

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 1950

Introduced by Assembly Member Brownley

February 17, 2010

An act to amend ~~Section 47614.5~~ of Sections 14502.1, 47604, 47605, 47605.6, and 47607 of, and to add Section 47630.6 to, the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 1950, as amended, Brownley. Charter School Facility Grant Program.

(1) Existing law requires the Controller, in consultation with the Department of Finance and the State Department of Education, to develop a plan to review and report on financial and compliance audits. Existing law requires the Controller to propose the content of an audit guide and authorizes a supplement to the audit guide to be suggested in the audit year to address issues resulting from new legislation in that year that changes the conditions of apportionment. Existing law requires the Controller to submit the proposed content of the audit guide and any supplement to the Education Audits Appeal Panel for review and possible amendment, and requires the Education Audits Appeal Panel to adopt the audit guide and any supplement pursuant to the rulemaking procedures of the Administrative Procedure Act.

This bill would require the Controller to propose, and the Education Audits Appeal Panel to adopt, a charter school supplement to the audit guide in order to provide guidance to auditors regarding which sections of the school district and county office audit guide apply to charter

schools and to create specific guidance related to the unique nature of charter schools. The bill also would make conforming changes.

(2) The Charter Schools Act of 1992 (Charter Schools Act) allows a charter school to elect to operate as, or be operated by, a nonprofit public benefit corporation, as specified.

This bill would expressly prohibit a charter school from operating as, or from being operated by, a for-profit corporation.

(3) The Charter Schools Act specifies the procedures for the submission, review, and approval or denial of a petition to establish standard countywide a charter school. The act allows the governing board of a school district to deny a charter petition only if the board makes written factual findings that support certain facts regarding the petition. The act requires a county board of education to deny a petition to establish a countywide charter school if the board makes any of several specified factual findings.

This bill, in addition, would allow a governing board to deny a petition, and would require a county board of education to deny a petition for a countywide charter, if it makes a written factual finding that the petitioner has operated another charter school for at least 3 consecutive years and one of several specified events has occurred.

(4) The Charter Schools Act limits the duration of charters to a period not to exceed 5 years and authorizes the chartering authority to grant one or more subsequent renewals for an additional period of 5 years. The act prescribes the requirements a charter school must comply with in order to have its charter renewed, including a requirement that a charter school that has been in operation for 4 years satisfy at least one of several specified criteria regarding academic performance.

This bill would authorize a charter renewal to be for a period of 1 to 5 years. The bill would require a chartering authority to consider, as one factor in determining whether to grant a renewal, the degree to which a charter school serves pupil populations that are similar to local school district pupil populations, especially with regard to high-need pupils, as specified. The bill would delete one of the criteria for the requirement regarding charter schools in operation for 4 years. The bill would prohibit a chartering authority from granting a renewal of a charter school for longer than a 3-year period if that charter school is in program improvement or if a charter school has entered into year 5 of program improvement, has not exited program improvement, and did not meet Adequate Yearly Progress in the year prior to the renewal year.

(5) *The Charter Schools Act requires a charter petition to include a reasonably comprehensive description of the manner in which annual, independent financial audits will be conducted. The act requires a charter school to transmit a copy of its annual, independent financial audit report for the preceding fiscal year to its chartering entity, the Controller, the county superintendent of schools of the county in which the charter school is sited, except as specified, and the department by December 15 of each year.*

This bill would require the Controller, by December 31 of each fiscal year, to publish a directory of certified public accountants and public accountants deemed by the Controller to be qualified to conduct audits of charter schools. The bill would require each audit of a charter school to be conducted by a certified public accountant or public accountant selected by the charter school from the directory. The bill would specify that it is unlawful for a public accounting firm to provide audit services to a charter school if the lead audit partner, or coordinating audit partner, having primary responsibility for the audit, or the audit partner responsible for reviewing the audit, has performed audit services for that charter school in each of the 6 previous fiscal years, except as provided.

~~Existing law establishes the Charter School Facility Grant Program and requires the State Department of Education to administer the program. Existing law declares that the intent of the program is to provide assistance with facilities rent and lease costs for pupils in charter schools.~~

~~This bill would make technical, nonsubstantive changes to those provisions.~~

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

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 (i) *Ensure successful conditions for high-performing and*
- 4 *high-quality charter schools and encourage high levels of academic*
- 5 *performance and sound fiscal management practices among*
- 6 *charter schools.*
- 7 (b) *Implement accountability standards for charter schools that*
- 8 *will ensure that all charter schools are of high quality.*

1 (c) Ensure successful conditions for high-performing charter
2 schools by setting academic achievement targets as a condition
3 of charter renewal, accountability standards to identify charter
4 schools that are not high quality, and evaluation standards to
5 determine whether entities operating multiple charter schools are
6 establishing and operating high-quality charter schools.

7 (d) Establish fiscal management standards for charter schools
8 that are as rigorous as those for other schools and school districts,
9 in order to ensure the most efficient and effective use of public
10 funds for the education of children in California.

11 (e) Ensure successful conditions for high-performing charter
12 schools by setting standards for the auditing of, and financial
13 reporting by, charter schools so as to provide for the transparent
14 use of public funds.

15 (f) Require a charter school authorizer to consider during a
16 charter school renewal whether a charter school has intentionally
17 targeted high-achieving pupils to attend their school and whether
18 the charter school's population generally reflects a similar
19 proportion of low-achieving pupils as the local school district
20 pupil population, especially high-need pupils, including, but not
21 limited to, pupils with disabilities, pupils living in poverty, and
22 English learners.

