

AMENDED IN ASSEMBLY AUGUST 25, 2016

AMENDED IN SENATE MAY 6, 2015

AMENDED IN SENATE APRIL 6, 2015

SENATE BILL

No. 739

Introduced by Senator Pavley

February 27, 2015

An act to amend Sections 47605 and 47605.1 of the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

SB 739, as amended, Pavley. Charter schools: sited outside boundaries: prohibition.

~~Existing~~

(1) *Existing* law authorizes a charter school that is unable to locate within the jurisdiction or geographic boundaries of the chartering school district to establish one site outside the boundaries of the school district, but within the county in which that school district is located, if the school district where the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools and the Superintendent of Public Instruction are notified of the location of the charter school before it commences operations, and either the charter school has attempted to locate a single site or facility to house the entire program, but such a site or facility is unavailable in the area in which the charter school chooses to locate or the site is needed for temporary use during a construction or expansion project.

This bill would prohibit the governing board of a school district from authorizing new charter schools to locate outside the boundaries of the school district if the school district is assigned a negative certification,

as specified. The bill would also make conforming changes, correct references, and make various nonsubstantive changes.

(2) This bill would incorporate changes to Section 47605 of the Education Code proposed by both this bill and SB 322, which would become operative only if both bills are enacted and become effective on or before January 1, 2017, and this bill is chaptered last. The bill would also incorporate changes to Section 47605.1 of the Education Code proposed by this bill and AB 2659, which would become operative only if both bills are enacted and become effective on or before January 1, 2017, and this bill is chaptered last.

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

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

1 SECTION 1. Section 47605 of the Education Code is amended
2 to 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 as long as each location is identified in the charter school petition.
11 The 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

1 review after the petition is signed by not less than 50 percent of
2 the permanent status teachers currently employed at the public
3 school to be converted.

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

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

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

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

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

33 (B) Notwithstanding subparagraph (A), the governing board of
34 a school district shall not authorize new charter schools to locate
35 outside the boundaries of the school district if the school district
36 is assigned a negative certification pursuant to paragraph (1) of
37 subdivision (a) of Section 42131.

38 (6) Commencing January 1, 2003, a petition to establish a charter
39 school shall not be approved to serve pupils in a grade level that
40 is not served by the school district of the governing board

1 considering the petition, unless the petition proposes to serve pupils
2 in all of the grade levels served by that school district.

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

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

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

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

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

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

36 (A) (i) A description of the educational program of the charter
37 school, designed, among other things, to identify those whom the
38 charter school is attempting to educate, what it means to be an
39 “educated person” in the 21st century, and how learning best
40 occurs. The goals identified in that program shall include the

1 objective of enabling pupils to become self-motivated, competent,
2 and lifelong learners.

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

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

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

34 (C) The method by which pupil progress in meeting those pupil
35 outcomes is to be measured. To the extent practicable, the method
36 for measuring pupil outcomes for state priorities shall be consistent
37 with the way information is reported on a school accountability
38 report card.

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

4 (E) The qualifications to be met by individuals to be employed
5 by the charter school.

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

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

15 (H) Admission requirements, if applicable.

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

21 (J) The procedures by which pupils can be suspended or
22 expelled.

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

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

28 (M) A description of the rights of an employee of the school
29 district upon leaving the employment of the school district to work
30 in a charter school, and of any rights of return to the school district
31 after employment at a charter school.

32 (N) The procedures to be followed by the charter school and
33 the entity granting the charter to resolve disputes relating to
34 provisions of the charter.

35 (O) A declaration of whether or not the charter school shall be
36 deemed the exclusive public school employer of the employees of
37 the charter school for purposes of Chapter 10.7 (commencing with
38 Section 3540) of Division 4 of Title 1 of the Government Code.

39 (P) A description of the procedures to be used if the charter
40 school closes. The procedures shall ensure a final audit of the

1 charter school to determine the disposition of all assets and
2 liabilities of the charter school, including plans for disposing of
3 any net assets and for the maintenance and transfer of pupil records.

4 (c) (1) Charter schools shall meet all statewide standards and
5 conduct the pupil assessments required pursuant to Sections 60605
6 and 60851 and any other statewide standards authorized in statute
7 or pupil assessments applicable to pupils in noncharter public
8 schools.

