

AMENDED IN ASSEMBLY MARCH 28, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 2133

Introduced by Assembly Member Chávez

February 20, 2014

An act to amend Section ~~15100~~ 56366.1 of the Education Code, relating to ~~school district and community college district bonds~~ *special education*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2133, as amended, Chávez. ~~School district and community college district bonds~~. *Special education: nonpublic, nonsectarian schools or agencies: certification.*

Existing law sets forth a method for providing special education and related services to pupils with exceptional needs. Existing law also permits, under certain circumstances, contracts to be entered for the provision of those services by nonpublic, nonsectarian schools or agencies, as defined. Existing law authorizes a master contract for special education and related services provided by a nonpublic, nonsectarian school or agency only if the school or agency has been certified by the Superintendent of Public Instruction as meeting specified standards. Existing law authorizes a nonpublic, nonsectarian school or agency that seeks certification to file an application, including specified information, with the Superintendent.

Existing law also requires the nonpublic, nonsectarian school or agency that is applying for certification to submit, on a form developed by the State Department of Education, a signed verification by local educational agency representatives that they have been notified of the intent to certify or renew certification. Existing law requires the State

Department of Education to mail renewal application materials to certified nonpublic, nonsectarian schools and agencies at least 120 days before the expiration date of their current certification.

This bill would require the local educational agency to send the applicant an acknowledgment, rather than a signed verification, as specified. The bill would delete the provision requiring the State Department of Education to mail renewal application materials, and instead require the department to provide electronic notification of the availability of these materials to certified nonpublic, nonsectarian schools and agencies at least 120 days before the date their current certification expires.

~~Existing law authorizes the governing board of any school district or community college district to order an election and submit to the electors of the district the question whether the bonds of the district should be issued and sold for the purposes of raising money for specified purposes.~~

~~This bill would make nonsubstantive changes to that provision.~~

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

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

1 SECTION 1. Section 56366.1 of the Education Code is amended
2 to read:

3 56366.1. (a) A nonpublic, nonsectarian school or agency that
4 seeks certification shall file an application with the Superintendent
5 on forms provided by the department, and shall include all of the
6 following information on the application:

7 (1) A description of the special education and designated
8 instruction and services provided to individuals with exceptional
9 needs if the application is for nonpublic, nonsectarian school
10 certification.

11 (2) A description of the designated instruction and services
12 provided to individuals with exceptional needs if the application
13 is for nonpublic, nonsectarian agency certification.

14 (3) A list of appropriately qualified staff, a description of the
15 credential, license, or registration that qualifies each staff member
16 rendering special education or designated instruction and services
17 to do so, and copies of their credentials, licenses, or certificates of
18 registration with the appropriate state or national organization that
19 has established standards for the service rendered.

1 (4) An annual operating budget.

2 (5) Affidavits and assurances necessary to comply with all
3 applicable federal, state, and local laws and regulations that include
4 criminal record summaries required of all nonpublic, nonsectarian
5 school or agency personnel having contact with minor children
6 under Section 44237.

7 (b) (1) The applicant shall provide the special education local
8 plan area in which the applicant is located with the written
9 notification of its intent to seek certification or renewal of its
10 certification. The applicant shall submit on a form, developed by
11 the department, a signed verification by local educational agency
12 representatives *acknowledging* that they have been notified of the
13 intent to certify or renew certification. ~~The verification~~
14 *acknowledgment* shall include a statement that representatives of
15 the local educational agency for the area in which the applicant is
16 located have had the opportunity to review the application at least
17 60 calendar days before submission of an initial application to the
18 Superintendent, or at least 30 calendar days before submission of
19 a renewal application to the Superintendent. ~~The signed verification~~
20 *acknowledgment* shall provide assurances that local educational
21 agency representatives have had the opportunity to provide input
22 on all required components of the application.

23 (2) ~~If the applicant has not received a response from the local~~
24 ~~educational agency has not acknowledged the applicant's intent~~
25 ~~to be certified 60 calendar days from the date of the return receipt~~
26 ~~submission for initial applications or 30 calendar days from the~~
27 ~~date of the return receipt submission for renewal applications, the~~
28 ~~applicant may file the application with the Superintendent. A copy~~
29 ~~of the return receipt shall be included with the application as~~
30 ~~verification of notification efforts to the local educational agency.~~

31 (3) The department shall ~~mail~~ *provide electronic notification*
32 *of the availability of* renewal application materials to certified
33 nonpublic, nonsectarian schools and agencies at least 120 days
34 before the date their current certification expires.

