

AMENDED IN SENATE APRIL 15, 2013

AMENDED IN SENATE APRIL 1, 2013

**SENATE BILL**

**No. 714**

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**Introduced by Senator Block**

February 22, 2013

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An act to add ~~Section~~ *Sections 46308 and 46309* to the Education Code, relating to schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 714, as amended, Block. Schools: average daily attendance: online instruction.

Existing law establishes the public elementary and secondary school system in this state, and further establishes a funding system pursuant to which the state apportions funds to local educational agencies based on, among other factors, the average daily attendance of pupils at the schools operated by those agencies. Existing law authorizes, commencing with the 2014–15 school year, for purposes of computing average daily attendance, the inclusion of pupils in grades 9 to 12, inclusive, under the immediate supervision and control of a certificated employee of the school district or county office of education who is delivering synchronous, online instruction, as defined, provided that this instruction meets specified criteria.

This bill, ~~in addition to~~ *separate from* the authority related to online instruction described above and commencing with the 2014–15 fiscal year, would authorize school districts, county offices of education, and charter schools that offer high-quality online education courses, as defined, to claim attendance toward average daily attendance on the basis of a pupil's ~~attendance in an online course or courses that satisfy prescribed criteria.~~ *satisfactory pupil progress toward obtaining a high*

*school diploma by earning course credit through attendance in online educational learning programs, as defined. The bill would require the Superintendent of Public Instruction to adopt emergency regulations, on or before June 30, 2014, authorizing a school district, county office of education, or charter school to receive state apportionments for pupils enrolled in an online course or courses. The bill would cap, as specified, the number of pupils a school district, county office of education, or charter school may enroll in an online course or courses, but would authorize an increase in that cap if the enrolled pupils are achieving or exceeding satisfactory pupil progress. The bill would also require a school district, county office of education, or charter school that did not offer an online course or courses in the 2013–14 school year but chooses to enroll pupils in an online course or courses, to offer the course or courses at the beginning of the school year and to submit semiannual reports to the State Department of Education comparing the course credits earned by pupils enrolled in an online course or courses to the course credits earned by pupils enrolled in classroom-based courses.*

*The bill would authorize a school district, county office of education, or charter school that operates an online educational learning program to receive state apportionments for 3 consecutive years and for an additional 3 years if semiannual reports are submitted, as described above, and the enrolled pupils are achieving satisfactory pupil progress. The bill would require a school district, county office of education, or charter school that enrolls pupils in an online course or courses to develop and adopt policies that evaluate if a pupil is achieving satisfactory pupil progress and if a pupil should be allowed to continue to enroll in the online educational learning program. The bill would require a participating school district, county office of education, or charter school to submit pupil records for review by the department that compare the course completion rate of pupils participating in the online educational learning program to the overall course completion rate for pupils enrolled in grades 9 to 12, inclusive, if the pupils participating in the online educational learning program are earning less than 75% of the course credits earned by pupils enrolled in classroom-based courses. The bill would require the department to develop a process authorizing a school district, county office of education, or charter school to reduce the state apportionment it receives for the online educational learning program if projected pupil enrollment or satisfactory pupil progress is not being achieved. The*

*bill would authorize the department to reduce or eliminate the apportionments a school district, county office of education, or charter school receives for pupils participating in the online educational learning program if the participating pupils have not achieved satisfactory pupil progress or the semiannual reports are not submitted. The bill would authorize a school district, county office of education, or charter school to appeal a decision of the department to reduce or eliminate the state apportionments received for pupils participating in the online educational learning program.*

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

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

1 SECTION 1. Section 46308 is added to the Education Code,  
2 to read:  
3 46308. (a) Commencing with the 2014–15 fiscal year ~~and in~~  
4 ~~addition to Section 46300.8~~, a school district, county office of  
5 education, or charter school may claim state ~~apportionment funding~~  
6 *apportionments pursuant to Section 46309*, on the basis of a pupil’s  
7 *satisfactory pupil progress toward obtaining a high school diploma*  
8 *by earning course credit through attendance in an online course*  
9 ~~or courses online educational learning programs. Online~~  
10 *educational learning programs may include one online course,*  
11 *multiple online courses, or a combination of online coursework*  
12 *and classroom-based coursework. Online educational learning*  
13 *programs shall be separate from online courses offered pursuant*  
14 *to Section 46300.8. Pupils shall be eligible to participate in online*  
15 *educational learning programs if all of the following apply:*  
16 (1) *The pupil is enrolled in grade 9, 10, 11, or 12.*  
17 ~~(1)~~  
18 (2) *The pupil is a California resident.*  
19 ~~(2)~~  
20 (3) *The pupil is enrolled in classes that include courses in a*  
21 *classroom-based setting, courses that are offered through an online*  
22 *program, or both.*  
23 (4) *The pupil is not enrolled in a community day school or*  
24 *juvenile court school.*  
25 ~~(3)~~