23 SEC. 2. Section 14502.1 of the Education Code is amended to
24 read:

25 14502.1. (a) The Controller, in consultation with the
26 Department of Finance and the State Department of Education,
27 shall develop a plan to review and report on financial and
28 compliance audits. The plan shall commence with the 2003–04
29 fiscal year for audits of school districts, other local education
30 agencies, and the offices of county superintendents of schools.
31 The Controller, in consultation with the Department of Finance,
32 the State Department of Education, and representatives of the
33 California School Boards Association, the California Association
34 of School Business Officials, the California County
35 Superintendents Educational Service Association, the California
36 Teachers Association, the California Society of Certified Public
37 Accountants, shall recommend the statements and other information
38 to be included in the audit reports filed with the state, and shall
39 propose the content of an audit guide to carry out the purposes of
40 this chapter. A supplement to the audit guide may be suggested in

1 the audit year, following the above process, to address issues
2 resulting from new legislation in that year that changes the
3 conditions of apportionment. The proposed content of the audit
4 guide and any supplement to the audit guide shall be submitted by
5 the Controller to the Education Audits Appeal Panel for review
6 and possible amendment.

7 (b) The audit guide and any supplement shall be adopted by the
8 Education Audits Appeal Panel pursuant to the rulemaking
9 procedures of the Administrative Procedure Act as set forth in
10 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
11 3 of Title 2 of the Government Code. It is the intent of the
12 Legislature that, for the 2003–04 fiscal year, the audit guide be
13 adopted by July 1 of the fiscal year to be audited. A supplemental
14 audit guide may be adopted to address legislative changes to the
15 conditions of apportionment. It is the intent of the Legislature that
16 supplements be adopted before March 1 of the audit year.
17 Commencing with the 2004–05 fiscal year, and each fiscal year
18 thereafter, the audit guide shall be adopted by July 1 of the fiscal
19 year to be audited. A supplemental audit guide may be adopted to
20 address legislative changes to the conditions of apportionment.
21 The supplements shall be adopted before March 1 of the audit
22 year. To meet these goals and to ensure the accuracy of the audit
23 guide, the process for adopting emergency regulations set forth in
24 Section 11346.1 of the Government Code may be followed to
25 adopt the guide and supplemental audit guide. It is the intent of
26 the Legislature that once the audit guide has been adopted for a
27 fiscal year, as well as any supplement for that year, thereafter only
28 suggested changes to the audit guide and any additional
29 supplements need be adopted pursuant to the rulemaking
30 procedures of the Administrative Procedure Act. The audit guide
31 and any supplement shall be issued in booklet form and may be
32 made available by any means deemed appropriate. The Controller
33 and consultants in the development of the suggested audit guide
34 and any supplement shall work cooperatively on a timeline that
35 will allow the education audits appeal panel to meet the July 1 and
36 March 1 issuance dates. Consistent with current practices for
37 development of the audit guide before the 2003–04 fiscal year, the
38 Controller shall provide for the adoption of procedures and
39 timetables for the development of the suggested audit guide, any
40 supplement, and the format for additions, deletions, and revisions.

(c) For the audit of school districts or county offices of education electing to take formal action pursuant to Sections 22714, 22714.5 *(as it read prior to January 1, 2005)*, 44929, and 44929.1, *(as it read prior to January 1, 2005)* the audit guide content proposed by the Controller shall include, but not be limited to, the following:

(1) The number and type of positions vacated.

(2) The age and service credit of the retirees receiving the additional service credit provided by Sections ~~22714, 22714.5,~~ 22714, 22714.5 *(as it read prior to January 1, 2005)*, 44929, and 44929.1 *(as it read prior to January 1, 2005)*.

(3) A comparison of the salary and benefits of each retiree receiving the additional service credit with the salary and benefits of the replacement employee, if any.

(4) The resulting retirement cost, including interest, if any, and postretirement health care benefits costs, incurred by the employer.

(d) The Controller shall annually prepare a cost analysis, based on the information included in the audit reports for the prior fiscal year, to determine the net savings or costs resulting from formal actions taken by school districts and county offices of education pursuant to Sections 22714, 22714.5 *(as it read prior to January 1, 2005)*, 44929, and 44929.1, *(as it read prior to January 1, 2005)* and shall report the results of the cost analysis to the Governor and the Legislature by April 1 of each year.

(e) All costs incurred by the Controller to implement subdivision (c) shall be absorbed by the Controller.

(f) This section shall become operative July 1, 2003 and shall apply to the preparation of the audit guide for school district audits commencing with the 2003–04 fiscal year.

(g) Pursuant to subdivisions (a) and (b), the Controller shall propose, and the Education Audits Appeal Panel shall adopt, a charter school supplement to the audit guide to provide guidance on the sections of the school district and county office audit guide that apply to charter schools, and to provide specific guidance on the unique nature of charter schools. In developing the charter school supplement, the Controller shall consult with representatives of the organizations specified in subdivision (a), of the California Charter Schools Association, and of other charter school organizations, as appropriate.

SEC. 3. Section 47604 of the Education Code is amended to read:

1 47604. (a) Charter schools may elect to operate as, or be
2 operated by, a nonprofit public benefit corporation, formed and
3 organized pursuant to the Nonprofit Public Benefit Corporation
4 Law (Part 2 (commencing with Section 5110) of Division 2 of
5 Title 1) of the Corporations Code).

6 (b) The governing board of a school district that grants a charter
7 for the establishment of a charter school formed and organized
8 pursuant to this section shall be entitled to a single representative
9 on the board of directors of the nonprofit public benefit corporation.

