

AMENDED IN ASSEMBLY MAY 28, 2015

AMENDED IN ASSEMBLY MAY 5, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1426

Introduced by Assembly Member Levine

February 27, 2015

An act to amend Sections 47612.5 and 47634.2 of the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 1426, as amended, Levine. Charter schools: classroom-based and nonclassroom-based instruction: blended learning charter schools.

Existing law, the Charter Schools Act of 1992, requires charter schools, as a condition of receiving funding apportionments, to offer in each fiscal year a specified minimum number of minutes of instruction to each pupil based on grade level. For purposes of that instructional time requirement, the act defines “classroom-based instruction” as occurring only when charter school pupils are engaged in required educational activities under the immediate supervision and control of an employee of the charter school who possesses a specified teaching certification. The act requires, for purposes of calculating average daily attendance for classroom-based instruction apportionments, that at least 80% of the instructional time offered by the charter school be at the charter schoolsite. The act authorizes a charter school to receive funding for nonclassroom-based instruction, as defined for that purpose, only if a determination for funding is made by the State Board of Education, subject to any conditions or limitations the state board may prescribe.

This bill would subject to that determination for funding for nonclassroom-based instruction a “blended learning charter school,” defined as a charter school through which a pupil learns at least in part through online delivery of content and instruction and at least in part at a supervised location away from home, that offers classroom-based instruction no less than 60% and no more than 80% of the instructional time, and that satisfies other specified criteria. The bill would provide that *such* a blended learning charter school shall ~~be considered a classroom-based~~ *not lose eligibility for specified school for certain purposes facilities assistance*. The bill would require the state board to adopt regulations setting forth criteria for the determination of funding for a blended learning charter school, as provided. The bill would also make nonsubstantive changes.

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 47612.5 of the Education Code is
 2 amended to read:
 3 47612.5. (a) Notwithstanding any other law, and as a condition
 4 of apportionment, a charter school shall do all of the following:
 5 (1) For each fiscal year, offer, at a minimum, the following
 6 number of minutes of instruction:
 7 (A) To pupils in kindergarten, 36,000 minutes.
 8 (B) To pupils in grades 1 to 3, inclusive, 50,400 minutes.
 9 (C) To pupils in grades 4 to 8, inclusive, 54,000 minutes.
 10 (D) To pupils in grades 9 to 12, inclusive, 64,800 minutes.
 11 (2) Maintain written contemporaneous records that document
 12 all pupil attendance and make these records available for audit and
 13 inspection.
 14 (3) Certify that its pupils have participated in the state testing
 15 programs specified in Chapter 5 (commencing with Section 60600)
 16 of Part 33 in the same manner as other pupils attending public
 17 schools as a condition of apportionment of state funding.
 18 (b) Notwithstanding any other law, and except to the extent
 19 inconsistent with this section and Section 47634.2, a charter school
 20 that provides independent study shall comply with Article 5.5
 21 (commencing with Section 51745) of Chapter 5 of Part 28 and
 22 implementing regulations adopted thereunder. The state board

1 shall adopt regulations that apply this article to charter schools.
2 To the extent that these regulations concern the qualifications of
3 instructional personnel, the state board shall be guided by
4 subdivision (l) of Section 47605.

5 (c) A reduction in apportionment made pursuant to subdivision
6 (a) shall be proportional to the magnitude of the exception that
7 causes the reduction. For purposes of paragraph (1) of subdivision
8 (a), for each charter school that fails to offer pupils the minimum
9 number of minutes of instruction specified in that paragraph, the
10 Superintendent shall withhold from the charter school's
11 apportionment for average daily attendance of the affected pupils,
12 by grade level, the sum of that apportionment multiplied by the
13 percentage of the minimum number of minutes of instruction at
14 each grade level that the charter school failed to offer.

15 (d) (1) Notwithstanding any other law, and except as provided
16 in paragraph (1) of subdivision (e), a charter school that has an
17 approved charter may receive funding for nonclassroom-based
18 instruction only if a determination for funding is made pursuant
19 to Section 47634.2 by the state board. The determination for
20 funding shall be subject to any conditions or limitations the state
21 board may prescribe. The state board shall adopt regulations on
22 or before February 1, 2002, that define and establish general rules
23 governing nonclassroom-based instruction that apply to all charter
24 schools and to the process for determining funding of
25 nonclassroom-based instruction by charter schools offering
26 nonclassroom-based instruction other than the nonclassroom-based
27 instruction allowed by paragraph (1) of subdivision (e).
28 Nonclassroom-based instruction includes, but is not limited to,
29 independent study, home study, work study, and distance and
30 computer-based education. In prescribing any conditions or
31 limitations relating to the qualifications of instructional personnel,
32 the state board shall be guided by subdivision (l) of Section 47605.