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

12 (d) (1) In addition to any other requirement imposed under this
13 part, a charter school shall be nonsectarian in its programs,
14 admission policies, employment practices, and all other operations,
15 shall not charge tuition, and shall not discriminate against a pupil
16 on the basis of the characteristics listed in Section 220. Except as
17 provided in paragraph (2), admission to a charter school shall not
18 be determined according to the place of residence of the pupil, or
19 of his or her parent or legal guardian, within this state, except that
20 an existing public school converting partially or entirely to a charter
21 school under this part shall adopt and maintain a policy giving
22 admission preference to pupils who reside within the former
23 attendance area of that public school.

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

26 (B) If the number of pupils who wish to attend the charter school
27 exceeds the charter school's capacity, attendance, except for
28 existing pupils of the charter school, shall be determined by a
29 public random drawing. Preference shall be extended to pupils
30 currently attending the charter school and pupils who reside in the
31 school district except as provided for in Section 47614.5. Other
32 preferences may be permitted by the chartering authority on an
33 individual school basis and only if consistent with the law.

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

38 (3) If a pupil is expelled or leaves the charter school without
39 graduating or completing the school year for any reason, the charter
40 school shall notify the superintendent of the school district of the

1 pupil's last known address within 30 days, and shall, upon request,
2 provide that school district with a copy of the cumulative record
3 of the pupil, including a transcript of grades or report card, and
4 health information. This paragraph applies only to pupils subject
5 to compulsory full-time education pursuant to Section 48200.

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

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

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

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

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

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

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

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

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

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

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

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

37 (k) (1) The state board may, by mutual agreement, designate
38 its supervisory and oversight responsibilities for a charter school
39 approved by the state board to any local educational agency in the

1 county in which the charter school is located or to the governing
2 board of the school district that first denied the petition.

3 (2) The designated local educational agency shall have all
4 monitoring and supervising authority of a chartering agency,
5 including, but not limited to, powers and duties set forth in Section
6 47607, except the power of revocation, which shall remain with
7 the state board.

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

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

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

33 *SEC. 1.5. Section 47605 of the Education Code is amended to*
34 *read:*

35 47605. (a) (1) Except as set forth in paragraph (2), a petition
36 for the establishment of a charter school within a school district
37 may be circulated by one or more persons seeking to establish the
38 charter school. A petition for the establishment of a charter school
39 shall identify a single charter school that will operate within the
40 geographic boundaries of that school district. A charter school

1 may propose to operate at multiple sites within the school district
2 if each location is identified in the charter school petition. The
3 petition may be submitted to the governing board of the school
4 district for review after either of the following conditions is met:

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

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

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

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

27 (4) After receiving approval of its petition, a charter school that
28 proposes to establish operations at one or more additional sites
29 shall request a material revision to its charter and shall notify the
30 authority that granted its charter of those additional locations. The
31 authority that granted its charter shall consider whether to approve
32 those additional locations at an open, public meeting. If the
33 additional locations are approved, ~~they~~ *there* shall be a material
34 revision to the charter school's charter.

35 (5) (A) A charter school that is unable to locate within the
36 jurisdiction of the chartering school district may establish one site
37 outside the boundaries of the school district, but within the county
38 in which that school district is located, if the school district within
39 the jurisdiction of which the charter school proposes to operate is
40 notified in advance of the charter petition approval, the county

1 superintendent of schools and the Superintendent are notified of
2 the location of the charter school before it commences operations,
3 and either of the following circumstances exists:

4 ~~(A)~~

5 (i) The *charter* school has attempted to locate a single site or
6 facility to house the entire program, but a site or facility is
7 unavailable in the area in which the *charter* school chooses to
8 locate.

9 ~~(B)~~

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

12 *(B) Notwithstanding subparagraph (A), the governing board of*
13 *a school district shall not authorize new charter schools to locate*
14 *outside the boundaries of the school district if the school district*
15 *is assigned a negative certification pursuant to paragraph (1) of*
16 *subdivision (a) of Section 42131.*

17 (6) Commencing January 1, 2003, a petition to establish a charter
18 school ~~may~~ shall not be approved to serve pupils in a grade level
19 that 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 *charter* school
39 under this part if it is satisfied that granting the charter is consistent
40 with 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”~~ “A to G” admissions criteria may be considered to meet
38 college entrance 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 requirements, if applicable.~~ *policies and*
31 *procedures, consistent with 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.~~ *expelled, consistent with subdivision (d), which, at a*
39 *minimum, 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. ~~Other~~
 17 *Additionally, other* preferences may be permitted by the chartering
 18 authority on an individual-school basis and only if consistent with
 19 ~~the law.~~ *charter school basis, in accordance with all of the*
 20 *following:*

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

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

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

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

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

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

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

4 (B) *For expulsions, the procedures shall ensure all of the*
5 *following:*

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

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

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

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

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

1 (vi) A pupil may appeal the expulsion to the county board of
2 education with jurisdiction in the county in which the charter
3 school is located.

