

AMENDED IN ASSEMBLY APRIL 8, 2010

AMENDED IN ASSEMBLY APRIL 6, 2010

AMENDED IN ASSEMBLY MARCH 22, 2010

CALIFORNIA LEGISLATURE—2009–10 REGULAR SESSION

ASSEMBLY BILL

No. 2320

Introduced by Assembly Member Swanson

February 19, 2010

An act to amend Sections 47605, 47605.8, and 47607 of, and to repeal Sections 47605.5 and 47606 of, the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 2320, as amended, Swanson. Charter schools: accountability.

(1) The Charter Schools Act of 1992 (Charter Schools Act) 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 prohibits the governing board of a school district from denying a charter petition unless it makes one of several specified written factual findings, including, among others, that the petition does not contain reasonably comprehensive descriptions of several specified items.

This bill would add various items to that list requiring reasonably comprehensive descriptions, as specified.

(2) The Charter Schools Act allows a charter petitioner to submit a charter petition that was denied by the governing board of a school district to the county board of education, and requires the county board to review the petition. If the county board then denies the petition, the

act allows the petitioner to submit the petition to the State Board of Education. The act also allows a charter petitioner to submit a renewal application pursuant to these same appeal procedures if the application is denied by the chartering authority. The act also allows a charter petitioner to appeal a revocation of its charter by a school district governing board to the county board of education and, upon a denial by the county board, to the state board. The act allows a petitioner to appeal a revocation of its charter by a county board of education to the state board. The act also allows a school district governing board to appeal to the state board a decision by the county board of education to reverse the decision of the district to revoke a charter.

This bill instead would authorize a county board of education to consider an appeal from a decision by the school district governing board to deny a petitioner's initial charter petition, to deny its renewal application, or to revoke its charter if the appeal alleges that the district committed a procedural violation under the act ~~in reviewing the petition or renewal application or determining whether or not to revoke the charter~~. The bill would require a county board of education, if it finds, by substantial evidence, that a procedural violation was committed ~~with regard to the review of a charter petition or renewal application, to return remand the petition or, application, or revocation to the school district governing board to correct the procedural violation and reconsider the petition or application. The bill would authorize a county board of education to reverse a revocation decision if it finds, by substantial evidence, that a procedural violation was committed. The bill also would provide that the decision of a county board to reverse a revocation is subject to judicial review, as specified.~~ The bill would delete the authority for a petitioner to appeal a petition denial, renewal denial, or revocation to the state board. The bill also would make conforming changes.

(3) The Charter Schools Act authorizes the direct submission of a charter petition to a county board of education in the manner specified for a standard charter petition submitted to the governing board of a school district for a charter school that will serve pupils for whom the county office of education would otherwise be responsible for providing direct education and related services. The act provides that any denial of a petition by a county board under this provision is subject to the same process for any other county board of education denial of a charter school petition under the act.

This bill would delete those provisions.

(4) The Charter Schools Act authorizes a school district to convert all of its schools to charter schools under the act if it meets certain specified conditions.

This bill would delete that provision.

(5) The Charter Schools Act authorizes the state board to approve a petition to operate a state charter school that may operate at multiple sites throughout the state.

This bill would limit that approval authority to petitions to operate a state charter school that will operate in partnership with any of several specified entities.

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

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

1 SECTION 1. Section 47605 of the Education Code is amended
2 to read:
3 47605. (a) (1) Except as set forth in paragraph (2), a petition
4 for the establishment of a charter school within a school district
5 may be circulated by one or more persons seeking to establish the
6 charter school. A petition for the establishment of a charter school
7 shall identify a single charter school that will operate within the
8 geographic boundaries of that school district. A charter school
9 may propose to operate at multiple sites within the school district,
10 as long as each location is identified in the charter school petition.
11 The petition may be submitted to the governing board of the school
12 district for review after either of the following conditions are met:
13 (A) The petition has been signed by a number of parents or legal
14 guardians of pupils that is equivalent to at least one-half of the
15 number of pupils that the charter school estimates will enroll in
16 the school for its first year of operation.
17 (B) The petition has been signed by a number of teachers that
18 is equivalent to at least one-half of the number of teachers that the
19 charter school estimates will be employed at the school during its
20 first year of operation.
21 (2) A petition that proposes to convert an existing public school
22 to a charter school that would not be eligible for a loan pursuant
23 to subdivision (b) of Section 41365 may be circulated by one or
24 more persons seeking to establish the charter school. The petition
25 may be submitted to the governing board of the school district for

