

AMENDED IN ASSEMBLY AUGUST 24, 2016

AMENDED IN ASSEMBLY AUGUST 16, 2016

AMENDED IN ASSEMBLY JULY 16, 2015

AMENDED IN ASSEMBLY JULY 8, 2015

AMENDED IN SENATE JUNE 1, 2015

AMENDED IN SENATE MAY 13, 2015

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 Section 47605 of the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

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

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

information, the procedures by which pupils can be suspended or expelled.

Existing law enumerates the acts for which a pupil may be suspended or expelled from a traditional public school and sets forth procedures a school district is required to follow in suspending or expelling a pupil. Existing law requires the governing board of a school district to refer a pupil who has been expelled from school to a program of study that meets certain conditions, including that the program not be provided at a comprehensive middle, junior, or senior high school, or at any elementary school.

This bill would require the charter school suspension and expulsion procedures described in the charter petition to meet certain minimum requirements, including, among other things, meeting the constitutional due process requirement of providing notice and an opportunity to be heard, various procedural requirements, identifying a list of acts for which a pupil enrolled in the charter school may be suspended or expelled, and identifying the maximum length of time for which a pupil may be suspended. The bill also would require a charter school to ensure no loss of instructional days for a pupil pending final determination of the expulsion hearing by providing the pupil access to educational programming, ~~and~~ *and*, upon a final determination to expel a pupil, to ensure the pupil is provided access to educational programming until the charter school has confirmed the pupil has been provided a suitable educational placement. To the extent this bill would impose additional duties on charter schools, it would constitute a state-mandated local program. The bill also would authorize a pupil to appeal his or her expulsion to the applicable county board of education. To the extent this would impose additional duties on county board of education officials, the bill would impose a state-mandated local program.

(2) The act 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.

This bill would instead authorize other preferences permitted by the chartering authority on an individual charter school basis only if certain conditions are met, including, among other conditions, that each type of preference is 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) This bill would state the intent of the Legislature in enacting its provisions, and would make other nonsubstantive changes.

(4) *This bill would incorporate additional changes to Section 47605 of the Education Code proposed by SB 739 that would become operative if this bill and SB 739 are both enacted and this bill is enacted last.*

~~(4)~~

(5) 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 turnover in the charter school  
16 environment.

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

3 47605. (a) (1) Except as set forth in paragraph (2), a petition  
4 for the establishment of a charter school within a school district  
5 may be circulated by one or more persons seeking to establish the  
6 charter school. A petition for the establishment of a charter school  
7 shall identify a single charter school that will operate within the  
8 geographic boundaries of that school district. A charter school  
9 may propose to operate at multiple sites within the school district  
10 if each location is identified in the charter school petition. The  
11 petition may be submitted to the governing board of the school  
12 district for review after either of the following conditions is met:

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

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

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

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

35 (4) After receiving approval of its petition, a charter school that  
36 proposes to establish operations at one or more additional sites  
37 shall request a material revision to its charter and shall notify the  
38 authority that granted its charter of those additional locations. The  
39 authority that granted its charter shall consider whether to approve  
40 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) The educational program of the charter school, designed,  
16 among other things, to identify those whom the charter school is  
17 attempting to educate, what it means to be an “educated person”  
18 in the 21st century, and how learning best occurs. The goals  
19 identified in that program shall include the objective of enabling  
20 pupils to become self-motivated, competent, and lifelong learners.

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

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

39 (B) The measurable pupil outcomes identified for use by the  
40 charter school. “Pupil outcomes,” for purposes of this part, means

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

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

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

19 (E) The qualifications to be met by individuals to be employed  
20 by the charter school.

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

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

30 (H) Admission policies and procedures, consistent with  
31 subdivision (d).

