school closes. The procedures shall ensure a final audit of the
13 school to determine the disposition of all assets and liabilities of
14 the charter school, including plans for disposing of any net assets
15 and for the maintenance and transfer of pupil records.

16 (6) The charter school would have a negative fiscal impact on
17 the school district. For the purpose of this paragraph, the finding
18 that a charter school would have a negative fiscal impact on a
19 school district may only be established, and is deemed to be
20 established, if any of the following conditions are met:

21 (A) The school district has received a ~~qualified~~ or negative
22 financial certification pursuant to Section 42131.

23 ~~(B) The school district demonstrates fiscal distress through the~~
24 ~~application of the standards and criteria adopted pursuant to Section~~
25 ~~33127 for the development of annual budgets and the management~~
26 ~~of subsequent expenditures from annual budgets.~~

27 ~~(C)~~

28 ~~(B)~~ The school district ~~applies for an emergency apportionment~~
29 ~~or loan, or~~ has received an emergency apportionment or loan and
30 is operating under the oversight of a state administrator or trustee
31 pursuant to Article 2 (commencing with Section 41320) or Article
32 2.5 (commencing with Section 41325) of Chapter 3 of Part 24 of
33 Division 3 *and has received a qualified financial certification*
34 *pursuant to Section 42131 or would receive a qualified financial*
35 *certification pursuant to Section 42131 if the charter school*
36 *petition is approved.*

37 ~~(D)~~

38 (C) The school district, due to the declining enrollment of pupils,
39 is in the process of closing a school that a charter school petition
40 has identified as the proposed site for its charter school.

1 (c) (1) Charter schools shall meet all statewide standards and
2 conduct the pupil assessments required pursuant to Sections 60605
3 and 60851 and any other statewide standards authorized in statute
4 or pupil assessments applicable to pupils in noncharter public
5 schools.

6 (2) Charter schools shall, on a regular basis, consult with their
7 parents, legal guardians, and teachers regarding the school's
8 educational programs.

9 (d) (1) In addition to any other requirement imposed under this
10 part, a charter school shall be nonsectarian in its programs,
11 admission policies, employment practices, and all other operations,
12 shall not charge tuition, and shall not discriminate against any
13 pupil on the basis of the characteristics listed in Section 220. Except
14 as provided in paragraph (2), admission to a charter school shall
15 not be determined according to the place of residence of the pupil,
16 or of his or her parent or legal guardian, within this state, except
17 that an existing public school converting partially or entirely to a
18 charter school under this part shall adopt and maintain a policy
19 giving admission preference to pupils who reside within the former
20 attendance area of that public school.

21 (2) (A) A charter school shall admit all pupils who wish to
22 attend the school.

23 (B) However, if the number of pupils who wish to attend the
24 charter school exceeds the school's capacity, attendance, except
25 for existing pupils of the charter school, shall be determined by a
26 public random drawing. Preference shall be extended to pupils
27 currently attending the charter school and pupils who reside in the
28 district except as provided for in Section 47614.5. Other
29 preferences may be permitted by the chartering authority on an
30 individual school basis and only if consistent with the law.

31 (C) In the event of a drawing, the chartering authority shall
32 make reasonable efforts to accommodate the growth of the charter
33 school and in no event shall take any action to impede the charter
34 school from expanding enrollment to meet pupil demand.

35 (3) If a pupil is expelled or leaves the charter school without
36 graduating or completing the school year for any reason, the charter
37 school shall notify the superintendent of the school district of the
38 pupil's last known address within 30 days, and shall, upon request,
39 provide that school district with a copy of the cumulative record
40 of the pupil, including a transcript of grades or report card, and

1 health information. This paragraph applies only to pupils subject
2 to compulsory full-time education pursuant to Section 48200.

3 (e) The governing board of a school district shall not require
4 any employee of the school district to be employed in a charter
5 school.

6 (f) The governing board of a school district shall not require
7 any pupil enrolled in the school district to attend a charter school.

8 (g) The governing board of a school district shall require that
9 the petitioner or petitioners provide information regarding the
10 proposed operation and potential effects of the school, including,
11 but not limited to, the facilities to be used by the school, the manner
12 in which administrative services of the school are to be provided,
13 and potential civil liability effects, if any, upon the school and
14 upon the school district. The description of the facilities to be used
15 by the charter school shall specify where the school intends to
16 locate. The petitioner or petitioners shall also be required to provide
17 financial statements that include a proposed first-year operational
18 budget, including startup costs, and cashflow and financial
19 projections for the first three years of operation.