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

8 (viii) Upon final determination to expel a pupil, the charter
9 school shall ensure the pupil is provided access to educational
10 programing until the charter school has confirmed the pupil has
11 been provided a suitable educational placement.

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

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

20 ~~(3)~~

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

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

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

33 (g) The governing board of a school district shall require that
34 the petitioner or petitioners provide information regarding the
35 proposed operation and potential effects of the charter school,
36 including, but not limited to, the facilities to be used by the *charter*
37 school, the manner in which administrative services of the *charter*
38 school are to be provided, and potential civil liability effects, if
39 any, upon the *charter* school and upon the school district. The
40 description of the facilities to be used by the charter school shall

1 specify where the *charter* school intends to locate. The petitioner
2 or petitioners ~~shall~~ also *shall* be required to provide financial
3 statements that include a proposed first-year operational budget,
4 including startup costs, and cashflow and financial projections for
5 the first three years of operation.

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

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

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

37 (2) In assuming its role as a chartering agency, the state board
38 shall develop criteria to be used for the review and approval of
39 charter school petitions presented to the state board. The criteria
40 shall address all elements required for charter approval, as

1 identified in subdivision (b), and shall define “reasonably
2 ~~comprehensive~~” *comprehensive*,” as used in paragraph (5) of
3 subdivision ~~(b)~~ (b), in a way that is consistent with the intent of
4 this part. Upon satisfactory completion of the criteria, the state
5 board shall adopt the criteria on or before June 30, 2001.

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

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

14 (5) The state board shall adopt regulations implementing this
15 subdivision.

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

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

25 (2) The designated local educational agency shall have all
26 monitoring and supervising authority of a chartering agency,
27 including, but not limited to, powers and duties set forth in Section
28 47607, except the power of revocation, which shall remain with
29 the state board.

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

37 (l) Teachers in charter schools shall hold a Commission on
38 Teacher Credentialing certificate, permit, or other document
39 equivalent to that which a teacher in other public schools would
40 be required to hold. These documents shall be maintained on file

1 at the charter school and are subject to periodic inspection by the
2 chartering authority. It is the intent of the Legislature that charter
3 schools be given flexibility with regard to noncore, noncollege
4 preparatory courses.

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

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

20 SEC. 2. Section 47605.1 of the Education Code is amended to
21 read:

22 47605.1. (a) (1) Notwithstanding any other law, a charter
23 school that is granted a charter from the governing board of a
24 school district or county office of education after July 1, 2002, and
25 commences providing educational services to pupils on or after
26 July 1, 2002, shall locate in accordance with the geographic and
27 site limitations of this part.

28 (2) Notwithstanding any other law, a charter school that is
29 granted a charter by the state board after July 1, 2002, and
30 commences providing educational services to pupils on or after
31 July 1, 2002, based on the denial of a petition by the governing
32 board of a school district or county board of education, as described
33 in paragraphs (1) and (2) of subdivision (j) of Section 47605, may
34 locate only within the geographic boundaries of the chartering
35 entity that initially denied the petition for the charter.

36 (3) A charter school that receives approval of its charter from
37 the governing board of a school district, a county office of
38 education, or the state board before July 1, 2002, but does not
39 commence operations until after January 1, 2003, shall be subject

1 to the geographic limitations of this part, in accordance with
2 subdivision (e).

3 (b) Nothing in this section is intended to affect the admission
4 requirements contained in subdivision (d) of Section 47605.

5 (c) Notwithstanding any other law, a charter school may
6 establish a resource center, meeting space, or other satellite facility
7 located in a county adjacent to that in which the charter school is
8 authorized if the following conditions are met:

9 (1) The facility is used exclusively for the educational support
10 of pupils who are enrolled in nonclassroom-based independent
11 study of the charter school.

12 (2) The charter school provides its primary educational services
13 in, and a majority of the pupils it serves are residents of, the county
14 in which the charter school is authorized.

15 (d) (1) Notwithstanding subdivision (a) of this section or
16 subdivision (a) of Section 47605, a charter school that is unable
17 to locate within the geographic boundaries of the chartering school
18 district may establish one site outside the boundaries of the school
19 district, but within the county within which that school district is
20 located, if the school district where the charter school proposes to
21 operate is notified in advance of the charter petition approval, the
22 county superintendent of schools is notified of the location of the
23 charter school before it commences operations, and either of the
24 following circumstances exist:

25 (A) The charter school has attempted to locate a single site or
26 facility to house the entire program but such a facility or site is
27 unavailable in the area in which the charter school chooses to
28 locate.