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

37 (J) The procedures by which pupils can be suspended or  
38 expelled, consistent with subdivision (d), which, at a minimum,  
39 shall also do the following:

- 1 (i) Identify a list of acts for which a pupil enrolled in the charter  
2 school may be suspended or expelled.
- 3 (ii) Identify suspension and expulsion procedures, including the  
4 maximum length of time for which a pupil may be suspended. The  
5 procedures shall also accommodate the rights of pupils with  
6 disabilities, consistent with federal law.
- 7 (K) The manner by which staff members of the charter schools  
8 will be covered by the State Teachers' Retirement System, the  
9 Public Employees' Retirement System, or federal social security.
- 10 (L) The public school attendance alternatives for pupils residing  
11 within the school district who choose not to attend charter schools.
- 12 (M) The rights of an employee of the school district upon  
13 leaving the employment of the school district to work in a charter  
14 school, and of any rights of return to the school district after  
15 employment at a charter school.
- 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 (O) The procedures to be used if the charter school closes. The  
20 procedures shall ensure a final audit of the charter school to  
21 determine the disposition of all assets and liabilities of the charter  
22 school, including plans for disposing of any net assets and for the  
23 maintenance and transfer of pupil records.
- 24 (6) The petition does not contain a declaration of whether or  
25 not the charter school shall be deemed the exclusive public  
26 employer of the employees of the charter school for purposes of  
27 Chapter 10.7 (commencing with Section 3540) of Division 4 of  
28 Title 1 of the Government Code.
- 29 (c) (1) Charter schools shall meet all statewide standards and  
30 conduct the pupil assessments required pursuant to Sections 60605  
31 and 60851 and any other statewide standards authorized in statute  
32 or pupil assessments applicable to pupils in noncharter public  
33 schools.
- 34 (2) Charter schools shall, on a regular basis, consult with their  
35 parents, legal guardians, and teachers regarding the charter school's  
36 educational programs.
- 37 (d) (1) In addition to any other requirement imposed under this  
38 part, a charter school shall be nonsectarian in its programs,  
39 admission policies, employment practices, and all other operations,  
40 shall not charge tuition, and shall not discriminate against a pupil



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

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

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

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

22 (ii) Preferences shall be consistent with federal law, the  
23 California Constitution, and Section 200.

24 (iii) Preferences shall not result in limiting enrollment access  
25 for pupils with disabilities, academically low-achieving pupils,  
26 English learners, neglected or delinquent pupils, homeless pupils,  
27 or pupils who are economically disadvantaged, as determined by  
28 eligibility for any free or reduced-price meal program.

29 (iv) In accordance with Section 49011, preferences shall not  
30 require mandatory parental volunteer hours as a criterion for  
31 admission or continued enrollment.

32 (C) In the event of a drawing, the chartering authority shall  
33 make reasonable efforts to accommodate the growth of the charter  
34 school and shall not take any action to impede the charter school  
35 from expanding enrollment to meet pupil demand.

36 (3) Charter school suspension and expulsion procedures shall  
37 meet the following minimum requirements:

38 (A) The procedures shall comply with federal and state  
39 constitutional due process requirements, which include providing  
40 notice and an opportunity to be heard.

1 (B) For expulsions, the procedures shall ensure all of the  
2 following:

3 (i) The pupil is entitled to a formal hearing to determine if the  
4 pupil shall be expelled.

5 (ii) The pupil shall be provided written notice of the hearing,  
6 which, at a minimum, shall identify the date and place of the  
7 hearing, a statement of the specific facts and charges upon which  
8 the proposed expulsion is based, a copy of the disciplinary rules  
9 that relate to the alleged violation, and notice of the procedures  
10 that will govern the hearing, including those specified in clause  
11 (iii).

