

ASSEMBLY BILL

No. 1531

Introduced by Assembly Member Chau

January 21, 2014

An act to amend Sections 47604 and 47605 of the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 1531, as introduced, Chau. Charter schools: operating as or by a nonprofit public benefit corporation.

(1) Existing law, the Charter Schools Act of 1992, authorizes a charter school to elect to operate as, or be operated by, a nonprofit public benefit corporation, as specified. The act also requires that the governing board of a school district that grants a charter for the establishment of a charter school formed and organized as a nonprofit public benefit corporation be entitled to a single representative on the board of directors of the nonprofit public benefit corporation.

This bill instead would require that an authority that grants a charter for the establishment of a charter school formed and organized as a nonprofit public benefit corporation be entitled to a single representative on the board of directors of the nonprofit public benefit corporation. The bill also would require that the initial chartering authority appoint a majority of the members of the board of directors of the nonprofit public benefit corporation, as provided, for a charter school that elects to operate as, or be operated by, a nonprofit public benefit corporation and submits a charter petition, charter renewal, or material revision application on or after January 1, 2015. By imposing additional duties on local educational agencies, the bill would impose a state-mandated local program.

(2) The Charter Schools Act of 1992 prohibits the governing board of a school district from denying a petition for the establishment of a charter school unless the governing board of the school district finds that the petition does not contain specified information, including, among other information, a reasonably comprehensive description of the governance structure of the school.

This bill would require the petition for the establishment of a charter school that will operate as, or be operated by, a nonprofit public benefit corporation also to include the names and background information for all persons whom the petitioner nominates to serve on the board of directors of the nonprofit public benefit corporation.

(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.

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 47604 of the Education Code is amended
2 to read:
3 47604. (a) Charter schools may elect to operate as, or be
4 operated by, a nonprofit public benefit corporation, formed and
5 organized pursuant to the Nonprofit Public Benefit Corporation
6 Law (Part 2 (commencing with Section 5110) of Division 2 of
7 Title 4) 1 of the Corporations Code).
8 (b) ~~The governing board of a school district~~ *An authority* that
9 grants a charter for the establishment of a charter school formed
10 and organized pursuant to this section shall be entitled to a single
11 representative on the board of directors of the nonprofit public
12 benefit corporation.
13 (c) *For a charter school that elects to operate pursuant to this*
14 *section, and that submits a charter petition, charter renewal, or*
15 *material revision application on or after January 1, 2015, all of*
16 *the following shall apply:*

1 (1) The initial chartering authority shall appoint a majority of
2 the members of the board of directors of the nonprofit public
3 benefit corporation from persons publicly nominated in the charter
4 petition, charter renewal, or material revision application. The
5 number of persons nominated shall be twice the total number of
6 members that comprise the board of directors. The majority
7 calculation required by this subdivision shall not include the
8 representative appointed pursuant to subdivision (b).

9 (2) The initial chartering authority, during the term of the
10 charter, shall ensure that a majority of the members of the board
11 of directors of the nonprofit public benefit corporation are
12 members appointed pursuant to paragraph (1). In the event that
13 a member appointed pursuant to paragraph (1) no longer serves
14 on the board of directors, for reasons including, but not limited
15 to, death, disability, removal, or resignation, the initial chartering
16 authority shall appoint a new member from persons nominated by
17 the nonprofit public benefit corporation at the time the vacancy
18 occurs, consistent with paragraph (1) and by submitting a material
19 revision application.

20 (3) Nothing in this subdivision limits or supersedes the ability
21 of a charter school operated pursuant to this section to either use
22 an election process or other community involvement process to
23 select nominees for the board of directors of the nonprofit public
24 benefit corporation for consideration by the initial chartering
25 authority or to nominate persons for positions on the board of
26 directors of the nonprofit public benefit corporation by using
27 specified eligibility criteria. It shall be the policy of the state to
28 encourage and to promote parental, educator, and community
29 participation in the governance of a charter school.

30 (4) A member of the board of directors of the nonprofit public
31 benefit corporation is subject to removal from his or her board
32 position pursuant to Article 3 (commencing with Section 3060) of
33 Chapter 7 of Division 4 of Title 1 of the Government Code and as
34 otherwise provided by law.

35 (e)

36 (d) An authority that grants a charter to a charter school to be
37 operated by, or as, a nonprofit public benefit corporation is not
38 liable for the debts or obligations of the charter school, or for
39 claims arising from the performance of acts, errors, or omissions
40 by the charter school, if the authority has complied with all

1 oversight responsibilities required by law, including, but not limited
2 to, those required by Section 47604.32 and subdivision (m) of
3 Section 47605.