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

31 (2) Notwithstanding paragraph (1), the governing board of a
32 school district shall not authorize new charter schools to locate
33 outside the boundaries of the school district if the school district
34 is assigned a negative certification pursuant to paragraph (1) of
35 subdivision (a) of Section 42131.

36 (e) (1) For a charter school that was granted approval of its
37 charter before July 1, 2002, and provided educational services to
38 pupils before July 1, 2002, this section shall only apply to any new
39 educational services or schoolsites established or acquired by the
40 charter school on or after July 1, 2002.

1 (2) For a charter school that was granted approval of its charter
2 before July 1, 2002, but did not provide educational services to
3 pupils before July 1, 2002, this section shall only apply upon the
4 expiration of a charter that is in existence on January 1, 2003.

5 (3) Notwithstanding other implementation timelines in this
6 section, by June 30, 2005, or upon the expiration of a charter that
7 is in existence on January 1, 2003, whichever is later, all charter
8 schools shall be required to comply with this section for schoolsites
9 at which education services are provided to pupils before or after
10 July 1, 2002, regardless of whether the charter school initially
11 received approval of its charter school petition before July 1, 2002.
12 To achieve compliance with this section, a charter school shall be
13 required to receive approval of a charter petition in accordance
14 with this section and Section 47605.

15 (4) Nothing in this section is intended to affect the authority of
16 a governmental entity to revoke a charter that is granted on or
17 before the effective date of this section.

18 (f) A charter school that submits its petition directly to a county
19 board of education, as authorized by Section 47605.5 or 47605.6,
20 may establish charter school operations only within the
21 geographical boundaries of the county in which that county board
22 of education has jurisdiction.

23 (g) Notwithstanding any other law, the jurisdictional limitations
24 set forth in this section do not apply to a charter school that
25 provides instruction exclusively in partnership with any of the
26 following:

27 (1) The federal Workforce Investment Act of 1998 (29 U.S.C.
28 Sec. 2801 et seq.).

29 (2) Federally affiliated Youth Build programs.

30 (3) Federal job corps training or instruction provided pursuant
31 to a memorandum of understanding with the federal provider.

32 (4) The California Conservation Corps or local conservation
33 corps certified by the California Conservation Corps pursuant to
34 Section 14507.5 or 14406 of the Public Resources Code.

35 (5) Instruction provided to juvenile court school pupils pursuant
36 to subdivision (b) of Section 42238.18 or pursuant to Section 1981
37 for individuals who are placed in a residential facility.

38 *SEC. 2.5. Section 47605.1 of the Education Code is amended*
39 *to read:*

1 47605.1. (a) (1) Notwithstanding any other law, a charter
2 school that is granted a charter from the governing board of a
3 school district or county office of education after July 1, 2002, and
4 commences providing educational services to pupils on or after
5 July 1, 2002, shall locate in accordance with the geographic and
6 site limitations of this part.

7 (2) Notwithstanding any other law, a charter school that is
8 granted a charter by the state board after July 1, 2002, and
9 commences providing educational services to pupils on or after
10 July 1, 2002, based on the denial of a petition by the governing
11 board of a school district or county board of education, as described
12 in paragraphs (1) and (2) of subdivision (j) of Section 47605, may
13 locate only within the geographic boundaries of the chartering
14 entity that initially denied the petition for the charter.

15 (3) A charter school that receives approval of its charter from
16 a *the* governing board of a school district, a county office of
17 education, or the state board before July 1, 2002, but does not
18 commence operations until after January 1, 2003, shall be subject
19 to the geographic limitations of ~~the~~ *this* part, in accordance with
20 subdivision (e).

21 (b) This section is not intended to affect the admission
22 requirements contained in subdivision (d) of Section 47605.

23 (c) Notwithstanding any other law, a charter school may
24 establish a resource center, meeting space, or other satellite facility
25 located in a county adjacent to that in which the charter school is
26 authorized if the following conditions are met:

27 (1) The facility is used exclusively for the educational support
28 of pupils who are enrolled in nonclassroom-based independent
29 study of the charter school.

30 (2) The charter school provides its primary educational services
31 in, and a majority of the pupils it serves are residents of, the county
32 in which the charter school is authorized.