12 (iii) At the hearing, the pupil or the pupil's parent or guardian,  
13 or the pupil's educational rights holder if the pupil is a foster child  
14 or youth or a homeless child or youth, has a right to appear in  
15 person or to be represented by an attorney licensed to practice law  
16 in California or by a nonattorney adviser, to inspect and obtain  
17 copies of all documents to be used at the hearing, to confront and  
18 question all witnesses who testify at the hearing, to question all  
19 other evidence presented, and to present oral and documentary  
20 evidence on the pupil's behalf, including through witnesses. A  
21 record of the hearing shall be made so that a reasonably accurate  
22 and complete written transcription of the proceedings can be made.

23 (iv) If the individual, panel, or board conducting the formal  
24 hearing determines that the pupil shall be expelled, the individual,  
25 panel, or board shall issue a written decision identifying the basis  
26 for the decision, including all facts in support of the decision,  
27 which shall be based upon substantial evidence relevant to the  
28 charges adduced at the formal hearing and shall not consist solely  
29 of hearsay evidence.

30 (v) Written notice of any decision to expel shall be sent by the  
31 charter school to the pupil or the pupil's parent or guardian, or the  
32 pupil's educational rights holder if the pupil is a foster child or  
33 youth or a homeless child or youth, and shall include notice of the  
34 right to appeal the expulsion to the county board of education, as  
35 provided for in clause (vi), and notice of the educational placement  
36 to be provided to the pupil during the time of expulsion, as  
37 provided for in clause (viii).

38 (vi) A pupil may appeal the expulsion to the county board of  
39 education with jurisdiction in the county in which the charter school  
40 is located.

1 (vii) The charter school shall ensure no loss of instructional  
2 days for the pupil pending final determination of the expulsion,  
3 including an appeal, if one is filed, by providing the pupil access  
4 to educational programming.

5 (viii) Upon final determination to expel a pupil, the charter  
6 school shall ensure the pupil is provided access to educational  
7 programming until the charter school has confirmed the pupil has  
8 been provided a suitable educational placement.

9 (4) A pupil shall not be removed, involuntarily dismissed,  
10 disenrolled, or terminated from a charter school unless the charter  
11 school has complied with all of the procedures specified in  
12 subparagraph (B) of paragraph (3).

13 (5) Nothing in this section is intended to restrict or otherwise  
14 limit the rights available to pupils in charter schools under other  
15 federal and state law. All such protections shall apply with full  
16 force and effect.

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

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

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

29 (g) The governing board of a school district shall require that  
30 the petitioner or petitioners provide information regarding the  
31 proposed operation and potential effects of the charter school,  
32 including, but not limited to, the facilities to be used by the charter  
33 school, the manner in which administrative services of the charter  
34 school are to be provided, and potential civil liability effects, if  
35 any, upon the charter school and upon the school district. The  
36 description of the facilities to be used by the charter school shall  
37 specify where the charter school intends to locate. The petitioner  
38 or petitioners also shall be required to provide financial statements  
39 that include a proposed first-year operational budget, including

1 startup costs, and cashflow and financial projections for the first  
2 three years of operation.

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

10 (i) Upon the approval of the petition by the governing board of  
11 the school district, the petitioner or petitioners shall provide written  
12 notice of that approval, including a copy of the petition, to the  
13 applicable county superintendent of schools, the department, and  
14 the state board.

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

34 (2) In assuming its role as a chartering agency, the state board  
35 shall develop criteria to be used for the review and approval of  
36 charter school petitions presented to the state board. The criteria  
37 shall address all elements required for charter approval, as  
38 identified in subdivision (b), and shall define “reasonably  
39 comprehensive,” as used in paragraph (5) of subdivision (b), in a  
40 way that is consistent with the intent of this part. Upon satisfactory

1 completion of the criteria, the state board shall adopt the criteria  
2 on or before June 30, 2001.

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

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

11 (5) The state board shall adopt regulations implementing this  
12 subdivision.

13 (6) Upon the approval of the petition by the county board of  
14 education, the petitioner or petitioners shall provide written notice  
15 of that approval, including a copy of the petition, to the department  
16 and the state board.