10 (c) An authority that grants a charter to a charter school to be
11 operated by, or as, a nonprofit public benefit corporation is not
12 liable for the debts or obligations of the charter school, or for
13 claims arising from the performance of acts, errors, or omissions
14 by the charter school, if the authority has complied with all
15 oversight responsibilities required by law, including, but not limited
16 to, those required by Section 47604.32 and subdivision (m) of
17 Section 47605.

18 (d) *A charter school shall not be operated as, or be operated*
19 *by, a for-profit corporation.*

20 *SEC. 4. Section 47605 of the Education Code is amended to*
21 *read:*

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

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

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

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

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

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

(5) A charter school that is unable to locate within the jurisdiction of the chartering school district may 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 within the jurisdiction of which the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools and the Superintendent are notified of the location of the charter school before it commences operations, and either of the following circumstances exist:

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

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

(6) Commencing January 1, 2003, a petition to establish a charter school may not be approved to serve pupils in a grade level that 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 district, other employees of the district, and parents. Following
9 review of the petition and the public hearing, the governing board
10 of the school district shall either grant or deny the charter within
11 60 days of receipt of the petition, ~~provided, however, that the date.~~
12 *The 60-day period* may be extended by an additional 30 days if
13 ~~both parties~~ *the governing board and the proponents of the petition*
14 agree to the extension. In reviewing petitions for the establishment
15 of charter schools pursuant to this section, the chartering authority
16 shall be guided by the intent of the Legislature that charter schools
17 are and should become an integral part of the California educational
18 system and that establishment of charter schools should be
19 encouraged. The governing board of the school district shall grant
20 a charter for the operation of a school under this part if it is satisfied
21 that granting the charter is consistent with sound educational
22 practice. The governing board of the school district shall not deny
23 a petition for the establishment of a charter school unless it makes
24 written factual findings, specific to the particular petition, setting
25 forth specific facts to support one or more of the following
26 findings:

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

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

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

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

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

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

1 identified in that program shall include the objective of enabling
2 pupils to become self-motivated, competent, and lifelong learners.

3 (ii) If the proposed school will serve high school pupils, a
4 description of the manner in which the charter school will inform
5 parents about the transferability of courses to other public high
6 schools and the eligibility of courses to meet college entrance
7 requirements. Courses offered by the charter school that are
8 accredited by the Western Association of Schools and Colleges
9 may be considered transferable and courses approved by the
10 University of California or the California State University as
11 creditable under the “A” to “G” admissions criteria may be
12 considered to meet college entrance requirements.

13 (B) The measurable pupil outcomes identified for use by the
14 charter school. “Pupil outcomes,” for purposes of this part, means
15 the extent to which all pupils of the school demonstrate that they
16 have attained the skills, knowledge, and attitudes specified as goals
17 in the school’s educational program.

18 (C) The method by which pupil progress in meeting those pupil
19 outcomes is to be measured.

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

23 (E) The qualifications to be met by individuals to be employed
24 by the school.

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

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

33 (H) Admission requirements, if applicable.

34 (I) The manner in which annual, independent financial audits
35 shall be conducted, which shall employ generally accepted
36 accounting principles, and the manner in which audit exceptions
37 and deficiencies shall be resolved to the satisfaction of the
38 chartering authority, *consistent with the supplement to the audit*
39 *guide adopted pursuant to subdivision (g) of Section 14502.1.*

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

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

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

8 (M) A description of the rights of any employee of the school
9 district upon leaving the employment of the school district to work
10 in a charter school, and of any rights of return to the school district
11 after employment at a charter school.

12 (N) The procedures to be followed by the charter school and
13 the entity granting the charter to resolve disputes relating to
14 provisions of the charter.

15 (O) A declaration whether or not the charter school shall be
16 deemed the exclusive public school employer of the employees of
17 the charter school for the purposes of Chapter 10.7 (commencing
18 with Section 3540) of Division 4 of Title 1 of the Government
19 Code.

20 (P) A description of the procedures to be used if the charter
21 school closes. The procedures shall ensure a final audit of the
22 school to determine the disposition of all assets and liabilities of
23 the charter school, including plans for disposing of any net assets
24 and for the maintenance and transfer of pupil records.

25 *(6) The petitioner has operated another charter school for at*
26 *least three consecutive years and any of the following have*
27 *occurred:*

28 *(A) The charter school has demonstrated academic achievement*
29 *equivalent to a persistently lowest-achieving school as set forth*
30 *in Section 53200.*

31 *(B) The charter school completed its first renewal cycle and*
32 *was not renewed by the authorizing entity, the county board of*
33 *education, or the state board.*

34 *(C) The school has had its charter revoked, and the charter was*
35 *not restored by the county board of education or the state board.*

36 (c) (1) Charter schools shall meet all statewide standards and
37 conduct the pupil assessments required pursuant to Sections 60605
38 and 60851 and any other statewide standards authorized in statute
39 or pupil assessments applicable to pupils in noncharter public
40 schools.

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

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

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

18 (B) However, if the number of pupils who wish to attend the
19 charter school exceeds the school's capacity, attendance, except
20 for existing pupils of the charter school, shall be determined by a
21 public random drawing. Preference shall be extended to pupils
22 currently attending the charter school and pupils who reside in the
23 district except as provided for in Section 47614.5. Other
24 preferences may be permitted by the chartering authority on an
25 individual school basis and only if consistent with the law.

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

30 (3) If a pupil is expelled or leaves the charter school without
31 graduating or completing the school year for any reason, the charter
32 school shall notify the superintendent of the school district of the
33 pupil's last known address within 30 days, and shall, upon request,
34 provide that school district with a copy of the cumulative record
35 of the pupil, including a transcript of grades or report card, and
36 health information. This paragraph applies only to pupils subject
37 to compulsory full-time education pursuant to Section 48200.