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

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

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

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

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

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

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

37 (b) No later than 30 days after receiving a petition, in accordance
38 with subdivision (a), the governing board of the school district
39 shall hold a public hearing on the provisions of the charter, at
40 which time the governing board of the school district shall consider

the level of support for the petition by teachers employed by the district, other employees of the district, and parents. Following review of the petition and the public hearing, the governing board of the school district shall either grant or deny the charter within 60 days of receipt of the petition, provided, however, that the date may be extended by an additional 30 days if both parties agree to the extension. In reviewing petitions for the establishment of charter schools pursuant to this section, the chartering authority shall be guided by the intent of the Legislature that charter schools are and should become an integral part of the California educational system and that establishment of charter schools should be encouraged. The governing board of the school district shall grant a charter for the operation of a school under this part if it is satisfied that granting the charter is consistent with sound educational practice. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

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

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

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

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

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

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

(ii) If the proposed school will serve high school pupils, a description of the manner in which the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are

1 accredited by the Western Association of Schools and Colleges
2 may be considered transferable and courses approved by the
3 University of California or the California State University as
4 creditable under the “A” to “G” admissions criteria may be
5 considered to meet college entrance requirements.

6 (iii) A detailed description of the different and innovative
7 teaching methods the school will use.

8 (iv) How the implementation of the items described in clauses
9 (i) to (iii), inclusive, will provide vigorous competition within the
10 public school system to stimulate continual improvements in all
11 public schools.

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

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

19 (D) The governance structure of the school, including, but not
20 limited to, the process to be followed by the school to ensure
21 parental involvement and how that governance structure will create
22 new professional opportunities for teachers, including the
23 opportunity to be responsible for the learning program at the
24 schoolsite.

25 (E) The qualifications to be met by individuals to be employed
26 by the school.

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

31 (G) The means by which the school will achieve a racial and
32 ethnic balance among its pupils, and a balance of pupils who
33 receive free and reduced-price lunches, are English language
34 learners, or are individuals with exceptional needs, that is reflective
35 of the general population residing within the territorial jurisdiction
36 of the school 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) If the governing board of a school district denies a petition,
19 the petitioner may appeal that denial to the county board of
20 education. A county board of education may consider an appeal
21 pursuant to this subdivision only if the appeal alleges that the
22 school district governing board committed a procedural violation
23 under this part in reviewing the petition. If a county board of
24 education finds, by substantial evidence, that the school district
25 governing board committed a procedural violation under this part
26 in reviewing the petition, the county board shall ~~return~~ *remand* the
27 petition to the school district governing board to correct the
28 procedural violation.

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

37 (l) A charter school shall transmit a copy of its annual,
38 independent financial audit report for the preceding fiscal year, as
39 described in subparagraph (I) of paragraph (5) of subdivision (b),
40 to its chartering entity, the Controller, the county superintendent

1 of schools of the county in which the charter school is sited, unless
2 the county board of education of the county in which the charter
3 school is sited is the chartering entity, and the department by
4 December 15 of each year. This subdivision does not apply if the
5 audit of the charter school is encompassed in the audit of the
6 chartering entity pursuant to Section 41020.

7 SEC. 2. Section 47605.5 of the Education Code is repealed.

8 SEC. 3. Section 47605.8 of the Education Code is amended to
9 read:

10 47605.8. (a) A petition for the operation of a state charter
11 school may be submitted directly to the state board, and the state
12 board shall have the authority to approve a charter for the operation
13 of a state charter school that may operate at multiple sites
14 throughout the state, provided that the charter school will operate
15 in partnership with any of the entities described in Section 47612.1.
16 The state board shall adopt regulations, pursuant to the
17 Administrative Procedure Act (Chapter 5 (commencing with
18 Section 11500) of Part 1 of Division 3 of Title 2 of the Government
19 Code) for the implementation of this section. Regulations adopted
20 pursuant to this section shall ensure that a charter school approved
21 pursuant to this section meets all requirements otherwise imposed
22 on charter schools pursuant to this part, except that a state charter
23 school approved pursuant to this section shall not be subject to the
24 geographic and site limitations otherwise imposed on charter
25 schools. The petitioner shall submit a copy of the petition, for
26 notification purposes, to the county superintendent of schools of
27 each county in which the petitioner proposes to operate the state
28 charter school. The petitioner also shall ensure that the governing
29 board of each school district in which a site is proposed to be
30 located is notified no later than 120 days prior to the
31 commencement of instruction at each site, as applicable.

32 (b) The state board shall not approve a petition for the operation
33 of a state charter school pursuant to this section unless the state
34 board makes a finding, based on substantial evidence, that the
35 proposed state charter school will provide instructional services
36 of statewide benefit that cannot be provided by a charter school
37 operating in only one school district, or only in one county. The
38 finding of the state board in this regard shall be made part of the
39 public record of the proceedings of the state board and shall precede
40 the approval of the charter.