35 (c) If the applicant operates a facility or program on more than
36 one site, each site shall be certified.

37 (d) If the applicant is part of a larger program or facility on the
38 same site, the Superintendent shall consider the effect of the total
39 program on the applicant. A copy of the policies and standards for

1 the nonpublic, nonsectarian school or agency and the larger
2 program shall be available to the Superintendent.

3 (e) (1) Before certification, the Superintendent shall conduct
4 an onsite review of the facility and program for which the applicant
5 seeks certification. The Superintendent may be assisted by
6 representatives of the special education local plan area in which
7 the applicant is located and a nonpublic, nonsectarian school or
8 agency representative who does not have a conflict of interest with
9 the applicant. The Superintendent shall conduct an additional onsite
10 review of the facility and program within three years of the
11 effective date of the certification, unless the Superintendent
12 conditionally certifies the nonpublic, nonsectarian school or
13 agency, or unless the Superintendent receives a formal complaint
14 against the nonpublic, nonsectarian school or agency. In the latter
15 two cases, the Superintendent shall conduct an onsite review at
16 least annually.

17 (2) In carrying out this subdivision, the Superintendent may
18 verify that the nonpublic, nonsectarian school or agency has
19 received a successful criminal background check clearance and
20 has enrolled in subsequent arrest notice service, pursuant to Section
21 44237, for each owner, operator, and employee of the nonpublic,
22 nonsectarian school or agency.

23 (f) The Superintendent shall make a determination on an
24 application within 120 days of receipt of the application and shall
25 certify, conditionally certify, or deny certification to the applicant.
26 If the Superintendent fails to take one of these actions within 120
27 days, the applicant is automatically granted conditional certification
28 for a period terminating on August 31 of the current school year.
29 If certification is denied, the Superintendent shall provide reasons
30 for the denial. The Superintendent shall not certify the nonpublic,
31 nonsectarian school or agency for a period longer than one year.

32 (g) Certification becomes effective on the date the nonpublic,
33 nonsectarian school or agency meets all the application
34 requirements and is approved by the Superintendent. Certification
35 may be retroactive if the nonpublic, nonsectarian school or agency
36 met all the requirements of this section on the date the retroactive
37 certification is effective. Certification expires on December 31 of
38 the terminating year.

39 (h) The Superintendent annually shall review the certification
40 of each nonpublic, nonsectarian school and agency. For this

1 purpose, a certified nonpublic, nonsectarian school or agency
2 annually shall update its application between August 1 and October
3 31, unless the state board grants a waiver pursuant to Section
4 56101. The Superintendent may conduct an onsite review as part
5 of the annual review.

6 (i) (1) The Superintendent shall conduct an investigation of a
7 nonpublic, nonsectarian school or agency onsite at any time without
8 prior notice if there is substantial reason to believe that there is an
9 immediate danger to the health, safety, or welfare of a child. The
10 Superintendent shall document the concern and submit it to the
11 nonpublic, nonsectarian school or agency at the time of the onsite
12 investigation. The Superintendent shall require a written response
13 to any noncompliance or deficiency found.

14 (2) With respect to a nonpublic, nonsectarian school, the
15 Superintendent shall conduct an investigation, which may include
16 an unannounced onsite visit, if the Superintendent receives
17 evidence of a significant deficiency in the quality of educational
18 services provided, a violation of Section 56366.9, or
19 noncompliance with the policies expressed by subdivision (b) of
20 Section 1501 of the Health and Safety Code by the nonpublic,
21 nonsectarian school. The Superintendent shall document the
22 complaint and the results of the investigation and shall provide
23 copies of the documentation to the complainant, the nonpublic,
24 nonsectarian school, and the contracting local educational agency.

25 (3) Violations or noncompliance documented pursuant to
26 paragraph (1) or (2) shall be reflected in the status of the
27 certification of the nonpublic, nonsectarian school or agency, at
28 the discretion of the Superintendent, pending an approved plan of
29 correction by the nonpublic, nonsectarian school or agency. The
30 department shall retain for a period of 10 years all violations
31 pertaining to certification of the nonpublic, nonsectarian school
32 or agency.

33 (4) In carrying out this subdivision, the Superintendent may
34 verify that the nonpublic, nonsectarian school or agency received
35 a successful criminal background check clearance and has enrolled
36 in subsequent arrest notice service, pursuant to Section 44237, for
37 each owner, operator, and employee of the nonpublic, nonsectarian
38 school or agency.