20 (h) In reviewing petitions for the establishment of charter
21 schools within the school district, the governing board of the school
22 district shall give preference to petitions that demonstrate the
23 capability to provide comprehensive learning experiences to pupils
24 identified by the petitioner or petitioners as academically low
25 achieving pursuant to the standards established by the department
26 under Section 54032 as it read prior to July 19, 2006.

27 (i) Upon the approval of the petition by the governing board of
28 the school district, the petitioner or petitioners shall provide written
29 notice of that approval, including a copy of the petition, to the
30 applicable county superintendent of schools, the department, and
31 the state board.

32 (j) (1) If the governing board of a school district denies a
33 petition, the petitioner may elect to submit the petition for the
34 establishment of a charter school to the county board of education.
35 The county board of education shall review the petition pursuant
36 to subdivision (b). If the petitioner elects to submit a petition for
37 establishment of a charter school to the county board of education
38 and the county board of education denies the petition, the petitioner
39 may file a petition for establishment of a charter school with the
40 state board, and the state board may approve the petition, in

1 accordance with subdivision (b). A charter school that receives
2 approval of its petition from a county board of education or from
3 the state board on appeal shall be subject to the same requirements
4 concerning geographic location to which it would otherwise be
5 subject if it received approval from the entity to which it originally
6 submitted its petition. A charter petition that is submitted to either
7 a county board of education or to the state board shall meet all
8 otherwise applicable petition requirements, including the
9 identification of the proposed site or sites where the charter school
10 will operate.

11 (2) In assuming its role as a chartering agency, the state board
12 shall develop criteria to be used for the review and approval of
13 charter school petitions presented to the state board. The criteria
14 shall address all elements required for charter approval, as
15 identified in subdivision (b), and shall define “reasonably
16 ~~comprehensive~~” *comprehensive*,” as used in paragraph (5) of
17 subdivision (b), in a way that is consistent with the intent of this
18 part. Upon satisfactory completion of the criteria, the state board
19 shall adopt the criteria on or before June 30, 2001.

20 (3) A charter school for which a charter is granted by either the
21 county board of education or the state board based on an appeal
22 pursuant to this subdivision shall qualify fully as a charter school
23 for all funding and other purposes of this part.

24 (4) If either the county board of education or the state board
25 fails to act on a petition within 120 days of receipt, the decision
26 of the governing board of the school district to deny a petition
27 shall, thereafter, be subject to judicial review.

28 (5) The state board shall adopt regulations implementing this
29 subdivision.

30 (6) Upon the approval of the petition by the county board of
31 education, the petitioner or petitioners shall provide written notice
32 of that approval, including a copy of the petition, to the department
33 and the state board.

34 (k) (1) The state board may, by mutual agreement, designate
35 its supervisory and oversight responsibilities for a charter school
36 approved by the state board to any local educational agency in the
37 county in which the charter school is located or to the governing
38 board of the school district that first denied the petition.

39 (2) The designated local educational agency shall have all
40 monitoring and supervising authority of a chartering agency,

1 including, but not limited to, powers and duties set forth in Section
2 47607, except the power of revocation, which shall remain with
3 the state board.

4 (3) A charter school that has been granted its charter through
5 an appeal to the state board and elects to seek renewal of its charter
6 shall, before expiration of the charter, submit its petition for
7 renewal to the governing board of the school district that initially
8 denied the charter. If the governing board of the school district
9 denies the school’s petition for renewal, the school may petition
10 the state board for renewal of its charter.

11 (l) ~~Teachers in charter schools~~—A teacher in a charter school
12 shall hold a Commission on Teacher Credentialing certificate,
13 permit, or other document equivalent to that which a teacher in
14 other public schools would be required to hold. These documents
15 shall be maintained on file at the charter school and are subject to
16 periodic inspection by the chartering authority. It is the intent of
17 the Legislature that charter schools be given flexibility with regard
18 to noncore, noncollege preparatory courses.

19 (m) A charter school shall transmit a copy of its annual,
20 independent financial audit report for the preceding fiscal year, as
21 described in subparagraph (I) of paragraph (5) of subdivision (b),
22 to its chartering entity, the Controller, the county superintendent
23 of schools of the county in which the charter school is sited, unless
24 the county board of education of the county in which the charter
25 school is sited is the chartering entity, and the department by
26 December 15 of each year. This subdivision does not apply if the
27 audit of the charter school is encompassed in the audit of the
28 chartering entity pursuant to Section 41020.

29 ~~SEC. 2. Section 47609 is added to the Education Code, to read:~~
30 ~~47609. On or before July 1, 2016, the Legislative Analyst shall~~
31 ~~submit a report to the Legislature on the best practices and lessons~~
32 ~~learned from charter school innovation and distribute it to all local~~
33 ~~educational agencies, to the appropriate education policy~~
34 ~~committees of the Legislature, and to the Governor.~~