1 (5) The pupil meets minimum instructional time requirements  
2 pursuant to:

3 (A) Section 46141 and Section 46201, 46201.5, or 46202, as  
4 applicable, for pupils enrolled in a noncharter school in a school  
5 district or county office of education.

6 (B) Section 46170, for pupils enrolled in a continuation school.

7 (C) Section 46180, for pupils enrolled in an opportunity school.

8 (D) Subdivision (e) of Section 47612.5, for pupils enrolled in  
9 a charter school.

10 ~~(4)~~

11 (6) Each online course in which the pupil is enrolled is a  
12 high-quality online course.

13 (b) For the purposes of this section, a “high-quality online  
14 course” is defined as an online course that meets all of the  
15 following requirements:

16 (1) The online course is approved by the governing board of  
17 the school district or county office of education, or by the  
18 governing body of the charter school.

19 (2) The online course is certified to meet the requirements of  
20 this subdivision, through board resolution, by the governing board  
21 of the school district or county office of education, or by the  
22 governing body of the charter school.

23 (3) The online course is certified by the governing board of the  
24 school district or county office of education, or by the governing  
25 body of the charter school, as being as rigorous as a  
26 classroom-based course and meeting or exceeding all relevant state  
27 content standards.

28 (4) (A) *A teacher teaching an online course or courses operated*  
29 *pursuant to this section shall be accessible to each pupil enrolled*  
30 *in the online course or courses to respond to pupil queries, assign*  
31 *tasks, and dispense information. A teacher teaching an online*  
32 *course shall employ at least one of the following:*

33 (i) *Periodic proctored examinations.*

34 (ii) *Direct teacher-pupil meetings, in person, no less than twice*  
35 *per calendar month.*

36 (iii) *A visual connection, including, but not limited to, an*  
37 *Internet Web camera.*

38 (iv) *Timely feedback on communications for pupils within 24*  
39 *hours and timely feedback for assessing pupils’ work within 72*  
40 *hours for minor assignments and within one week for major*

1 assignments, including, but not limited to, midterm and final  
2 examinations, major projects, and compositions.

3 (B) Specific minimum standards for teacher-pupil contact may  
4 be determined through a collective bargaining agreement.

5 (5) (A) The ratio of pupils enrolled in the online course who  
6 are 18 years of age or younger to school district full-time  
7 equivalent certificated employees who provide online instruction,  
8 to be calculated in a manner prescribed by the department, shall  
9 not exceed the equivalent ratio of pupils to full-time certificated  
10 employees for all other educational programs operated by the  
11 school district, unless a higher or lower ratio is negotiated in a  
12 collective bargaining agreement.

13 (B) The ratio of pupils enrolled in the online course who are  
14 18 years of age or younger to county office of education full-time  
15 equivalent certificated employees who provide online instruction,  
16 to be calculated in a manner prescribed by the department, shall  
17 not exceed the equivalent ratio of pupils to full-time certificated  
18 employees for all other educational programs operated by the high  
19 school or unified school district with the greatest average daily  
20 attendance of pupils in that county, unless a higher or lower ratio  
21 is negotiated in a collective bargaining agreement.

22 (C) The Superintendent may adopt rules and regulations for  
23 purposes of implementing this paragraph.

24 (6) When a classroom-based course of the same course title  
25 exists within the school district, county office of education, or  
26 charter school, the subject matter content of the online course  
27 shall meet or exceed the content standards applied to the  
28 classroom-based course.

29 (7) The teacher of the online course holds the appropriate  
30 subject matter credential and meets the requirements for a highly  
31 qualified teacher pursuant to the federal No Child Left Behind Act  
32 of 2001 (20 U.S.C. Sec. 6301 et seq.).

33 (8) (A) Statewide testing results for pupils enrolled in an online  
34 course or courses are reported and assigned to the school in which  
35 the pupil is enrolled for classroom-based courses, and to any  
36 school district or county office of education within which that  
37 school's testing results are aggregated.