39 (j) The Superintendent shall monitor the facilities, the
40 educational environment, and the quality of the educational

1 program, including the teaching staff, the credentials authorizing
2 service, the standards-based core curriculum being employed, and
3 the standard-focused instructional materials used, of an existing
4 certified nonpublic, nonsectarian school or agency on a three-year
5 cycle, as follows:

6 (1) The nonpublic, nonsectarian school or agency shall complete
7 a self-review in year one.

8 (2) The Superintendent shall conduct an onsite review of the
9 nonpublic, nonsectarian school or agency in year two.

10 (3) The Superintendent shall conduct a followup visit to the
11 nonpublic, nonsectarian school or agency in year three.

12 (k) (1) Notwithstanding any other law, the Superintendent shall
13 not certify a nonpublic, nonsectarian school or agency that proposes
14 to initiate or expand services to pupils currently educated in the
15 immediate prior fiscal year in a juvenile court program, community
16 school pursuant to Section 56150, or other nonspecial education
17 program, including independent study or adult school, or both,
18 unless the nonpublic, nonsectarian school or agency notifies the
19 county superintendent of schools and the special education local
20 plan area in which the proposed new or expanded nonpublic,
21 nonsectarian school or agency is located of its intent to seek
22 certification.

23 (2) The notification shall occur no later than the December 1
24 before the new fiscal year in which the proposed or expanding
25 school or agency intends to initiate services. The notice shall
26 include the following:

27 (A) The specific date upon which the proposed nonpublic,
28 nonsectarian school or agency is to be established.

29 (B) The location of the proposed program or facility.

30 (C) The number of pupils proposed for services, the number of
31 pupils currently served in the juvenile court, community school,
32 or other nonspecial education program, the current school services
33 including special education and related services provided for these
34 pupils, and the specific program of special education and related
35 services to be provided under the proposed program.

36 (D) The reason for the proposed change in services.

37 (E) The number of staff who will provide special education and
38 designated instruction and services and hold a current valid
39 California credential or license in the service rendered.

1 (3) In addition to the requirements in subdivisions (a) to (f),
2 inclusive, the Superintendent shall require and consider the
3 following in determining whether to certify a nonpublic,
4 nonsectarian school or agency as described in this subdivision:

5 (A) A complete statement of the information required as part
6 of the notice under paragraph (1).

7 (B) Documentation of the steps taken in preparation for the
8 conversion to a nonpublic, nonsectarian school or agency, including
9 information related to changes in the population to be served and
10 the services to be provided pursuant to each pupil's individualized
11 education program.

12 (4) Notwithstanding any other law, the certification becomes
13 effective no earlier than July 1 if the nonpublic, nonsectarian school
14 or agency provided the notification required pursuant to paragraph
15 (1).

16 (l) (1) Notwithstanding any other law, the Superintendent shall
17 not certify or renew the certification of a nonpublic, nonsectarian
18 school or agency, unless all of the following conditions are met:

19 (A) The entity operating the nonpublic, nonsectarian school or
20 agency maintains separate financial records for each entity that it
21 operates, with each nonpublic, nonsectarian school or agency
22 identified separately from any licensed children's institution that
23 it operates.

24 (B) The entity submits an annual budget that identifies the
25 projected costs and revenues for each entity and demonstrates that
26 the rates to be charged are reasonable to support the operation of
27 the entity.

28 (C) The entity submits an entitywide annual audit that identifies
29 its costs and revenues, by entity, in accordance with generally
30 accepted accounting and auditing principles. The audit shall clearly
31 document the amount of moneys received and expended on the
32 educational program provided by the nonpublic, nonsectarian
33 school.

34 (D) The relationship between various entities operated by the
35 same entity are documented, defining the responsibilities of the
36 entities. The documentation shall clearly identify the services to
37 be provided as part of each program, for example, the residential
38 or medical program, the mental health program, or the educational
39 program. The entity shall not seek funding from a public agency
40 for a service, either separately or as part of a package of services,

1 if the service is funded by another public agency, either separately
2 or as part of a package of services.

3 (2) For purposes of this section, “licensed children’s institution”
4 has the same meaning as it is defined by Section 56155.5.

