

AMENDED IN ASSEMBLY APRIL 5, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 1982

Introduced by Assembly Member Ammiano

February 17, 2010

~~An act relating to pupil nutrition.~~ *An act to amend Sections 47602 and 47605 of, and to add Section 47604.2 to, the Education Code, relating to charter schools.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1982, as amended, Ammiano. ~~Pupil nutrition.~~ *Charter schools.*

The Charter Schools Act of 1992 authorizes any one or more persons to submit a petition to the governing board of a school district to establish a charter school that operates independently from the existing school district structure as a method of accomplishing specified goals. The act limits the maximum number of charter schools authorized to operate in the 1998–99 school year to 250, and authorizes an additional 100 charter schools to operate in each year thereafter.

This bill would instead limit the total number of charter schools authorized to operate in the state to 1450. The bill would require the Legislative Analyst, by July 1, 2015, to report to the Legislature on charter school operation generally, and to recommend whether to maintain the limit on charter schools or to instead authorize the expansion of charter schools. The bill would prohibit charter schools operated by a private entity from employing relatives of charter school personnel, as specified.

The Charter Schools Act specifies the procedures for the submission, review, and approval or denial of a petition to establish a standard or countywide charter school. The act authorizes the governing board of

a school district or a county board of education to deny a charter petition if the board makes written factual findings that demonstrate that the petition does not meet certain criteria.

This bill would instead prohibit the governing board of a school district or county office of education from accepting a charter petition, unless the petition sets forth specific facts to support certain criteria.

~~The Pupil Nutrition, Health, and Achievement Act of 2001 requires a school to follow the Enhanced Food Based Meal Pattern, Nutrient Standard Meal Planning, or Traditional Meal Pattern developed by the United States Department of Agriculture or the Shaping Health as Partners in Education (SHAPE) Menu Patterns developed by the state, in order to qualify for reimbursement for free and reduced-price meals sold or served to pupils. The act prescribes nutrition standards for snacks sold to pupils in elementary, middle, junior high, or high school, with certain exceptions. The act also prohibits the sale of certain beverages to pupils at elementary schools, and prescribes rules for the sale of certain beverages to pupils in middle, junior high, and high schools.~~

~~This bill would declare the intent of the Legislature to enact legislation to further encourage schools to offer healthy and nutritious foods to pupils.~~

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

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

1 SECTION 1. Section 47602 of the Education Code is amended
2 to read:
3 47602. (a) (1) ~~In the 1998–99 school year, the maximum total~~
4 ~~number of charter schools authorized to operate in this state shall~~
5 ~~be 250. In the 1999–2000 school year, and in each successive~~
6 ~~school year thereafter, an additional 100 charter schools are~~
7 ~~authorized to operate in this state each successive school year. In~~
8 ~~the 2010–11 school year, and in each successive school year~~
9 ~~thereafter, the maximum total number of charter schools authorized~~
10 ~~to operate in this state shall be 1450. For the purposes of~~
11 ~~implementing this section, the State Board of Education shall~~
12 ~~assign a number to each charter petition that it grants pursuant to~~
13 ~~subdivision (j) of Section 47605 or Section 47605.8 and to each~~
14 ~~charter notice it receives pursuant to this part, based on the~~
15 ~~chronological order in which the notice is received. Each number~~

assigned by the state board on or after January 1, 2003, shall correspond to a single petition that identifies a charter school that will operate within the geographic and site limitations of this part. The State Board of Education shall develop a numbering system for charter schools that identifies each school associated with a charter and that operates within the existing limit on the number of charter schools that can be approved each year. For purposes of this section, sites that share educational programs and serve similar pupil populations may not be counted as separate schools. Sites that do not share a common educational program shall be considered separate schools for purposes of this section. The limits contained in this paragraph may not be waived by the State Board of Education pursuant to Section 33050 or any other provision of law.

(2) By July 1, 2003, the Legislative Analyst shall, pursuant to the criteria in Section 47616.5, report to the Legislature on the effectiveness of the charter school approach authorized under this part and recommend whether to expand or reduce the annual rate of growth of charter schools authorized pursuant to this section.

(b) No charter shall be granted under this part that authorizes the conversion of any private school to a charter school. No charter school shall receive any public funds for a pupil if the pupil also attends a private school that charges the pupil's family for tuition. The State Board of Education shall adopt regulations to implement this section.

(c) *By July 1, 2015, the Legislative Analyst shall report to the Legislature on the effectiveness of the charter school approach authorized under this part and recommend whether to maintain the limit established in subdivision (a) or to instead allow the expansion of charter schools.*

SEC. 2. *Section 47604.2 is added to the Education Code, to read:*

47604.2. (a) *This section applies to charter school personnel in a charter school operated by a private entity. The following definitions apply for purposes of this section:*

(1) *"Charter school personnel" means a charter school owner, president, chairperson of the governing board of directors, superintendent, governing board member, principal, assistant principal, or any other person employed by the charter school who has equivalent decisionmaking authority and in whom is vested*

1 the authority, or to whom the authority has been delegated, to
2 appoint, employ, promote, or advance individuals or to recommend
3 individuals for appointment, employment, promotion, or
4 advancement in connection with employment in a charter school,
5 including the authority as a member of a governing body of a
6 charter school to vote on the appointment, employment, promotion,
7 or advancement of individuals.