4 SEC. 2. Section 47605 of the Education Code is amended to
5 read:

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

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

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

24 (2) A petition that proposes to convert an existing public school
25 to a charter school that would not be eligible for a loan pursuant
26 to subdivision (b) of Section 41365 may be circulated by one or
27 more persons seeking to establish the charter school. The petition
28 may be submitted to the governing board of the school district for
29 review after the petition is signed by not less than 50 percent of
30 the permanent status teachers currently employed at the public
31 school to be converted.

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

38 (4) After receiving approval of its petition, a charter school that
39 proposes to establish operations at one or more additional sites
40 shall request a material revision to its charter and shall notify the

1 authority that granted its charter of those additional locations. The
2 authority that granted its charter shall consider whether to approve
3 those additional locations at an open, public meeting. If the
4 additional locations are approved, they shall be a material revision
5 to the charter school's charter.

6 (5) A charter school that is unable to locate within the
7 jurisdiction of the chartering school district may establish one site
8 outside the boundaries of the school district, but within the county
9 in which that school district is located, if the school district within
10 the jurisdiction of which the charter school proposes to operate is
11 notified in advance of the charter petition approval, the county
12 superintendent of schools and the Superintendent are notified of
13 the location of the charter school before it commences operations,
14 and either of the following circumstances exists:

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

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

20 (6) Commencing January 1, 2003, a petition to establish a charter
21 school ~~may~~ *shall* not be approved to serve pupils in a grade level
22 that is not served by the school district of the governing board
23 considering the petition, unless the petition proposes to serve pupils
24 in all of the grade levels served by that school district.

25 (b) No later than 30 days after receiving a petition, in accordance
26 with subdivision (a), the governing board of the school district
27 shall hold a public hearing on the provisions of the charter, at
28 which time the governing board of the school district shall consider
29 the level of support for the petition by teachers employed by the
30 district, other employees of the district, and parents. Following
31 review of the petition and the public hearing, the governing board
32 of the school district shall either grant or deny the charter within
33 60 days of receipt of the petition, provided, however, that the date
34 may be extended by an additional 30 days if both parties agree to
35 the extension. In reviewing petitions for the establishment of
36 charter schools pursuant to this section, the chartering authority
37 shall be guided by the intent of the Legislature that charter schools
38 are and should become an integral part of the California educational
39 system and that *the* establishment of charter schools should be
40 encouraged. The governing board of the school district shall grant

1 a charter for the operation of a school under this part if it is satisfied
2 that granting the charter is consistent with sound educational
3 practice. The governing board of the school district shall not deny
4 a petition for the establishment of a charter school unless it makes
5 written factual findings, specific to the particular petition, setting
6 forth specific facts to support one or more of the following
7 findings:

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

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

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

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

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

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

24 (ii) A description, for the charter school, of annual goals, for
25 all pupils and for each subgroup of pupils identified pursuant to
26 Section 52052, to be achieved in the state priorities, as described
27 in subdivision (d) of Section 52060, that apply for the grade levels
28 served, or the nature of the program operated, by the charter school,
29 and specific annual actions to achieve those goals. A charter
30 petition may identify additional school priorities, the goals for the
31 school priorities, and the specific annual actions to achieve those
32 goals.

33 (iii) If the proposed school will serve high school pupils, a
34 description of the manner in which the charter school will inform
35 parents about the transferability of courses to other public high
36 schools and the eligibility of courses to meet college entrance
37 requirements. Courses offered by the charter school that are
38 accredited by the Western Association of Schools and Colleges
39 may be considered transferable and courses approved by the
40 University of California or the California State University as

1 creditable under the “A” to “G” admissions criteria may be
2 considered to meet college entrance requirements.

3 (B) The measurable pupil outcomes identified for use by the
4 charter school. “Pupil outcomes,” for purposes of this part, means
5 the extent to which all pupils of the school demonstrate that they
6 have attained the skills, knowledge, and attitudes specified as goals
7 in the school’s educational program. Pupil outcomes shall include
8 outcomes that address increases in pupil academic achievement
9 both schoolwide and for all groups of pupils served by the charter
10 school, as that term is defined in subparagraph (B) of paragraph
11 (3) of subdivision (a) of Section 47607. The pupil outcomes shall
12 align with the state priorities, as described in subdivision (d) of
13 Section 52060, that apply for the grade levels served, or the nature
14 of the program operated, by the charter school.

