

AMENDED IN SENATE APRIL 29, 2015

AMENDED IN SENATE APRIL 13, 2015

**SENATE BILL**

**No. 322**

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**Introduced by Senator Leno**

February 23, 2015

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An act to amend Sections 47605, 47610, and 48925 of, and to add Section 49068.7 to, the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 322, as amended, Leno. Charter schools: pupils: suspension and expulsion: admissions: departures.

(1) The Charter Schools Act of 1992 permits teachers and parents to petition the governing board of a school district to approve a charter school to operate independently from the existing school district structure as a method of accomplishing, among other things, improved pupil learning. Existing law exempts charter schools from the laws governing school districts except those of the Charter Schools Act of 1992, those establishing minimum age for public school attendance, specified building code regulations, and other specified laws.

Existing law enumerates the acts for which a pupil may be suspended or expelled from school and sets forth procedures a school district is required to follow in suspending or expelling a pupil.

This bill would require a charter school to comply with laws governing school districts relating to the suspension and expulsion of pupils, thereby imposing a state-mandated local program. The bill would also make conforming changes.

(2) Existing law requires, if the number of pupils who wish to attend a charter school exceeds its capacity, preference to be extended to pupils currently attending the charter school and to pupils who reside in the

school district, and authorizes other preferences as permitted by the chartering authority on an individual school basis and only if consistent with the law. ~~Existing law 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 reasonably comprehensive descriptions of certain things, including admission requirements, if applicable.~~

This bill would additionally require preference for siblings of pupils attending the charter school and children of employees at the charter school, but would delete the authorization for a chartering authority to permit other preferences. ~~The bill also would eliminate as a basis for denying a petition that the petition does not include a reasonably comprehensive description of admission requirements.~~ *school. The bill would instead authorize other preferences on an individual charter school basis only if certain conditions are met, including, among other conditions, that each type of preference is to be approved by the charter school at a public hearing and that no preference requires mandatory parental volunteer hours as criterion for admission or continued enrollment. The bill also would authorize a charter school to encourage parental involvement, but would require the charter school to notify the parents and guardians of applicant pupils and currently enrolled pupils that parental involvement is not a requirement for acceptance to, or continued enrollment at, the charter school.*

(3) Existing law requires, if a pupil is expelled or leaves a charter school without graduating or completing the school year, the charter school to notify the superintendent of the school district of the pupil's last known address within 30 days, and is required to, upon request, provide the school with certain information, including a transcript.

This bill would require the charter school to notify the superintendent of the school district within 10 days of the pupil's departure and would require the charter school to provide the reason for the pupil's departure. By imposing additional duties on charter school officials, the bill would impose a state-mandated local program.

(4) This bill also would require each school district to draft and implement a policy to annually collect data about teacher turnover at each of its schools, and at each charter school it authorizes. By imposing additional duties on school districts, and to the extent this would impose additional duties on charter school officials, the bill would impose a

state-mandated local program. The bill would specify that the data collected shall be subject to the California Public Records Act.

(5) This bill would state the intent of the Legislature in enacting its provisions, and would update references and make other nonsubstantive changes.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) 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. It is the intent of the Legislature in enacting this
- 2 act to do all of the following:
- 3 (a) Ensure equal access to interested pupils at charter schools
- 4 and prohibit practices that discourage enrollment or
- 5 disproportionately push out segments of already enrolled pupils.
- 6 (b) Ensure that charter school discipline policies are fair and
- 7 transparent.
- 8 (c) Ensure that a pupil's constitutional right to due process is
- 9 protected at charter schools.
- 10 (d) Consistent with Section 5 of Article IX of the California
- 11 Constitution, ensure that charter schools operate within the system
- 12 of common schools by remaining "... free, nonsectarian and open
- 13 to all students..." as stated in *Wilson v. State Board of Education*
- 14 (1999) 75 Cal.App.4th 1125, 1137–38.
- 15 (e) Gather data on pupil and teacher turnover in the charter
- 16 school environment.

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

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

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

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

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

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

(4) After receiving approval of its petition, a charter school that proposes to establish operations at one or more additional sites shall request a material revision to its charter and shall notify the authority that granted its charter of those additional locations. The authority that granted its charter shall consider whether to approve those additional locations at an open, public meeting. If the

1 additional locations are approved, there shall be a material revision  
2 to the charter school's charter.

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

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

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

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

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

1 district shall not deny a petition for the establishment of a charter  
2 school unless it makes written factual findings, specific to the  
3 particular petition, setting forth specific facts to support one or  
4 more of the following findings:

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

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

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

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

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

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

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

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

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

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

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

21 (E) The qualifications to be met by individuals to be employed  
22 by the charter school.

23 (F) The procedures that the charter school will follow to ensure  
24 the health and safety of pupils and staff. These procedures shall  
25 include the requirement that each employee of the charter school  
26 furnish it with a criminal record summary as described in Section  
27 44237.

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

32 (H) *Admission policies and procedures, consistent with*  
33 *subdivision (d).*

34 ~~(H)~~

35 (I) The manner in which annual, independent financial audits  
36 shall be conducted, which shall employ generally accepted  
37 accounting principles, and the manner in which audit exceptions  
38 and deficiencies shall be resolved to the satisfaction of the  
39 chartering authority.

40 ~~(I)~~

1 (J) The procedures by which pupils can be suspended or  
2 expelled.