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

22 (2) The designated local educational agency shall have all  
23 monitoring and supervising authority of a chartering agency,  
24 including, but not limited to, powers and duties set forth in Section  
25 47607, except the power of revocation, which shall remain with  
26 the state board.

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

34 (l) Teachers in charter schools shall hold a Commission on  
35 Teacher Credentialing certificate, permit, or other document  
36 equivalent to that which a teacher in other public schools would  
37 be required to hold. These documents shall be maintained on file  
38 at the charter school and are subject to periodic inspection by the  
39 chartering authority. It is the intent of the Legislature that charter

1 schools be given flexibility with regard to noncore, noncollege  
2 preparatory courses.

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

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

18 *SEC. 2.5. Section 47605 of the Education Code is amended to*  
19 *read:*

20 47605. (a) (1) Except as set forth in paragraph (2), a petition  
21 for the establishment of a charter school within a school district  
22 may be circulated by one or more persons seeking to establish the  
23 charter school. A petition for the establishment of a charter school  
24 shall identify a single charter school that will operate within the  
25 geographic boundaries of that school district. A charter school  
26 may propose to operate at multiple sites within the school district  
27 if each location is identified in the charter school petition. The  
28 petition may be submitted to the governing board of the school  
29 district for review after either of the following conditions is met:

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

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

38 (2) A petition that proposes to convert an existing public school  
39 to a charter school that would not be eligible for a loan pursuant  
40 to subdivision (c) of Section 41365 may be circulated by one or

1 more persons seeking to establish the charter school. The petition  
2 may be submitted to the governing board of the school district for  
3 review after the petition is signed by not less than 50 percent of  
4 the permanent status teachers currently employed at the public  
5 school to be converted.

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

12 (4) After receiving approval of its petition, a charter school that  
13 proposes to establish operations at one or more additional sites  
14 shall request a material revision to its charter and shall notify the  
15 authority that granted its charter of those additional locations. The  
16 authority that granted its charter shall consider whether to approve  
17 those additional locations at an open, public meeting. If the  
18 additional locations are approved, ~~they~~ there shall be a material  
19 revision to the charter school's charter.

20 (5) (A) A charter school that is unable to locate within the  
21 jurisdiction of the chartering school district may establish one site  
22 outside the boundaries of the school district, but within the county  
23 in which that school district is located, if the school district within  
24 the jurisdiction of which the charter school proposes to operate is  
25 notified in advance of the charter petition approval, the county  
26 superintendent of schools and the Superintendent are notified of  
27 the location of the charter school before it commences operations,  
28 and either of the following circumstances exists:

29 ~~(A)~~

30 (i) The *charter* school has attempted to locate a single site or  
31 facility to house the entire program, but a site or facility is  
32 unavailable in the area in which the *charter* school chooses to  
33 locate.

34 ~~(B)~~

35 (ii) The site is needed for temporary use during a construction  
36 or expansion project.

37 (B) *Notwithstanding subparagraph (A), the governing board of*  
38 *a school district shall not authorize new charter schools to locate*  
39 *outside the boundaries of the school district if the school district*

1 *is assigned a negative certification pursuant to paragraph (1) of*  
2 *subdivision (a) of Section 42131.*

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

8 (b) No later than 30 days after receiving a petition, in accordance  
9 with subdivision (a), the governing board of the school district  
10 shall hold a public hearing on the provisions of the charter, at  
11 which time the governing board of the school district shall consider  
12 the level of support for the petition by teachers employed by the  
13 school district, other employees of the school district, and parents.  
14 Following review of the petition and the public hearing, the  
15 governing board of the school district shall either grant or deny  
16 the charter within 60 days of receipt of the petition, provided,  
17 however, that the date may be extended by an additional 30 days  
18 if both parties agree to the extension. In reviewing petitions for  
19 the establishment of charter schools pursuant to this section, the  
20 chartering authority shall be guided by the intent of the Legislature  
21 that charter schools are and should become an integral part of the  
22 California educational system and that the establishment of charter  
23 schools should be encouraged. The governing board of the school  
24 district shall grant a charter for the operation of a *charter* school  
25 under this part if it is satisfied that granting the charter is consistent  
26 with sound educational practice. The governing board of the school  
27 district shall not deny a petition for the establishment of a charter  
28 school unless it makes written factual findings, specific to the  
29 particular petition, setting forth specific facts to support one or  
30 more of the following findings:

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

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

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

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

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



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

7 (ii) The annual goals for the charter school for all pupils and  
8 for each subgroup of pupils identified pursuant to Section 52052,  
9 to be achieved in the state priorities, as described in subdivision  
10 (d) of Section 52060, that apply for the grade levels served, or the  
11 nature of the program operated, by the charter school, and specific  
12 annual actions to achieve those goals. A charter petition may  
13 identify additional school priorities, the goals for the school  
14 priorities, and the specific annual actions to achieve those goals.

15 (iii) If the proposed charter school will serve high school pupils,  
16 the manner in which the charter school will inform parents about  
17 the transferability of courses to other public high schools and the  
18 eligibility of courses to meet college entrance requirements.  
19 Courses offered by the charter school that are accredited by the  
20 Western Association of Schools and Colleges may be considered  
21 transferable and courses approved by the University of California  
22 or the California State University as creditable under the ~~“A” to~~  
23 ~~“G”~~ “A to G” admissions criteria may be considered to meet  
24 college entrance requirements.

25 (B) The measurable pupil outcomes identified for use by the  
26 charter school. “Pupil outcomes,” for purposes of this part, means  
27 the extent to which all pupils of the *charter* school demonstrate  
28 that they have attained the skills, knowledge, and attitudes specified  
29 as goals in the *charter* school’s educational program. Pupil  
30 outcomes shall include outcomes that address increases in pupil  
31 academic achievement both schoolwide and for all groups of pupils  
32 served by the charter school, as that term is defined in subparagraph  
33 (B) of paragraph (3) of subdivision (a) of Section 47607. The pupil  
34 outcomes shall align with the state priorities, as described in  
35 subdivision (d) of Section 52060, that apply for the grade levels  
36 served, or the nature of the program operated, by the charter school.

37 (C) The method by which pupil progress in meeting those pupil  
38 outcomes is to be measured. To the extent practicable, the method  
39 for measuring pupil outcomes for state priorities shall be consistent

1 with the way information is reported on a school accountability  
2 report card.

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

6 (E) The qualifications to be met by individuals to be employed  
7 by the charter school.

8 (F) The procedures that the charter school will follow to ensure  
9 the health and safety of pupils and staff. These procedures shall  
10 include the requirement that each employee of the charter school  
11 furnish it with a criminal record summary as described in Section  
12 44237.

13 (G) The means by which the *charter* school will achieve a racial  
14 and ethnic balance among its pupils that is reflective of the general  
15 population residing within the territorial jurisdiction of the school  
16 district to which the charter petition is submitted.

17 (H) Admission ~~requirements, if applicable:~~ *policies and*  
18 *procedures, consistent with subdivision (d).*

19 (I) The manner in which annual, independent financial audits  
20 shall be conducted, which shall employ generally accepted  
21 accounting principles, and the manner in which audit exceptions  
22 and deficiencies shall be resolved to the satisfaction of the  
23 chartering authority.

24 (J) The procedures by which pupils can be suspended or  
25 ~~expelled:~~ *expelled, consistent with subdivision (d), which, at a*  
26 *minimum, shall also do the following:*

27 (i) *Identify a list of acts for which a pupil enrolled in the charter*  
28 *school may be suspended or expelled.*

29 (ii) *Identify suspension and expulsion procedures, including the*  
30 *maximum length of time for which a pupil may be suspended. The*  
31 *procedures shall also accommodate the rights of pupils with*  
32 *disabilities, consistent with federal law.*

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

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

38 (M) The rights of an employee of the school district upon  
39 leaving the employment of the school district to work in a charter

1 school, and of any rights of return to the school district after  
2 employment at a charter school.