33 (2) Except as provided in paragraph (2) of subdivision (c) of
34 Section 47634.2, a charter school that receives a determination
35 pursuant to subdivision (c) of Section 47634.2 is not required to
36 reapply annually for a funding determination of its
37 nonclassroom-based instruction program if an update of the
38 information the state board reviewed when initially determining
39 funding would not require material revision, as that term is defined
40 in regulations adopted by the state board. A charter school that has

1 achieved a rank of 6 or greater on the Academic Performance Index
2 for the two years immediately before receiving a funding
3 determination pursuant to subdivision (c) of Section 47634.2 shall
4 receive a five-year determination and is not required to annually
5 reapply for a funding determination of its nonclassroom-based
6 instruction program if an update of the information the state board
7 reviewed when initially determining funding would not require
8 material revision, as that term is defined in regulations adopted by
9 the state board. Notwithstanding any other law, the state board
10 may require a charter school to provide updated information at
11 any time it determines that a review of that information is
12 necessary. The state board may terminate a determination for
13 funding if updated or additional information requested by the state
14 board is not made available to the state board by the charter school
15 within a reasonable amount of time or if the information otherwise
16 supports termination. A determination for funding pursuant to
17 Section 47634.2 may not exceed five years.

18 (3) A charter school that offers nonclassroom-based instruction
19 in excess of the amount authorized by paragraph (1) of subdivision
20 (e) is subject to the determination for funding requirement of
21 Section 47634.2 to receive funding each time its charter is renewed
22 or materially revised pursuant to Section 47607. A charter school
23 that materially revises its charter to offer nonclassroom-based
24 instruction in excess of the amount authorized by paragraph (1)
25 of subdivision (e) is subject to the determination for funding
26 requirement of Section 47634.2.

27 (e) (1) Notwithstanding any other law, and as a condition of
28 apportionment, “classroom-based instruction” in a charter school,
29 for purposes of this part, occurs only when charter school pupils
30 are engaged in educational activities required of those pupils and
31 are under the immediate supervision and control of an employee
32 of the charter school who possesses a valid teaching certification
33 in accordance with subdivision (l) of Section 47605.

34 (A) Except as provided in subparagraph (B), for purposes of
35 calculating average daily attendance for classroom-based
36 instruction apportionments, at least 80 percent of the instructional
37 time offered by a charter school shall be at the schoolsite, and the
38 charter school shall require the attendance of all pupils for whom
39 a classroom-based apportionment is claimed at the schoolsite for

1 at least 80 percent of the minimum instructional time required to
2 be offered pursuant to paragraph (1) of subdivision (a).

3 (B) (i) A blended learning charter school that offers
4 classroom-based instruction no less than 60 percent and no more
5 than 80 percent of the instructional time offered by the charter
6 school is subject to the determination for funding requirement of
7 Section 47634.2 to receive funding. For purposes of this
8 subparagraph and Section 47634.2, “blended learning charter
9 school” means a charter school that offers a formal education
10 program in which a pupil learns at least in part through online
11 delivery of content and instruction with some element of pupil
12 control over time, place, and pace and at least in part at a supervised
13 location away from home, operates a single schoolsite within the
14 geographic jurisdiction of the authority that granted its charter,
15 and has no more than one satellite facility, as provided for in
16 subdivision (c) of Section 47605.1.

17 (ii) A blended learning charter school that seeks a funding
18 determination pursuant to this subparagraph shall ~~be considered~~
19 ~~to be a classroom-based school for purposes of not lose eligibility~~
20 *for facilities assistance pursuant to Sections 47614 and 47614.5,*
21 *Chapter 12.5 (commencing with Section 17070.10) of Part 10 of*
22 *Division 1 of Title 1, and any other local, state, or federally funded*
23 *facility program, provided that the charter school is otherwise*
24 *eligible for the facility program.*

25 (2) For purposes of this part, “nonclassroom instruction” or
26 “nonclassroom-based instruction” means instruction that does not
27 meet the requirements specified in paragraph (1). The state board
28 may adopt regulations pursuant to paragraph (1) of subdivision
29 (d) specifying other conditions or limitations on what constitutes
30 nonclassroom-based instruction, as it deems appropriate and
31 consistent with this part.

32 (3) For purposes of this part, a schoolsite is a facility that is used
33 principally for classroom instruction.

34 (4) Notwithstanding any other law, neither the state board nor
35 the Superintendent may waive the requirements of paragraph (1)
36 of subdivision (a).