15 (C) The method by which pupil progress in meeting those pupil
16 outcomes is to be measured. To the extent practicable, the method
17 for measuring pupil outcomes for state priorities shall be consistent
18 with the way information is reported on a school accountability
19 report card.

20 (D) (i) The governance structure of the school, including, but
21 not limited to, the process to be followed by the school to ensure
22 parental involvement.

23 (ii) *If the charter school elects to operate as, or be operated by,*
24 *a nonprofit public benefit corporation pursuant to Section 47604,*
25 *the names and background information for all persons whom the*
26 *petitioner nominates to serve on the board of directors of that*
27 *nonprofit public benefit corporation, pursuant to subdivision (c)*
28 *of Section 47604.*

29 (E) The qualifications to be met by individuals to be employed
30 by the school.

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

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

39 (H) Admission requirements, if applicable.

1 (I) The manner in which annual, independent financial audits
2 shall be conducted, which shall employ generally accepted
3 accounting principles, and the manner in which audit exceptions
4 and deficiencies shall be resolved to the satisfaction of the
5 chartering authority.

6 (J) The procedures by which pupils can be suspended or
7 expelled.

8 (K) The manner by which staff members of the charter schools
9 will be covered by the State Teachers' Retirement System, the
10 Public Employees' Retirement System, or federal social security.

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

13 (M) A description of the rights of ~~any~~ *an* employee of the school
14 district upon leaving the employment of the school district to work
15 in a charter school, and of any rights of return to the school district
16 after employment at a charter school.

17 (N) The procedures to be followed by the charter school and
18 the entity granting the charter to resolve disputes relating to
19 provisions of the charter.

20 (O) A declaration *of* whether or not the charter school shall be
21 deemed the exclusive public school employer of the employees of
22 the charter school for purposes of Chapter 10.7 (commencing with
23 Section 3540) of Division 4 of Title 1 of the Government Code.

24 (P) A description of the procedures to be used if the charter
25 school closes. The procedures shall ensure a final audit of the
26 school to determine the disposition of all assets and liabilities of
27 the charter school, including plans for disposing of any net assets
28 and for the maintenance and transfer of pupil records.

29 (c) (1) Charter schools shall meet all statewide standards and
30 conduct the pupil assessments required pursuant to Sections 60605
31 and 60851 and any other statewide standards authorized in statute
32 or pupil assessments applicable to pupils in noncharter public
33 schools.

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

37 (d) (1) In addition to any other requirement imposed under this
38 part, a charter school shall be nonsectarian in its programs,
39 admission policies, employment practices, and all other operations,
40 shall not charge tuition, and shall not discriminate against ~~any a~~

1 pupil on the basis of the characteristics listed in Section 220. Except
2 as provided in paragraph (2), admission to a charter school shall
3 not be determined according to the place of residence of the pupil,
4 or of his or her parent or legal guardian, within this state, except
5 that an existing public school converting partially or entirely to a
6 charter school under this part shall adopt and maintain a policy
7 giving admission preference to pupils who reside within the former
8 attendance area of that public school.

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

11 (B) If the number of pupils who wish to attend the charter school
12 exceeds the school's capacity, attendance, except for existing pupils
13 of the charter school, shall be determined by a public random
14 drawing. Preference shall be extended to pupils currently attending
15 the charter school and pupils who reside in the district except as
16 provided for in Section 47614.5. Other preferences may be
17 permitted by the chartering authority on an individual school basis
18 and only if consistent with the law.

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

23 (3) If a pupil is expelled or leaves the charter school without
24 graduating or completing the school year for any reason, the charter
25 school shall notify the superintendent of the school district of the
26 pupil's last known address within 30 days, and shall, upon request,
27 provide that school district with a copy of the cumulative record
28 of the pupil, including a transcript of grades or report card, and
29 health information. This paragraph applies only to pupils subject
30 to compulsory full-time education pursuant to Section 48200.

31 (e) The governing board of a school district shall not require
32 ~~any~~ an employee of the school district to be employed in a charter
33 school.

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

36 (g) The governing board of a school district shall require that
37 the petitioner or petitioners provide information regarding the
38 proposed operation and potential effects of the school, including,
39 but not limited to, the facilities to be used by the school, the manner
40 in which administrative services of the school are to be provided,

1 and potential civil liability effects, if any, upon the school and
2 upon the school district. The description of the facilities to be used
3 by the charter school shall specify where the school intends to
4 locate. The petitioner or petitioners *also* shall ~~also~~ be required to
5 provide financial statements that include a proposed first-year
6 operational budget, including startup costs, and cashflow and
7 financial projections for the first three years of operation.