8 (2) “Relative” means a parent, child, sibling, uncle, aunt, first
9 cousin, nephew, niece, spouse, father-in-law, mother-in-law,
10 son-in-law, daughter-in-law, brother-in-law, sister-in-law,
11 stepparent, stepsibling, stepchild, half brother, or half sister.

12 (b) Charter school personnel shall not appoint, employ, promote,
13 or advance, or advocate for appointment, employment, promotion,
14 or advancement, in or to a position in the charter school in which
15 the charter school personnel are serving or over which the charter
16 school personnel exercises jurisdiction or control, any individual
17 who is a relative. An individual shall not be appointed, employed,
18 promoted, or advanced in or to a position in a charter school if
19 the appointment, employment, promotion, or advancement has
20 been advocated by charter school personnel who serve in or
21 exercise jurisdiction or control over the charter school and who
22 is a relative of the individual or if the appointment, employment,
23 promotion, or advancement is made by the governing board of
24 which a relative of the individual is a member.

25 (c) The approval of budgets does not constitute “jurisdiction
26 or control” for purposes of subdivision (b).

27 SEC. 3. Section 47605 of the Education Code is amended to
28 read:

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

39 (A) The petition has been signed by a number of parents or legal
40 guardians of pupils that is equivalent to at least one-half of the

1 number of pupils that the charter school estimates will enroll in
2 the school for its first year of operation.

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

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

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

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

29 (5) A charter school that is unable to locate within the
30 jurisdiction of the chartering school district may establish one site
31 outside the boundaries of the school district, but within the county
32 in which that school district is located, if the school district within
33 the jurisdiction of which the charter school proposes to operate is
34 notified in advance of the charter petition approval, the county
35 superintendent of schools and the Superintendent are notified of
36 the location of the charter school before it commences operations,
37 and either of the following circumstances exist:

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

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

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

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

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

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

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

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

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

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

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

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

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

24 (D) The governance structure of the school, including, but not
25 limited to, the process to be followed by the school to ensure
26 parental involvement.

27 (E) The qualifications to be met by individuals to be employed
28 by the school.

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

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

37 (H) Admission requirements, if applicable.

38 (I) The manner in which annual, independent financial audits
39 shall be conducted, which shall employ generally accepted
40 accounting principles, and the manner in which audit exceptions

1 and deficiencies shall be resolved to the satisfaction of the
2 chartering authority.

3 (J) The procedures by which pupils can be suspended or
4 expelled.

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

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

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

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

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

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

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

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

35 (d) (1) In addition to any other requirement imposed under this
36 part, a charter school shall be nonsectarian in its programs,
37 admission policies, employment practices, and all other operations,
38 shall not charge tuition, and shall not discriminate against any
39 pupil on the basis of the characteristics listed in Section 220. Except
40 as provided in paragraph (2), admission to a charter school shall

1 not be determined according to the place of residence of the pupil,
2 or of his or her parent or legal guardian, within this state, except
3 that an existing public school converting partially or entirely to a
4 charter school under this part shall adopt and maintain a policy
5 giving admission preference to pupils who reside within the former
6 attendance area of that public school.

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

9 (B) However, if the number of pupils who wish to attend the
10 charter school exceeds the school's capacity, attendance, except
11 for existing pupils of the charter school, shall be determined by a
12 public random drawing. Preference shall be extended to pupils
13 currently attending the charter school and pupils who reside in the
14 district except as provided for in Section 47614.5. Other
15 preferences may be permitted by the chartering authority on an
16 individual school basis and only if consistent with the law.

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

21 (3) 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
30 any employee of the school district to be employed in a charter
31 school.

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

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

1 used by the charter school shall specify where the school intends
2 to locate. The petitioner or petitioners shall also be required to
3 provide financial statements that include a proposed first-year
4 operational budget, including startup costs, and cashflow and
5 financial projections for 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 it read prior to 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” as used in paragraph (5) of subdivision (b) in a
3 way that is consistent with the intent of this part. Upon satisfactory
4 completion of the criteria, the state board shall adopt the criteria
5 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 petition
13 shall, thereafter, 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 to the department
19 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 has been granted its charter through
31 an appeal to the state board and elects to seek renewal of its charter
32 shall, prior to expiration of the charter, submit its petition for
33 renewal to the governing board of the school district that initially
34 denied the charter. If the governing board of the school district
35 denies the school’s petition for renewal, the school may petition
36 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 ~~SECTION 1. It is the intent of the Legislature to enact~~
16 ~~legislation to further encourage schools to offer healthy and~~
17 ~~nutritious foods to pupils.~~