38 (B) Statewide testing results for pupils enrolled in an online  
39 course or courses may be disaggregated for purposes of comparing

1 *the testing results of those pupils to the testing results of pupils*  
2 *enrolled in classroom-based courses.*

3 *(9) The online course is offered by a high school, continuation*  
4 *school, county office of education, or charter school offering*  
5 *instruction in any of grades 9 to 12, inclusive.*

6 *(10) No pupil is assigned to the online course unless the pupil*  
7 *voluntarily elects to participate in the online course and the parent*  
8 *or guardian of the pupil provides written consent before the pupil*  
9 *participates in the online course.*

10 *(11) No pupil voluntarily electing to participate in the online*  
11 *course is denied access because the pupil lacks the computer*  
12 *hardware or software necessary to participate in the online course.*

13 *(12) No pupil is charged for his or her participation in the online*  
14 *course.*

15 *(13) A pupil enrolled in the online course shall take*  
16 *examinations by proctor, or other reliable methods used to ensure*  
17 *test integrity, and there is a clear record of pupil work, using the*  
18 *same method of documentation and assessment as used in a*  
19 *classroom-based course.*

20 *(c) Nothing in this section shall affect a state board*  
21 *determination made pursuant to Section 47612.5.*

22 *(d) Satisfactory pupil progress, as defined in paragraph (4) of*  
23 *subdivision (e), and compliance with the requirements of*  
24 *subdivision (e), shall be subject to the audit conducted pursuant*  
25 *to Section 41020.*

26 *(e) (1) Each high-quality online course shall be deemed to be*  
27 *an offering of 60 minutes for purposes of calculating instructional*  
28 *time.*

29 *(2) A pupil shall not receive course credit for the same*  
30 *high-quality online course more than once.*

31 *(3) A pupil enrolled in a high-quality online course shall be*  
32 *credited with a day of attendance for each schoolday the pupil is*  
33 *enrolled in the high-quality online course and in accordance with*  
34 *paragraph (5) of subdivision (a).*

35 *(4) “Satisfactory pupil progress” means a pupil has earned at*  
36 *least 60 course credits in a school year.*

37 *(f) To remain eligible for claiming and generating*  
38 *apportionments, a pupil over 19 years of age enrolled in an online*  
39 *course or courses shall be continuously enrolled in public school*

1 *and achieve satisfactory pupil progress, as defined in paragraph*  
2 *(4) of subdivision (e), toward award of a high school diploma.*

3 *(g) The Superintendent, on or before June 30, 2014, shall adopt*  
4 *emergency regulations authorizing a school district, county office*  
5 *of education, or charter school to receive state apportionments*  
6 *for pupils enrolled in an online course or courses beginning in the*  
7 *2014–15 fiscal year.*

8 *(h) To receive state apportionments, a school district, county*  
9 *office of education, or charter school offering an online course or*  
10 *courses meeting the requirements of subdivision (b) shall not be*  
11 *required to meet the requirements of Article 5.5 (commencing with*  
12 *Section 51745) of Chapter 5 of Part 28.*

13 *(i) (1) A participating school district, county office of education,*  
14 *or charter school shall receive state apportionments for pupils*  
15 *enrolled in a high-quality online course or courses based on the*  
16 *number of pupils enrolled in an online course or courses in the*  
17 *2013–14 school year, or the percentage of pupils authorized to*  
18 *enroll in an online course or courses pursuant to paragraph (2),*  
19 *whichever is greater.*

20 *(2) A participating school district, county office of education,*  
21 *or charter school that did not offer an online course or courses in*  
22 *the 2013–14 school year shall receive state apportionments for*  
23 *up to 10 percent of the total average daily attendance of pupils*  
24 *enrolled in grades 9 to 12, inclusive, if all of the following*  
25 *conditions are met:*

26 *(A) A participating school district, county office of education,*  
27 *or charter school satisfies the requirements of subdivisions (a)*  
28 *and (b).*

29 *(B) A participating school district, county office of education,*  
30 *or charter school offers the online course or courses at the*  
31 *beginning of the school year and demonstrates that at least the*  
32 *same number of pupils that the school district, county office of*  
33 *education, or charter school is eligible to receive state*  
34 *apportionments for under an online educational learning program*  
35 *are actually enrolled in the online course or courses.*