(c) The state board, as a condition of charter petition approval, may enter into an agreement with a third party, at the expense of the charter school, to oversee, monitor, and report on, the operations of the state charter school. The state board may prescribe the aspects of the operations of the state charter school to be monitored by the third party, and may prescribe appropriate requirements regarding the reporting of information concerning the operations of the state charter school to the state board.

(d) The state board shall not be required to approve a petition for the operation of a state charter school, and may deny approval based on any of the reasons set forth in subdivision (b) of Section 47605.6.

SEC. 4. Section 47606 of the Education Code is repealed.

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

47607. (a) (1) A charter may be granted pursuant to Section 47605 for a period not to exceed five years. A charter granted by a school district governing board, a county board of education or the state board, may be granted one or more subsequent renewals by that entity. Each renewal shall be for a period of five years. A material revision of the provisions of a charter petition may be made only with the approval of the authority that granted the charter. The authority that granted the charter may inspect or observe any part of the charter school at any time.

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

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

(1) Attained its Academic Performance Index (API) growth target in the prior year or in two of the last three years, or in the aggregate for the prior three years.

(2) Ranked in deciles 4 to 10, inclusive, on the API in the prior 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) Has qualified for an alternative accountability system
32 pursuant to subdivision (h) of Section 52052.

33 (c) A charter may be revoked by the authority that granted the
34 charter under this chapter if the authority finds, through a showing
35 of substantial evidence, that the charter school did any of the
36 following:

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

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

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

3 (4) Violated any provision of law.

4 (d) Prior to revocation, the authority that granted the charter
5 shall notify the charter public school of any violation of this section
6 and give the school a reasonable opportunity to remedy the
7 violation, unless the authority determines, in writing, that the
8 violation constitutes a severe and imminent threat to the health or
9 safety of the pupils.

10 (e) Prior to revoking a charter for failure to remedy a violation
11 pursuant to subdivision (d), and after expiration of the school's
12 reasonable opportunity to remedy without successfully remedying
13 the violation, the chartering authority shall provide a written notice
14 of intent to revoke and notice of facts in support of revocation to
15 the charter school. No later than 30 days after providing the notice
16 of intent to revoke a charter, the chartering authority shall hold a
17 public hearing, in the normal course of business, on the issue of
18 whether evidence exists to revoke the charter. No later than 30
19 days after the public hearing, the chartering authority shall issue
20 a final decision to revoke or decline to revoke the charter, unless
21 the chartering authority and the charter school agree to extend the
22 issuance of the decision by an additional 30 days. The chartering
23 authority shall not revoke a charter, unless it makes written factual
24 findings supported by substantial evidence, specific to the charter
25 school, that support its findings.

26 (f) (1) If a school district is the chartering authority and it
27 revokes a charter pursuant to this section, the charter school may
28 appeal the revocation to the county board of education within 30
29 days following the final decision of the chartering authority. The
30 county board may consider an appeal submitted pursuant to this
31 subdivision only if the appeal alleges that the school district
32 governing board committed a procedural violation under this part.
33 ~~The county board may reverse the revocation if it finds, by~~
34 ~~substantial evidence, that the school district governing board~~
35 ~~committed a procedural violation under this part.~~

36 ~~(2) The decision of a county board of education pursuant to~~
37 ~~paragraph (1) to reverse a revocation is subject to judicial review.~~
38 ~~If the county board finds, by substantial evidence, that the school~~
39 ~~district governing board committed a procedural violation under~~
40 ~~this part in revoking a charter, the county board shall remand the~~

1 *revocation to the school district governing board to correct the*
2 *procedural violation.*

3 (g) If the revocation decision of the chartering authority is
4 reversed on appeal, the agency that granted the charter shall
5 continue to be regarded as the chartering authority.

6 (h) During the pendency of an appeal filed under this section,
7 a charter school, whose revocation proceedings are based on
8 paragraph (1) or (2) of subdivision (c), shall continue to qualify
9 as a charter school for funding and for all other purposes of this
10 part, and may continue to hold all existing grants, resources, and
11 facilities, in order to ensure that the education of pupils enrolled
12 in the school is not disrupted.

13 (i) Immediately following the decision of a county board to
14 reverse a decision of a school district to revoke a charter, the
15 following shall apply:

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

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

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

24 (j) A final decision of a revocation or appeal of a revocation
25 pursuant to subdivision (c) shall be reported to the chartering
26 authority, the county board, and the department.