3 (N) The procedures to be followed by the charter school and  
4 the entity granting the charter to resolve disputes relating to  
5 provisions of the charter.

6 (O) The procedures to be used if the charter school closes. The  
7 procedures shall ensure a final audit of the charter school to  
8 determine the disposition of all assets and liabilities of the charter  
9 school, including plans for disposing of any net assets and for the  
10 maintenance and transfer of pupil records.

11 (6) The petition does not contain a declaration of whether or  
12 not the charter school shall be deemed the exclusive public  
13 employer of the employees of the charter school for purposes of  
14 Chapter 10.7 (commencing with Section 3540) of Division 4 of  
15 Title 1 of the Government Code.

16 (c) (1) Charter schools shall meet all statewide standards and  
17 conduct the pupil assessments required pursuant to Sections 60605  
18 and 60851 and any other statewide standards authorized in statute  
19 or pupil assessments applicable to pupils in noncharter public  
20 schools.

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

24 (d) (1) In addition to any other requirement imposed under this  
25 part, a charter school shall be nonsectarian in its programs,  
26 admission policies, employment practices, and all other operations,  
27 shall not charge tuition, and shall not discriminate against a pupil  
28 on the basis of the characteristics listed in Section 220. Except as  
29 provided in paragraph (2), admission to a charter school shall not  
30 be determined according to the place of residence of the pupil, or  
31 of his or her parent or legal guardian, within this state, except that  
32 an existing public school converting partially or entirely to a charter  
33 school under this part shall adopt and maintain a policy giving  
34 admission preference to pupils who reside within the former  
35 attendance area of that public school.

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

38 (B) If the number of pupils who wish to attend the *charter* school  
39 exceeds the charter school's capacity, attendance, except for  
40 existing pupils of the charter school, shall be determined by a

1 public random drawing. Preference shall be extended to pupils  
2 currently attending the charter school and pupils who reside in the  
3 school district except as provided for in Section 47614.5. ~~Other~~  
4 *Additionally, other preferences may be permitted by the chartering*  
5 *authority on an individual school basis and only if consistent with*  
6 ~~the law.~~ *charter school basis, in accordance with all of the*  
7 *following:*

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

10 *(ii) Preferences shall be consistent with federal law, the*  
11 *California Constitution, and Section 200.*

12 *(iii) Preferences shall not result in limiting enrollment access*  
13 *for pupils with disabilities, academically low-achieving pupils,*  
14 *English learners, neglected or delinquent pupils, homeless pupils,*  
15 *or pupils who are economically disadvantaged, as determined by*  
16 *eligibility for any free or reduced-price meal program.*

17 *(iv) In accordance with Section 49011, preferences shall not*  
18 *require mandatory parental volunteer hours as a criterion for*  
19 *admission or continued enrollment.*

20 (C) In the event of a drawing, the chartering authority shall  
21 make reasonable efforts to accommodate the growth of the charter  
22 school and shall not take any action to impede the charter school  
23 from expanding enrollment to meet pupil demand.

24 *(3) Charter school suspension and expulsion procedures shall*  
25 *meet the following minimum requirements:*

26 *(A) The procedures shall comply with federal and state*  
27 *constitutional due process requirements, which include providing*  
28 *notice and an opportunity to be heard.*

29 *(B) For expulsions, the procedures shall ensure all of the*  
30 *following:*

31 *(i) The pupil is entitled to a formal hearing to determine if the*  
32 *pupil shall be expelled.*

33 *(ii) The pupil shall be provided written notice of the hearing,*  
34 *which, at a minimum, shall identify the date and place of the*  
35 *hearing, a statement of the specific facts and charges upon which*  
36 *the proposed expulsion is based, a copy of the disciplinary rules*  
37 *that relate to the alleged violation, and notice of the procedures*  
38 *that will govern the hearing, including those specified in clause*  
39 *(iii).*