3 ~~(J)~~

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

7 ~~(K)~~

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

10 ~~(L)~~

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

15 ~~(M)~~

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

19 ~~(N)~~

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 ~~(O)~~

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

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

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

38 (d) (1) In addition to any other requirement imposed under this  
39 part, a charter school shall be nonsectarian in its programs,  
40 admission policies, employment practices, and all other operations,



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

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

(B) If the number of pupils who wish to attend the charter school exceeds the charter school's capacity, attendance, except for existing pupils of the charter school, shall be determined by a public random drawing. Preference shall be extended to pupils currently attending the charter school, siblings of pupils currently attending the charter school, children of employees at the charter school, and pupils who reside in the school district except as provided for in Section 47614.5. *Additionally, other preferences may be permitted on an individual charter school basis, in accordance with all of the following:*

(i) *Each type of preference shall be approved by the charter school at a public hearing.*

(ii) *Preferences shall be consistent with federal law and the California Constitution.*

(iii) *Preferences shall ensure access for pupils with disabilities, academically low-achieving pupils, English learners, and low-income pupils, as determined by eligibility for any free or reduced-price meal program.*

(iv) *Preferences shall not require mandatory parental volunteer hours as a criterion for admission or continued enrollment.*

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

(3) If a pupil is expelled or leaves the charter school without graduating or completing the school year for any reason, the charter school shall notify the superintendent of the school district of the pupil's last known address within 10 days and shall provide that school district with a copy of the cumulative record of the pupil,

1 including a transcript of grades or report card, health information,  
2 and the reason for the pupil's departure. This paragraph applies  
3 only to pupils subject to compulsory full-time education pursuant  
4 to Section 48200.

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

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

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

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

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

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

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

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

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

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

30 (5) The state board shall adopt regulations implementing this  
31 subdivision.

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

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

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

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

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

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

(n) *A charter school may encourage parental involvement, but shall notify the parents and guardians of applicant pupils and currently enrolled pupils that parental involvement is not a requirement for acceptance to, or continued enrollment at, the charter school.*

SEC. 3. Section 47610 of the Education Code is amended to read:

47610. A charter school shall comply with this part and all of the provisions set forth in its charter, but is otherwise exempt from the laws governing school districts, except all of the following:

1 (a) All laws establishing minimum age for public school  
2 attendance.

3 (b) The California Building Standards Code (Part 2  
4 (commencing with Section 101) of Title 24 of the California Code  
5 of Regulations), as adopted and enforced by the local building  
6 enforcement agency with jurisdiction over the area in which the  
7 charter school is located. Charter school facilities shall comply  
8 with this subdivision by January 1, 2007.

9 (c) Sections 41365 and 47611 and Article 1 (commencing with  
10 Section 48900) of Chapter 6 of Part 27.

11 SEC. 4. Section 48925 of the Education Code is amended to  
12 read:

13 48925. As used in this article:

14 (a) “Day” means a calendar day unless otherwise specifically  
15 provided.

16 (b) “Expulsion” means removal of a pupil from (1) the  
17 immediate supervision and control, or (2) the general supervision,  
18 of school personnel, as those terms are used in Section 46300.

19 (c) “Governing board” means the governing board of a school  
20 district or the governing body of a charter school.

21 (d) “Principal” means the principal of the school or the site  
22 administrator of a charter school.

23 (e) “Pupil” includes a pupil’s parent or guardian or legal counsel.

24 (f) “School” includes a charter school.

25 (g) “Schoolday” means a day upon which the schools of the  
26 district are in session or weekdays during the summer recess.

27 (h) “Suspension” means removal of a pupil from ongoing  
28 instruction for adjustment purposes. However, “suspension” does  
29 not mean any of the following:

30 (1) Reassignment to another education program or class at the  
31 same school where the pupil will receive continuing instruction  
32 for the length of day prescribed by the governing board for pupils  
33 of the same grade level.

34 (2) Referral to a certificated employee designated by the  
35 principal to advise pupils.

36 (3) Removal from the class, but without reassignment to another  
37 class or program, for the remainder of the class period without  
38 sending the pupil to the principal or the principal’s designee as  
39 provided in Section 48910. Removal from a particular class shall  
40 not occur more than once every five schooldays.

1 SEC. 5. Section 49068.7 is added to the Education Code, to  
2 read:

3 49068.7. (a) Each school district shall draft and implement a  
4 policy to annually collect data about teacher turnover at each of  
5 its schools, and at each charter school it authorizes.

6 (b) Subject to existing state and federal law regarding privacy  
7 and personal directory information, the data collected pursuant to  
8 this section shall be classified as public records subject to the  
9 California Public Records Act (Chapter 3.5 (commencing with  
10 Section 6250) of Division 7 of Title 1 of the Government Code).

11 SEC. 6. The Legislature finds and declares that Section 5 of  
12 this act, which adds Section 49068.7 to the Education Code,  
13 furthers, within the meaning of paragraph (7) of subdivision (b)  
14 of Section 3 of Article I of the California Constitution, the purposes  
15 of that constitutional section as it relates to the right of public  
16 access to the meetings of local public bodies or the writings of  
17 local public officials and local agencies. Pursuant to paragraph (7)  
18 of subdivision (b) of Section 3 of Article I of the California  
19 Constitution, the Legislature makes the following findings:

20 By making public the reasons for teacher turnover at charter  
21 schools, the public's interest in charter school operation and  
22 transparency is furthered.

23 SEC. 7. If the Commission on State Mandates determines that  
24 this act contains costs mandated by the state, reimbursement to  
25 local agencies and school districts for those costs shall be made  
26 pursuant to Part 7 (commencing with Section 17500) of Division  
27 4 of Title 2 of the Government Code.