38 (e) The governing board of a school district shall not require
39 any employee of the school district to be employed in a charter
40 school.

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

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

15 (h) In reviewing petitions for the establishment of charter
16 schools within the school district, the governing board of the school
17 district shall give preference to petitions that demonstrate the
18 capability to provide comprehensive learning experiences to pupils
19 identified by the petitioner or petitioners as academically-low
20 ~~achieving~~ *low-achieving* pursuant to the standards established by
21 the department under Section 54032 as it read prior to July 19,
22 2006.

23 (i) Upon the approval of the petition by the governing board of
24 the school district, the petitioner or petitioners shall provide written
25 notice of that approval, including a copy of the petition, to the
26 applicable county superintendent of schools, the department, and
27 the state board.

28 (j) (1) If the governing board of a school district denies a
29 petition, the petitioner may elect to submit the petition for the
30 establishment of a charter school to the county board of education.
31 The county board of education shall review the petition pursuant
32 to subdivision (b). If the petitioner elects to submit a petition for
33 establishment of a charter school to the county board of education
34 and the county board of education denies the petition, the petitioner
35 may file a petition for establishment of a charter school with the
36 state board, and the state board may approve the petition, in
37 accordance with subdivision (b). A charter school that receives
38 approval of its petition from a county board of education or from
39 the state board on appeal shall be subject to the same requirements
40 concerning geographic location to which it would otherwise be

1 subject if it received approval from the entity to which it originally
2 submitted its petition. A charter petition that is submitted to either
3 a county board of education or to the state board shall meet all
4 otherwise applicable petition requirements, including the
5 identification of the proposed site or sites where the charter school
6 will operate.

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

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

20 (4) If either the county board of education or the state board
21 fails to act on a petition within 120 days of receipt, the decision
22 of the governing board of the school district to deny a petition
23 shall, thereafter, be subject to judicial review.

24 (5) The state board shall adopt regulations implementing this
25 subdivision.

26 (6) Upon the approval of the petition by the county board of
27 education, the petitioner or petitioners shall provide written notice
28 of that approval, including a copy of the petition to the department
29 and the state board.

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

35 (2) The designated local educational agency shall have all
36 monitoring and supervising authority of a chartering agency,
37 including, but not limited to, powers and duties set forth in Section
38 47607, except the power of revocation, which shall remain with
39 the state board.

1 (3) A charter school that has been granted its charter through
2 an appeal to the state board and elects to seek renewal of its charter
3 shall, prior to expiration of the charter, submit its petition for
4 renewal to the governing board of the school district that initially
5 denied the charter. If the governing board of the school district
6 denies the school's petition for renewal, the school may petition
7 the state board for renewal of its charter.

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

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

26 *SEC. 5. Section 47605.6 of the Education Code is amended to*
27 *read:*

28 47605.6. (a) (1) In addition to the authority provided by
29 Section 47605.5, a county board of education may also approve a
30 petition for the operation of a charter school that operates at one
31 or more sites within the geographic boundaries of the county and
32 that provides instructional services that are not generally provided
33 by a county office of education. A county board of education may
34 only approve a countywide charter if it finds, in addition to the
35 other requirements of this section, that the educational services to
36 be provided by the charter school will offer services to a pupil
37 population that will benefit from those services and that cannot be
38 served as well by a charter school that operates in only one school
39 district in the county. A petition for the establishment of a
40 countywide charter school pursuant to this subdivision may be

1 circulated throughout the county by any one or more persons
2 seeking to establish the charter school. The petition may be
3 submitted to the county board of education for review after either
4 of the following conditions are met:

5 (A) The petition has been signed by a number of parents or
6 guardians of pupils residing within the county that is equivalent
7 to at least one-half of the number of pupils that the charter school
8 estimates will enroll in the school for its first year of operation and
9 each of the school districts where the charter school petitioner
10 proposes to operate a facility has received at least 30 days notice
11 of the petitioner's intent to operate a school pursuant to this section.

12 (B) The petition has been signed by a number of teachers that
13 is equivalent to at least one-half of the number of teachers that the
14 charter school estimates will be employed at the school during its
15 first year of operation and each of the school districts where the
16 charter school petitioner proposes to operate a facility has received
17 at least 30 days notice of the petitioner's intent to operate a school
18 pursuant to this section.

19 (2) An existing public school may not be converted to a charter
20 school in accordance with this section.

21 (3) After receiving approval of its petition, a charter school that
22 proposes to establish operations at additional sites within the
23 geographic boundaries of the county board of education shall notify
24 the school districts where those sites will be located. The charter
25 school shall also request a material revision of its charter by the
26 county board of education that approved its charter and the county
27 board shall consider whether to approve those additional locations
28 at an open, public meeting, held no sooner than 30 days following
29 notification of the school districts where the sites will be located.
30 If approved, the location of the approved sites shall be a material
31 revision of the school's approved charter.