1 (iii) *At the hearing, the pupil or the pupil's parent or guardian,*  
2 *or the pupil's educational rights holder if the pupil is a foster child*  
3 *or youth or a homeless child or youth, has a right to appear in*  
4 *person or to be represented by an attorney licensed to practice*  
5 *law in California or by a nonattorney adviser, to inspect and obtain*  
6 *copies of all documents to be used at the hearing, to confront and*  
7 *question all witnesses who testify at the hearing, to question all*  
8 *other evidence presented, and to present oral and documentary*  
9 *evidence on the pupil's behalf, including through witnesses. A*  
10 *record of the hearing shall be made so that a reasonably accurate*  
11 *and complete written transcription of the proceedings can be made.*

12 (iv) *If the individual, panel, or board conducting the formal*  
13 *hearing determines that the pupil shall be expelled, the individual,*  
14 *panel, or board shall issue a written decision identifying the basis*  
15 *for the decision, including all facts in support of the decision,*  
16 *which shall be based upon substantial evidence relevant to the*  
17 *charges adduced at the formal hearing and shall not consist solely*  
18 *of hearsay evidence.*

19 (v) *Written notice of any decision to expel shall be sent by the*  
20 *charter school to the pupil or the pupil's parent or guardian, or*  
21 *the pupil's educational rights holder if the pupil is a foster child*  
22 *or youth or a homeless child or youth, and shall include notice of*  
23 *the right to appeal the expulsion to the county board of education,*  
24 *as provided for in clause (vi), and notice of the educational*  
25 *placement to be provided to the pupil during the time of expulsion,*  
26 *as provided for in clause (viii).*

27 (vi) *A pupil may appeal the expulsion to the county board of*  
28 *education with jurisdiction in the county in which the charter*  
29 *school is located.*

30 (vii) *The charter school shall ensure no loss of instructional*  
31 *days for the pupil pending final determination of the expulsion,*  
32 *including an appeal, if one is filed, by providing the pupil access*  
33 *to educational programming.*

34 (viii) *Upon final determination to expel a pupil, the charter*  
35 *school shall ensure the pupil is provided access to educational*  
36 *programming until the charter school has confirmed the pupil has*  
37 *been provided a suitable educational placement.*

38 (4) *A pupil shall not be removed, involuntarily dismissed,*  
39 *disenrolled, or terminated from a charter school unless the charter*

1 school has complied with all of the procedures specified in  
2 subparagraph (B) of paragraph (3).

3 (5) Nothing in this section is intended to restrict or otherwise  
4 limit the rights available to pupils in charter schools under other  
5 federal and state law. All such protections shall apply with full  
6 force and effect.

7 (3)

8 (6) If a pupil is expelled or leaves the charter school without  
9 graduating or completing the school year for any reason, the charter  
10 school shall notify the superintendent of the school district of the  
11 pupil’s last known address within 30 days, and shall, upon request,  
12 provide that school district with a copy of the cumulative record  
13 of the pupil, including a transcript of grades or report card, and  
14 health information. This paragraph applies only to pupils subject  
15 to compulsory full-time education pursuant to Section 48200.

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

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

20 (g) The governing board of a school district shall require that  
21 the petitioner or petitioners provide information regarding the  
22 proposed operation and potential effects of the charter school,  
23 including, but not limited to, the facilities to be used by the *charter*  
24 school, the manner in which administrative services of the *charter*  
25 school are to be provided, and potential civil liability effects, if  
26 any, upon the *charter* school and upon the school district. The  
27 description of the facilities to be used by the charter school shall  
28 specify where the *charter* school intends to locate. The petitioner  
29 or petitioners ~~shall~~ also *shall* be required to provide financial  
30 statements that include a proposed first-year operational budget,  
31 including startup costs, and cashflow and financial projections for  
32 the first three years of operation.