5 (m) (1) The nonpublic, nonsectarian school or agency shall be
6 charged a reasonable fee for certification. The Superintendent may
7 adjust the fee annually commensurate with the statewide average
8 percentage inflation adjustment computed for local control funding
9 formula allocations pursuant to Section 42238.02, as implemented
10 by Section 42238.03, of unified school districts with greater than
11 1,500 units of average daily attendance if the percentage increase
12 is reflected in the school district local control funding formula
13 allocation pursuant to Section 42238.02, as implemented by Section
14 42238.03, for inflation purposes. For purposes of this section, the
15 base fee shall be the following:

16		
17	(1) 1–5 pupils	\$ 300
18	(2) 6–10 pupils	500
19	(3) 11–24 pupils	1,000
20	(4) 25–75 pupils	1,500
21	(5) 76 pupils and over	2,000
22		

23 ~~The~~

24 (2) *The* nonpublic, nonsectarian school or agency shall pay this
25 fee when it applies for certification and when it updates its
26 application for annual renewal by the Superintendent. The
27 Superintendent shall use these fees to conduct onsite reviews,
28 which may include field experts. A fee shall not be refunded if the
29 application is withdrawn or is denied by the Superintendent.

30 (n) (1) Notwithstanding any other law, only those nonpublic,
31 nonsectarian schools and agencies that provide special education
32 and designated instruction and services using staff who hold a
33 certificate, permit, or other document equivalent to that which staff
34 in a public school are required to hold in the service rendered are
35 eligible to receive certification. Only those nonpublic, nonsectarian
36 schools or agencies located outside of California that employ staff
37 who hold a current valid credential or license to render special
38 education and related services as required by that state shall be
39 eligible to be certified.

1 (2) The state board shall develop regulations to implement this
2 subdivision.

3 (o) In addition to meeting the standards adopted by the state
4 board, a nonpublic, nonsectarian school or agency shall provide
5 written assurances that it meets all applicable standards relating
6 to fire, health, sanitation, and building safety.

7 (p) (1) Notwithstanding subdivision (n) of Section 44237, and
8 for purposes of enabling the Superintendent to carry out his or her
9 duties pursuant to this section, a nonpublic, nonsectarian school
10 or agency shall, upon demand, make available to the
11 Superintendent evidence of a successful criminal background check
12 clearance and enrollment in subsequent arrest notice service,
13 conducted pursuant to Section 44237, for each owner, operator,
14 and employee of the nonpublic, nonsectarian school or agency.

15 (2) The nonpublic, nonsectarian school or agency shall retain
16 the evidence and store it in a locked file separate from other files.

17 ~~SECTION 1. Section 15100 of the Education Code is amended~~
18 ~~to read:~~

19 ~~15100. Except as otherwise provided by law, the governing~~
20 ~~board of a school district or community college district may, when~~
21 ~~in its judgment it is advisable, and shall, upon a petition of the~~
22 ~~majority of the qualified electors residing in the school district or~~
23 ~~community college district, order an election and submit to the~~
24 ~~electors of the school district or community college district the~~
25 ~~question whether the bonds of the school district or community~~
26 ~~college district shall be issued and sold for the purpose of raising~~
27 ~~money for the following purposes:~~

- 28 ~~(a) The purchasing of school lots.~~
- 29 ~~(b) The building or purchasing of school buildings.~~
- 30 ~~(c) The making of alterations or additions to the school building~~
31 ~~or buildings other than as may be necessary for current~~
32 ~~maintenance, operation, or repairs.~~
- 33 ~~(d) The repairing, restoring, or rebuilding of a school building~~
34 ~~damaged, injured, or destroyed by fire or other public calamity.~~
- 35 ~~(e) The supplying of school buildings and grounds with~~
36 ~~furniture, equipment, or necessary apparatus of a permanent nature.~~
- 37 ~~(f) The permanent improvement of the school grounds.~~
- 38 ~~(g) The refunding of outstanding valid indebtedness of the~~
39 ~~school district or community college district, evidenced by bonds,~~
40 ~~or of state school building aid loans.~~

1 ~~(h) The carrying out of the projects or purposes authorized in~~
2 ~~Section 17577.~~

3 ~~(i) The purchase of schoolbuses the useful life of which is at~~
4 ~~least 20 years.~~

5 ~~(j) The demolition or razing of a school building with the intent~~
6 ~~to replace it with another school building, whether in the same~~
7 ~~location or in any other location.~~

8 ~~Any one or more of the purposes enumerated, except that of~~
9 ~~refunding outstanding valid indebtedness of the school district or~~
10 ~~community college district evidenced by bonds, may, by order of~~
11 ~~the governing board of the school district or community college~~
12 ~~district entered in its minutes, be united and voted upon as one~~
13 ~~single proposition.~~