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

38 (b) No later than 60 days after receiving a petition, in accordance
39 with subdivision (a), the county board of education shall hold a
40 public hearing on the provisions of the charter, at which time the

1 county board of education shall consider the level of support for
2 the petition by teachers, parents or guardians, and the school
3 districts where the charter school petitioner proposes to place
4 school facilities. Following review of the petition and the public
5 hearing, the county board of education shall either grant or deny
6 the charter within 90 days of receipt of the petition. However, this
7 date may be extended by an additional 30 days if both parties agree
8 to the extension. A county board of education may impose any
9 additional requirements beyond those required by this section that
10 it considers necessary for the sound operation of a countywide
11 charter school. A county board of education may grant a charter
12 for the operation of a school under this part only if the board is
13 satisfied that granting the charter is consistent with sound
14 educational practice and that the charter school has reasonable
15 justification for why it could not be established by petition to a
16 school district pursuant to Section 47605. The county board of
17 education shall deny a petition for the establishment of a charter
18 school if the board finds; one or more of the following:

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

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

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

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

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

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

36 (ii) If the proposed charter school will enroll high school pupils,
37 a description of the manner in which the manner in which the
38 charter school will inform parents regarding the transferability of
39 courses to other public high schools. Courses offered by the charter
40 school that are accredited by the Western Association of Schools

1 and Colleges may be considered to be transferable to other public
2 high schools.

3 (iii) If the proposed charter school will enroll high school pupils,
4 information as to the manner in which the charter school will
5 inform parents as to whether each individual course offered by the
6 charter school meets college entrance requirements. Courses
7 approved by the University of California or the California State
8 University as satisfying their prerequisites for admission may be
9 considered as meeting college entrance requirements for purposes
10 of this clause.

11 (B) The measurable pupil outcomes identified for use by the
12 charter school. "Pupil outcomes," for purposes of this part, means
13 the extent to which all pupils of the school demonstrate that they
14 have attained the skills, knowledge, and attitudes specified as goals
15 in the school's educational program.

16 (C) The method by which pupil progress in meeting those pupil
17 outcomes is to be measured.

18 (D) The location of each charter school facility that the petitioner
19 proposes to operate.

20 (E) The governance structure of the school, including, but not
21 limited to, the process to be followed by the school to ensure
22 parental involvement.

23 (F) The qualifications to be met by individuals to be employed
24 by the school.

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

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

33 (I) The manner in which annual, independent, financial audits
34 shall be conducted, in accordance with regulations established by
35 the ~~State Board of Education~~ *state board*, and the manner in which
36 audit exceptions and deficiencies shall be resolved, *consistent with*
37 *the supplement to the audit guide adopted pursuant to subdivision*
38 *(g) of Section 14502.1.*

39 (J) The procedures by which pupils can be suspended or
40 expelled.

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

4 (L) The procedures to be followed by the charter school and the
5 county board of education to resolve disputes relating to provisions
6 of the charter.

7 (M) A declaration whether or not the charter school shall be
8 deemed the exclusive public school employer of the employees of
9 the charter school for the purposes of the Educational Employment
10 Relations Act (Chapter 10.7 (commencing with Section 3540) of
11 Division 4 of Title 1 of the Government Code).

12 (N) Admission requirements, of the charter school, if applicable.

13 (O) The public school attendance alternatives for pupils residing
14 within the county who choose not to attend the charter school.

15 (P) A description of the rights of an employee of the county
16 office of education, upon leaving the employment of the county
17 office of education, to be employed by the charter school, and a
18 description of any rights of return to the county office of education
19 that an employee may have upon leaving the employ of the charter
20 school.

21 (Q) A description of the procedures to be used if the charter
22 school closes. The procedures shall ensure a final audit of the
23 school to determine the disposition of all assets and liabilities of
24 the charter school, including plans for disposing of any net assets
25 and for the maintenance and transfer of public records.

26 (6) *The petitioner has operated another charter school for at*
27 *least three consecutive years and any of the following have*
28 *occurred:*

29 (A) *The charter school has demonstrated academic achievement*
30 *equivalent to a persistently lowest-achieving school as set forth*
31 *in Section 53200.*

32 (B) *The charter school completed its first renewal cycle and*
33 *was not renewed by the authorizing entity, the county board of*
34 *education, or the state board.*

35 (C) *The school has had its charter revoked, and the charter was*
36 *not restored by the county board of education or the state board.*

37 ~~(6)~~

38 (7) Any other basis that the board finds justifies the denial of
39 the petition.

1 (c) A county board of education that approves a petition for the
2 operation of a countywide charter may, as a condition of charter
3 approval, enter into an agreement with a third party, at the expense
4 of the charter school, to oversee, monitor, and report to the county
5 board of education on the operations of the charter school. The
6 county board of education may prescribe the aspects of the charter
7 school's operations to be monitored by the third party and may
8 prescribe appropriate requirements regarding the reporting of
9 information concerning the operations of the charter school to the
10 county board of education.

11 (d) (1) Charter schools shall meet all statewide standards and
12 conduct the pupil assessments required pursuant to Section 60605
13 and any other statewide standards authorized in statute or pupil
14 assessments applicable to pupils in noncharter public schools.

15 (2) Charter schools shall on a regular basis consult with their
16 parents and teachers regarding the school's educational programs.

17 (e) (1) In addition to any other requirement imposed under this
18 part, a charter school shall be nonsectarian in its programs,
19 admission policies, employment practices, and all other operations,
20 shall not charge tuition, and shall not discriminate against any
21 pupil on the basis of ethnicity, national origin, gender, or disability.
22 Except as provided in paragraph (2), admission to a charter school
23 shall not be determined according to the place of residence of the
24 pupil, or of his or her parent or guardian, within this state.

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

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

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

1 (f) No county board of education shall require any employee of
2 the county or a school district to be employed in a charter school.

3 (g) No county board of education shall require any pupil enrolled
4 in a county program to attend a charter school.

5 (h) The county board of education shall require that the
6 petitioner or petitioners provide information regarding the proposed
7 operation and potential effects of the school, including, but not
8 limited to, the facilities to be utilized by the school, the manner in
9 which administrative services of the school are to be provided,
10 and potential civil liability effects, if any, upon the school, any
11 school district where the charter school may operate and upon the
12 county board of education. The petitioner or petitioners shall also
13 be required to provide financial statements that include a proposed
14 first-year operational budget, including startup costs, and cashflow
15 and financial projections for the first three years of operation.