36 *(C) The participating school district, county office of education,*  
37 *or charter school submits a semiannual report to the department*  
38 *comparing the course credits earned by pupils enrolled in an online*  
39 *course or courses to course credits earned by pupils enrolled in*  
40 *classroom-based courses.*

1 (j) For purposes of this section, “online educational learning  
2 program” means a program of study that may include any  
3 combination of courses where the teacher and the pupil are online  
4 at the same time or are online at different times and do not interact  
5 simultaneously. A pupil may enroll in online courses,  
6 classroom-based courses, or a combination of both, during a  
7 schoolday to complete the pupil’s established program of study  
8 that satisfies the requirement of achieving satisfactory pupil  
9 progress toward obtaining a high school diploma by earning  
10 course credits.

11 (k) No provision of this section shall be waived unless the waiver  
12 is specifically authorized in statute.

13 SEC. 2. Section 46309 is added to the Education Code, to read:

14 46309. (a) A school district, county office of education, or  
15 charter school that operates an online educational learning  
16 program is eligible to receive state apportionments, pursuant to  
17 Section 46308, for three consecutive years. A school district, county  
18 office of education, or charter school is eligible to receive state  
19 apportionments for an additional three years if the school district,  
20 county office of education, or charter school submits the  
21 semiannual reports described in subparagraph (C) of paragraph  
22 (2) of subdivision (i) of Section 46308, and the pupils enrolled in  
23 the online course or courses are achieving satisfactory pupil  
24 progress, as defined in paragraph (4) of subdivision (e) of Section  
25 46308.

26 (b) A participating school district, county office of education,  
27 or charter school may increase the number of pupils participating  
28 in the online educational learning program by up to 100 percent  
29 of the number of pupils participating in the first year if the pupils  
30 participating in the online educational learning program achieve  
31 or exceed satisfactory pupil progress, as defined in paragraph (4)  
32 of subdivision (e) of Section 46308. The department shall make  
33 this determination.

34 (c) A participating school district, county office of education,  
35 or charter school shall develop and adopt policies that evaluate  
36 if a pupil is achieving satisfactory pupil progress, as defined in  
37 paragraph (4) of subdivision (e) of Section 46308, and if a pupil  
38 should be allowed to continue to participate in the online  
39 educational learning program.

1     (d) *If, in any year of participation, the pupils participating in*  
2 *an online educational learning program offered by a school*  
3 *district, county office of education, or charter school are earning*  
4 *less than 75 percent of the course credits earned by pupils enrolled*  
5 *in classroom-based courses, the participating school district,*  
6 *county office of education, or charter school shall submit pupil*  
7 *records for review by the department that compare the course*  
8 *completion rate of pupils participating in the online educational*  
9 *learning program to the overall course completion rate for pupils*  
10 *enrolled in grades 9 to 12, inclusive, in the participating school*  
11 *district, county office of education, or charter school.*

12     (e) *The department shall develop a process authorizing a school*  
13 *district, county office of education, or charter school, to voluntarily*  
14 *reduce the state apportionments received for the online educational*  
15 *learning program if projected pupil enrollment is not achieved,*  
16 *or the pupils are not achieving satisfactory pupil progress, as*  
17 *defined in paragraph (4) of subdivision (e) of Section 46308.*

18     (f) *The department may reduce or eliminate the state*  
19 *apportionments a participating school district, county office of*  
20 *education, or charter school receives for pupils participating in*  
21 *an online educational learning program if the pupils have not*  
22 *achieved satisfactory pupil progress, as defined in paragraph (4)*  
23 *of subdivision (e) of Section 46308, for three consecutive years or*  
24 *the school district, county office of education, or charter school*  
25 *does not comply with the semiannual reporting requirements*  
26 *described in subparagraph (C) of paragraph (2) of subdivision (i)*  
27 *of Section 46308. The department shall review the pupil records*  
28 *of pupils participating in the online educational learning program*  
29 *to make this determination. If the department decides to eliminate*  
30 *the state apportionments a participating school district, county*  
31 *office of education, or charter school receives for pupils*  
32 *participating in an online educational learning program, the state*  
33 *apportionments shall be eliminated in the year following the year*  
34 *the department decides to eliminate the state apportionments. A*  
35 *participating school district, county office of education, or charter*  
36 *school may appeal to the state board the decision of the department*  
37 *to reduce or eliminate the state apportionments a participating*  
38 *school district, county office of education, or charter school*  
39 *receives for pupils participating in an online educational learning*  
40 *program.*

O