33 (h) In reviewing petitions for the establishment of charter  
34 schools within the school district, the governing board of the school  
35 district shall give preference to petitions that demonstrate the  
36 capability to provide comprehensive learning experiences to pupils  
37 identified by the petitioner or petitioners as academically low  
38 achieving pursuant to the standards established by the department  
39 under Section 54032, as that section read before July 19, 2006.

1 (i) Upon the approval of the petition by the governing board of  
2 the school district, the petitioner or petitioners shall provide written  
3 notice of that approval, including a copy of the petition, to the  
4 applicable county superintendent of schools, the department, and  
5 the state board.

6 (j) (1) If the governing board of a school district denies a  
7 petition, the petitioner may elect to submit the petition for the  
8 establishment of a charter school to the county board of education.  
9 The county board of education shall review the petition pursuant  
10 to subdivision (b). If the petitioner elects to submit a petition for  
11 establishment of a charter school to the county board of education  
12 and the county board of education denies the petition, the petitioner  
13 may file a petition for establishment of a charter school with the  
14 state board, and the state board may approve the petition, in  
15 accordance with subdivision (b). A charter school that receives  
16 approval of its petition from a county board of education or from  
17 the state board on appeal shall be subject to the same requirements  
18 concerning geographic location to which it would otherwise be  
19 subject if it received approval from the entity to which it originally  
20 submitted its petition. A charter petition that is submitted to either  
21 a county board of education or to the state board shall meet all  
22 otherwise applicable petition requirements, including the  
23 identification of the proposed site or sites where the charter school  
24 will operate.

25 (2) In assuming its role as a chartering agency, the state board  
26 shall develop criteria to be used for the review and approval of  
27 charter school petitions presented to the state board. The criteria  
28 shall address all elements required for charter approval, as  
29 identified in subdivision (b), and shall define “reasonably  
30 ~~comprehensive~~” *comprehensive*,” as used in paragraph (5) of  
31 subdivision ~~(b)~~ (b), in a way that is consistent with the intent of  
32 this part. Upon satisfactory completion of the criteria, the state  
33 board shall adopt the criteria on or before June 30, 2001.

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

38 (4) If either the county board of education or the state board  
39 fails to act on a petition within 120 days of receipt, the decision

1 of the governing board of the school district to deny ~~a~~ *the* petition  
2 shall be subject to judicial review.

3 (5) The state board shall adopt regulations implementing this  
4 subdivision.

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

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

14 (2) The designated local educational agency shall have all  
15 monitoring and supervising authority of a chartering agency,  
16 including, but not limited to, powers and duties set forth in Section  
17 47607, except the power of revocation, which shall remain with  
18 the state board.

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

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

34 (m) A charter school shall transmit a copy of its annual,  
35 independent financial audit report for the preceding fiscal year, as  
36 described in subparagraph (I) of paragraph (5) of subdivision (b),  
37 to its chartering entity, the Controller, the county superintendent  
38 of schools of the county in which the charter school is sited, unless  
39 the county board of education of the county in which the charter  
40 school is sited is the chartering entity, and the department by



1 December 15 of each year. This subdivision does not apply if the  
2 audit of the charter school is encompassed in the audit of the  
3 chartering entity pursuant to Section 41020.

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

9 *SEC. 3. Section 2.5 of this bill incorporates amendments to*  
10 *Section 47605 of the Education Code proposed by both this bill*  
11 *and Senate Bill 739. It shall only become operative if (1) both bills*  
12 *are enacted and become effective on or before January 1, 2017,*  
13 *(2) each bill amends Section 47605 of the Education Code, and*  
14 *(3) this bill is enacted after Senate Bill 739, in which case Section*  
15 *2 of this bill shall not become operative.*

16 ~~SEC. 3.~~

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