16 (i) In reviewing petitions for the establishment of charter schools
17 within the county, the county board of education shall give
18 preference to petitions that demonstrate the capability to provide
19 comprehensive learning experiences to pupils identified by the
20 petitioner or petitioners as academically low-achieving pursuant
21 to the standards established by the State Department of Education
22 under Section 54032.

23 (j) Upon the approval of the petition by the county board of
24 education, the petitioner or petitioners shall provide written notice
25 of that approval, including a copy of the petition, to the school
26 districts within the county, the Superintendent of Public Instruction
27 and to the State Board of Education.

28 (k) If a county board of education denies a petition, the petitioner
29 may not elect to submit the petition for the establishment of the
30 charter school to the State Board of Education.

31 (l) Teachers in charter schools shall be required to hold a
32 Commission on Teacher Credentialing certificate, permit, or other
33 document equivalent to that which a teacher in other public schools
34 would be required to hold. These documents shall be maintained
35 on file at the charter school and shall be subject to periodic
36 inspection by the chartering authority.

37 (m) A charter school shall transmit a copy of its annual,
38 independent, financial audit report for the preceding fiscal year,
39 as described in subparagraph (I) of paragraph (5) of subdivision
40 (b), to the County Office of Education, State Controller and the

1 State Department of Education by December 15 of each year. This
2 subdivision shall not apply if the audit of the charter school is
3 encompassed in the audit of the chartering entity pursuant to
4 Section 41020.

5 *SEC. 6. Section 47607 of the Education Code is amended to*
6 *read:*

7 47607. (a) (1) A charter may be granted pursuant to Sections
8 47605, 47605.5, and 47606 for a period not to exceed five years.
9 A charter granted by a school district governing board, a county
10 board of education or the state board, may be granted one or more
11 subsequent renewals by that entity. Each renewal shall be for a
12 period of *one to five years*. A material revision of the provisions
13 of a charter petition may be made only with the approval of the
14 authority that granted the charter. The authority that granted the
15 charter may inspect or observe any part of the charter school at
16 any time.

17 (2) Renewals and material revisions of charters are governed
18 by the standards and criteria in Section 47605, and shall include,
19 but not be limited to, a reasonably comprehensive description of
20 any new requirement of charter schools enacted into law after the
21 charter was originally granted or last renewed.

22 (3) *The chartering authority that authorizes a charter school*
23 *shall consider, as one factor in determining whether to grant a*
24 *renewal, the degree to which a charter school serves pupil*
25 *populations that are similar to local district pupil populations,*
26 *especially with regard to high-need pupils, including, but not*
27 *limited to, pupils with disabilities, pupils living in poverty, and*
28 *English learners.*

29 (b) ~~Commencing on January 1, 2005, or after a~~ A charter school
30 ~~that has been in operation for four years, whichever date occurs~~
31 ~~later, a charter school~~ shall meet at least one of the following
32 criteria prior to receiving a charter renewal pursuant to paragraph
33 (1) of subdivision (a):

34 (1) Attained its Academic Performance Index (API) ~~growth~~
35 ~~target~~ *schoolwide and subgroup growth targets* in the prior year
36 or in two of the last three years, or in the aggregate for the prior
37 three years.

38 (2) Ranked in deciles 4 to 10, inclusive, on the API in the prior
39 year or in two of the last three years.

1 (3) Ranked in deciles 4 to 10, inclusive, on the API for a
2 demographically comparable school in the prior year or in two of
3 the last three years.

4 ~~(4) (A) The entity that granted the charter determines that the~~
5 ~~academic performance of the charter school is at least equal to the~~
6 ~~academic performance of the public schools that the charter school~~
7 ~~pupils would otherwise have been required to attend, as well as~~
8 ~~the academic performance of the schools in the school district in~~
9 ~~which the charter school is located, taking into account the~~
10 ~~composition of the pupil population that is served at the charter~~
11 ~~school.~~

12 ~~(B) The determination made pursuant to this paragraph shall be~~
13 ~~based upon all of the following:~~

14 ~~(i) Documented and clear and convincing data.~~

15 ~~(ii) Pupil achievement data from assessments, including, but~~
16 ~~not limited to, the Standardized Testing and Reporting Program~~
17 ~~established by Article 4 (commencing with Section 60640) for~~
18 ~~demographically similar pupil populations in the comparison~~
19 ~~schools.~~

20 ~~(iii) Information submitted by the charter school.~~

21 ~~(C) A chartering authority shall submit to the Superintendent~~
22 ~~copies of supporting documentation and a written summary of the~~
23 ~~basis for any determination made pursuant to this paragraph. The~~
24 ~~Superintendent shall review the materials and make~~
25 ~~recommendations to the chartering authority based on that review.~~
26 ~~The review may be the basis for a recommendation made pursuant~~
27 ~~to Section 47604.5.~~

28 ~~(D) A charter renewal may not be granted to a charter school~~
29 ~~prior to 30 days after that charter school submits materials pursuant~~
30 ~~to this paragraph.~~

31 ~~(5)–~~

32 (4) Has qualified for an alternative accountability system
33 pursuant to subdivision (h) of Section 52052.