8 (h) In reviewing petitions for the establishment of charter
9 schools within the school district, the governing board of the school
10 district shall give preference to petitions that demonstrate the
11 capability to provide comprehensive learning experiences to pupils
12 identified by the petitioner or petitioners as academically low
13 achieving pursuant to the standards established by the department
14 under Section 54032, as it read before July 19, 2006.

15 (i) Upon the approval of the petition by the governing board of
16 the school district, the petitioner or petitioners shall provide written
17 notice of that approval, including a copy of the petition, to the
18 applicable county superintendent of schools, the department, and
19 the state board.

20 (j) (1) If the governing board of a school district denies a
21 petition, the petitioner may elect to submit the petition for the
22 establishment of a charter school to the county board of education.
23 The county board of education shall review the petition pursuant
24 to subdivision (b). If the petitioner elects to submit a petition for
25 establishment of a charter school to the county board of education
26 and the county board of education denies the petition, the petitioner
27 may file a petition for establishment of a charter school with the
28 state board, and the state board may approve the petition, in
29 accordance with subdivision (b). A charter school that receives
30 approval of its petition from a county board of education or from
31 the state board on appeal shall be subject to the same requirements
32 concerning geographic location to which it would otherwise be
33 subject if it received approval from the entity to which it originally
34 submitted its petition. A charter petition that is submitted to either
35 a county board of education or to the state board shall meet all
36 otherwise applicable petition requirements, including the
37 identification of the proposed site or sites where the charter school
38 will operate.

39 (2) In assuming its role as a chartering agency, the state board
40 shall develop criteria to be used for the review and approval of

1 charter school petitions presented to the state board. The criteria
2 shall address all elements required for charter approval, as
3 identified in subdivision ~~(b)~~ (b), and shall define “reasonably
4 comprehensive” as used in paragraph (5) of subdivision (b) in a
5 way that is consistent with the intent of this part. Upon satisfactory
6 completion of the criteria, the state board shall adopt the criteria
7 on or before June 30, 2001.

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

12 (4) If either the county board of education or the state board
13 fails to act on a petition within 120 days of receipt, the decision
14 of the governing board of the school district to deny a petition
15 shall, ~~thereafter~~, be subject to judicial review.

16 (5) The state board shall adopt regulations implementing this
17 subdivision.

18 (6) Upon the approval of the petition by the county board of
19 education, the petitioner or petitioners shall provide written notice
20 of that approval, including a copy of the petition to the department
21 and the state board.

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

27 (2) The designated local educational agency shall have all
28 monitoring and supervising authority of a chartering agency,
29 including, but not limited to, powers and duties set forth in Section
30 47607, except the power of revocation, which shall remain with
31 the state board.

32 (3) A charter school that is granted its charter through an appeal
33 to the state board and elects to seek renewal of its charter shall,
34 before expiration of the charter, submit its petition for renewal to
35 the governing board of the school district that initially denied the
36 charter. If the governing board of the school district denies the
37 school’s petition for renewal, the school may petition the state
38 board for renewal of its charter.

39 (l) Teachers in charter schools shall hold a Commission on
40 Teacher Credentialing certificate, permit, or other document

1 equivalent to that which a teacher in other public schools would
2 be required to hold. These documents shall be maintained on file
3 at the charter school and are subject to periodic inspection by the
4 chartering authority. It is the intent of the Legislature that charter
5 schools be given flexibility with regard to noncore, noncollege
6 preparatory courses.

7 (m) A charter school shall transmit a copy of its annual,
8 independent financial audit report for the preceding fiscal year, as
9 described in subparagraph (I) of paragraph (5) of subdivision (b),
10 to its chartering entity, the Controller, the county superintendent
11 of schools of the county in which the charter school is sited, unless
12 the county board of education of the county in which the charter
13 school is sited is the chartering entity, and the department by
14 December 15 of each year. This subdivision does not apply if the
15 audit of the charter school is encompassed in the audit of the
16 chartering entity pursuant to Section 41020.

17 SEC. 3. If the Commission on State Mandates determines that
18 this act contains costs mandated by the state, reimbursement to
19 local agencies and school districts for those costs shall be made
20 pursuant to Part 7 (commencing with Section 17500) of Division
21 4 of Title 2 of the Government Code.