33 (d) (1) Notwithstanding subdivision (a) *of this section* or
34 subdivision (a) of Section 47605, a charter school that is unable
35 to locate within the geographic boundaries of the chartering school
36 district may establish one site outside the boundaries of the school
37 district, but within the county within which that school district is
38 located, if the school district in which the charter school proposes
39 to operate is notified in advance of the charter petition approval,
40 the county superintendent of schools is notified of the location of

1 the charter school before it commences operations, and either of
2 the following circumstances exist:

3 ~~(1) The~~

4 (A) *The charter school has attempted to locate a single site or*
5 *facility to house the entire program, but such a facility or site is*
6 *unavailable in the area in which the charter school chooses to*
7 *locate.*

8 ~~(2)~~

9 (B) *The site is needed for temporary use during a construction*
10 *or expansion project.*

11 (2) *Notwithstanding paragraph (1), the governing board of a*
12 *school district shall not authorize new charter schools to locate*
13 *outside the boundaries of the school district if the school district*
14 *is assigned a negative certification pursuant to paragraph (1) of*
15 *subdivision (a) of Section 42131.*

16 (e) (1) *For a charter school that was granted approval of its*
17 *charter before July 1, 2002, and provided educational services to*
18 *pupils before July 1, 2002, this section only applies to new*
19 *educational services or schoolsites established or acquired by the*
20 *charter school on or after July 1, 2002.*

21 (2) *For a charter school that was granted approval of its charter*
22 *before July 1, 2002, but did not provide educational services to*
23 *pupils before July 1, 2002, this section only applies upon the*
24 *expiration of a charter that is in existence on January 1, 2003.*

25 (3) *Notwithstanding other implementation timelines in this*
26 *section, by June 30, 2005, or upon the expiration of a charter that*
27 *is in existence on January 1, 2003, whichever is later, all charter*
28 *schools shall be required to comply with this section for schoolsites*
29 *at which ~~education~~ educational services are provided to pupils*
30 *before or after July 1, 2002, regardless of whether the charter*
31 *school initially received approval of its charter school petition*
32 *before July 1, 2002. To achieve compliance with this section, a*
33 *charter school shall be required to receive approval of a charter*
34 *petition in accordance with this section and Section 47605.*

35 (4) *This section is not intended to affect the authority of a*
36 *governmental entity to revoke a charter that is granted on or before*
37 *the effective date of this section.*

38 (f) *A charter school that submits its petition directly to a county*
39 *board of education, as authorized by ~~Sections~~ Section 47605.5 or*
40 *47605.6, may establish charter school operations only within the*

1 geographical boundaries of the county in which that county board
2 of education has jurisdiction.

3 (g) Notwithstanding any other law, the jurisdictional limitations
4 set forth in this section do not apply to a charter school that
5 provides instruction exclusively in partnership with any of the
6 following:

7 (1) The federal Workforce ~~Investment Act of 1998~~ *Innovation*
8 *and Opportunity Act* (29 U.S.C. Sec. ~~2801~~ *3101* et seq.).

9 (2) Federally affiliated YouthBuild programs.

10 (3) Federal job corps training or instruction provided pursuant
11 to a memorandum of understanding with the federal provider.

12 (4) The California Conservation Corps or local conservation
13 corps certified by the California Conservation Corps pursuant to
14 ~~Sections~~ *Section* 14507.5 or 14406 of the Public Resources Code.

15 (5) Instruction provided to juvenile court school pupils pursuant
16 to subdivision (b) of Section 42238.18 or pursuant to Section 1981
17 for individuals who are placed in a residential facility.

18 *SEC. 3. (a) Section 1.5 of this bill incorporates amendments*
19 *to Section 47605 of the Education Code proposed by both this bill*
20 *and Senate Bill 322. It shall only become operative if (1) both bills*
21 *are enacted and become effective on or before January 1, 2017,*
22 *(2) each bill amends Section 47605 of the Education Code, and*
23 *(3) this bill is enacted after Senate Bill 322, in which case Section*
24 *1 of this bill shall not become operative.*

25 *(b) Section 2.5 of this bill incorporates amendments to Section*
26 *47605.1 of the Education Code proposed by both this bill and*
27 *Assembly Bill 2659. It shall only become operative if (1) both bills*
28 *are enacted and become effective on or before January 1, 2017,*
29 *(2) each bill amends Section 47605.1 of the Education Code, and*
30 *(3) this bill is enacted after Assembly Bill 2659, in which case*
31 *Section 2 of this bill shall not become operative.*

O