37 SEC. 2. Section 47634.2 of the Education Code is amended to
38 read:

39 47634.2. (a) (1) Notwithstanding any other law, the amount
40 of funding to be allocated to a charter school on the basis of average

1 daily attendance that is generated by pupils engaged in
2 nonclassroom-based instruction, as defined by paragraph (2) of
3 subdivision (e) of Section 47612.5, including funding provided on
4 the basis of average daily attendance pursuant to Sections 47613.1
5 and 47633, shall be adjusted by the state board. The state board
6 shall adopt regulations setting forth criteria for the determination
7 of funding for nonclassroom-based instruction and, at a minimum,
8 the regulations shall specify that the nonclassroom-based
9 instruction is conducted for the instructional benefit of the pupil
10 and substantially dedicated to that function. In developing these
11 criteria and determining the amount of funding to be allocated to
12 a charter school pursuant to this section, the state board shall
13 consider, among other factors it deems appropriate, the amount of
14 the charter school's total budget expended on certificated employee
15 salaries and benefits and on schoolsites, as defined in paragraph
16 (3) of subdivision (e) of Section 47612.5, and the teacher-to-pupil
17 ratio in the school.

18 (2) For the 2001–02 fiscal year only, the amount of funding
19 determined by the state board pursuant to this section shall not be
20 less than 90 percent of the unadjusted amount to which a charter
21 school would otherwise be entitled on the basis of average daily
22 attendance.

23 (3) For the 2002–03 fiscal year, the amount of funding
24 determined by the state board pursuant to this section shall not be
25 more than 80 percent of the unadjusted amount to which a charter
26 school would otherwise be entitled, unless the state board
27 determines that a greater or lesser amount is appropriate based on
28 the criteria specified in paragraph (1) of subdivision (a).

29 (4) For the 2003–04 fiscal year and each fiscal year thereafter,
30 the amount of funding determined by the state board pursuant to
31 this section shall not be more than 70 percent of the unadjusted
32 amount to which a charter school would otherwise be entitled,
33 unless the state board determines that a greater or lesser amount
34 is appropriate based on the criteria specified in paragraph (1) of
35 subdivision (a).

36 (5) This section does not authorize the state board to adjust the
37 amount of funding a charter school receives on the basis of average
38 daily attendance generated through classroom-based instruction,
39 as defined for purposes of calculating average daily attendance for

1 classroom-based instruction apportionments by paragraph (1) of
2 subdivision (d) of Section 47612.5.

3 (b) (1) The state board shall adopt regulations setting forth
4 criteria for the determination of funding for a blended learning
5 charter school as defined in subparagraph (B) of paragraph (1) of
6 subdivision (e) of Section 47612.5.

7 (2) The state board shall consider the criteria developed pursuant
8 to paragraph (1) of subdivision (a) and shall include facility costs
9 for a blended learning charter school as instructional costs for any
10 funding evaluation that considers the total instructional costs of
11 the school.

12 (c) (1) The state board shall appoint an advisory committee to
13 recommend criteria to the state board in accordance with this
14 section if it has not done so by the effective date of the act adding
15 this section. The advisory committee shall include, but is not
16 limited to, representatives from school district superintendents,
17 charter schools, teachers, parents, members of the governing boards
18 of school districts, county superintendents of schools, and the
19 Superintendent.

20 (2) If a charter school submits a substantially complete request
21 for a determination for funding by February 13, 2002, and the state
22 board does not act on that request by March 19, 2002, full funding
23 is automatically granted for the 2001–02 fiscal year, but the charter
24 school shall reapply for a determination for funding for the
25 2002–03 fiscal year.

26 (3) The determination for funding shall be on a percentage basis
27 and the Superintendent shall implement the determination for
28 funding by reducing the charter school’s reported average daily
29 attendance by the determination for funding percentage specified
30 by the state board.

31 (4) If the state board denies a request for a determination for
32 funding or provides a reduction as authorized by subdivision (a),
33 the state board shall, in writing, give the reasons for its denial or
34 reduction and, if appropriate, may describe how any deficiencies
35 or problems may be addressed.

36 (d) Each charter school offering nonclassroom-based instruction
37 shall, in each report provided to the Superintendent for
38 apportionment purposes, identify the portion of its average daily
39 attendance that is generated through nonclassroom-based

1 instruction as defined in paragraph (2) of subdivision (e) of Section
2 47612.5.
3 (e) Notwithstanding any other law, charter schools shall be
4 subject, with regard to subdivisions (c) and (d) of Section 47612.5
5 and this section, to audits conducted pursuant to Section 41020.

O