34 (c) *Notwithstanding subdivision (a), for purposes of achieving*
35 *high-performing charter schools, a chartering authority shall not*
36 *do either of the following:*

37 (1) *Grant a renewal of a charter school for a period longer than*
38 *three years if that charter school is in program improvement,*
39 *pursuant to the federal No Child Left Behind Act of 2001 (20 U.S.C.*
40 *Sec. 6301 et seq.).*

1 (2) *Grant a renewal of a charter school that has entered into*
2 *year five of program improvement, pursuant to the federal No*
3 *Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.), has*
4 *not exited program improvement, and did not meet Adequate Yearly*
5 *Progress in the year prior to the renewal year.*

6 ~~(e)–~~

7 (d) A charter may be revoked by the authority that granted the
8 charter under this chapter if the authority finds, through a showing
9 of substantial evidence, that the charter school did any of the
10 following:

11 (1) Committed a material violation of any of the conditions,
12 standards, or procedures set forth in the charter.

13 (2) Failed to meet or pursue any of the pupil outcomes identified
14 in the charter.

15 (3) Failed to meet generally accepted accounting principles, or
16 engaged in fiscal mismanagement.

17 (4) Violated any provision of law.

18 ~~(d)–~~

19 (e) Prior to revocation, the authority that granted the charter
20 shall notify the charter public school of any violation of this section
21 and give the school a reasonable opportunity to remedy the
22 violation, unless the authority determines, in writing, that the
23 violation constitutes a severe and imminent threat to the health or
24 safety of the pupils.

25 ~~(e)–~~

26 (f) Prior to revoking a charter for failure to remedy a violation
27 pursuant to subdivision ~~(d)~~ (e), and after expiration of the school's
28 reasonable opportunity to remedy without successfully remedying
29 the violation, the chartering authority shall provide a written notice
30 of intent to revoke and notice of facts in support of revocation to
31 the charter school. No later than 30 days after providing the notice
32 of intent to revoke a charter, the chartering authority shall hold a
33 public hearing, in the normal course of business, on the issue of
34 whether evidence exists to revoke the charter. No later than 30
35 days after the public hearing, the chartering authority shall issue
36 a final decision to revoke or decline to revoke the charter, unless
37 the chartering authority and the charter school agree to extend the
38 issuance of the decision by an additional 30 days. The chartering
39 authority shall not revoke a charter, unless it makes written factual

1 findings supported by substantial evidence, specific to the charter
2 school, that support its findings.

3 ~~(f)~~

4 (g) (1) If a school district is the chartering authority and it
5 revokes a charter pursuant to this section, the charter school may
6 appeal the revocation to the county board of education within 30
7 days following the final decision of the chartering authority.

8 (2) The county board may reverse the revocation decision if the
9 county board determines that the findings made by the chartering
10 authority under subdivision~~(e)~~ (f) are not supported by substantial
11 evidence. The school district may appeal the reversal to the state
12 board.

13 (3) If the county board does not issue a decision on the appeal
14 within 90 days of receipt, or the county board upholds the
15 revocation, the charter school may appeal the revocation to the
16 state board.

17 (4) The state board may reverse the revocation decision if the
18 state board determines that the findings made by the chartering
19 authority under subdivision~~(e)~~ (f) are not supported by substantial
20 evidence. The state board may uphold the revocation decision of
21 the school district if the state board determines that the findings
22 made by the chartering authority under subdivision~~(e)~~ (f) are
23 supported by substantial evidence.

24 ~~(g)~~

25 (h) (1) If a county office of education is the chartering authority
26 and the county board revokes a charter pursuant to this section,
27 the charter school may appeal the revocation to the state board
28 within 30 days following the decision of the chartering authority.

29 (2) The state board may reverse the revocation decision if the
30 state board determines that the findings made by the chartering
31 authority under subdivision~~(e)~~ (f) are not supported by substantial
32 evidence.

33 ~~(h)~~

34 (i) If the revocation decision of the chartering authority is
35 reversed on appeal, the agency that granted the charter shall
36 continue to be regarded as the chartering authority.

37 ~~(i)~~

38 (j) During the pendency of an appeal filed under this section, a
39 charter school, whose revocation proceedings are based on
40 paragraph (1) or (2) of subdivision~~(e)~~ (d), shall continue to qualify

1 as a charter school for funding and for all other purposes of this
2 part, and may continue to hold all existing grants, resources, and
3 facilities, in order to ensure that the education of pupils enrolled
4 in the school is not disrupted.

5 ~~(j)–~~

6 *(k)* Immediately following the decision of a county board to
7 reverse a decision of a school district to revoke a charter, the
8 following shall apply:

9 (1) The charter school shall qualify as a charter school for
10 funding and for all other purposes of this part.

11 (2) The charter school may continue to hold all existing grants,
12 resources, and facilities.

13 (3) Any funding, grants, resources, and facilities that had been
14 withheld from the charter school, or that the charter school had
15 otherwise been deprived of use, as a result of the revocation of the
16 charter shall be immediately reinstated or returned.

17 ~~(k)–~~

18 *(l)* A final decision of a revocation or appeal of a revocation
19 pursuant to subdivision~~(e)~~ *(d)* shall be reported to the chartering
20 authority, the county board, and the department.

21 *SEC. 7. Section 47630.6 is added to the Education Code, to*
22 *read:*

23 *47630.6. (a) By December 31 of each fiscal year, the*
24 *Controller shall publish a directory of certified public accountants*
25 *and public accountants deemed by the Controller to be qualified*
26 *to conduct audits of charter schools. Each audit of a charter school*
27 *conducted pursuant to this part shall be conducted by a certified*
28 *public accountant or public accountant selected by the charter*
29 *school from the directory established pursuant to this subdivision.*

30 *(b) Except as provided in subdivision (d) of Section 41320.1, it*
31 *is unlawful for a public accounting firm to provide audit services*
32 *to a charter school if the lead audit partner, or coordinating audit*
33 *partner, having primary responsibility for the audit, or the audit*
34 *partner responsible for reviewing the audit, has performed audit*
35 *services for that charter school in each of the six previous fiscal*
36 *years*

37 *(c) It is the intent of the Legislature that, notwithstanding*
38 *subdivision (b), the rotation within public accounting firms*
39 *conforms to provisions of the federal Sarbanes-Oxley Act of 2002*
40 *(Public Law 107-204; 15 U.S.C. Sec. 7201 et seq.).*

1 ~~SECTION 1. Section 47614.5 of the Education Code is~~
2 ~~amended to read:~~

3 ~~47614.5. (a) The Charter School Facility Grant Program is~~
4 ~~hereby established and shall be administered by the department.~~
5 ~~The grant program is intended to provide assistance with facilities~~
6 ~~rent and lease costs for pupils in charter schools.~~

7 ~~(b) Subject to the annual Budget Act, eligible schools shall~~
8 ~~receive an amount of up to, but not more than, seven hundred fifty~~
9 ~~dollars (\$750) per unit of average daily attendance, as certified at~~
10 ~~the second principal apportionment, to provide an amount of up~~
11 ~~to, but not more than, 75 percent of the annual facilities rent and~~
12 ~~lease costs for the charter school. In any fiscal year, if the funds~~
13 ~~appropriated for the purposes of this section by the annual Budget~~
14 ~~Act are insufficient to fund the approved amounts fully, the~~
15 ~~Superintendent shall apportion the available funds on a pro rata~~
16 ~~basis.~~

17 ~~(c) For purposes of this section, the department shall do all of~~
18 ~~the following:~~

19 ~~(1) Inform charter schools of the grant program.~~

20 ~~(2) Upon application by a charter school, determine eligibility,~~
21 ~~based on the geographic location of the charter schoolsite, pupil~~
22 ~~eligibility for free or reduced price meals, and a preference in~~
23 ~~admissions, as appropriate. Eligibility for funding shall not be~~
24 ~~limited to the grade level or levels served by the school whose~~
25 ~~attendance area is used to determine eligibility. Charter schoolsites~~
26 ~~are eligible for funding pursuant to this section if the charter~~
27 ~~schoolsite meets either of the following conditions:~~

28 ~~(A) The charter schoolsite is physically located in the attendance~~
29 ~~area of a public elementary school in which 70 percent or more of~~
30 ~~the pupil enrollment is eligible for free or reduced priced meals~~
31 ~~and the schoolsite gives a preference in admissions to pupils who~~
32 ~~are currently enrolled in that public elementary school and to pupils~~
33 ~~who reside in the elementary school attendance area where the~~
34 ~~charter schoolsite is located.~~

35 ~~(B) Seventy percent or more of the pupil enrollment at the~~
36 ~~charter schoolsite is eligible for free or reduced price meals.~~

37 ~~(3) Inform charter schools of their grant eligibility.~~

38 ~~(4) Allocate funding to charter schools for eligible expenditures~~
39 ~~in a timely manner.~~

1 ~~(d) Funds appropriated for purposes of this section shall not be~~
2 ~~apportioned for any of the following:~~

3 ~~(1) Units of average daily attendance generated through~~
4 ~~nonclassroom-based instruction as defined by paragraph (2) of~~
5 ~~subdivision (e) of Section 47612.5 or that does not comply with~~
6 ~~conditions or limitations set forth in regulations adopted by the~~
7 ~~state board pursuant to this section.~~

8 ~~(2) Charter schools occupying existing school district or county~~
9 ~~office of education facilities.~~

10 ~~(3) Charter schools receiving reasonably equivalent facilities~~
11 ~~from their chartering authority pursuant to Section 47614.~~

12 ~~(e) Funds appropriated for purposes of this section shall be used~~
13 ~~for costs associated with facilities rents and leases, consistent with~~
14 ~~the definitions used in the California School Accounting Manual.~~
15 ~~These funds also may be used for costs, including, but not limited~~
16 ~~to, costs associated with remodeling buildings, deferred~~
17 ~~maintenance, initially installing or extending service systems and~~
18 ~~other built-in equipment, and improving sites.~~

19 ~~(f) If an existing charter school located in an elementary~~
20 ~~attendance area in which less than 50 percent of pupil enrollment~~
21 ~~is eligible for free or reduced price meals relocates to an attendance~~
22 ~~area identified in paragraph (2) of subdivision (c), admissions~~
23 ~~preference shall be given to pupils who reside in the elementary~~
24 ~~school attendance area into which the charter school is relocating.~~

25 ~~(g) The Superintendent annually shall report to the state board~~
26 ~~regarding the use of funds that have been made available during~~
27 ~~the fiscal year to each charter school pursuant to the grant program.~~

28 ~~(h) It is the intent of the Legislature that not less than eighteen~~
29 ~~million dollars (\$18,000,000) annually be appropriated for purposes~~
30 ~~of the grant program on the same basis as other elementary and~~
31 ~~secondary education categorical programs.~~

32 ~~(i) Commencing with the 2009-10 fiscal year, the~~
33 ~~Superintendent shall annually allocate the facilities grants to~~
34 ~~eligible charter schools no later than October 1 of each fiscal year.~~
35 ~~However, the department shall first use the funding appropriated~~
36 ~~for this program in the 2009-10 fiscal year to reimburse eligible~~
37 ~~charter schools for rent or lease costs for the 2008-09 fiscal year,~~
38 ~~consistent with this section as it read on June 30, 2009.~~