

AMENDED IN ASSEMBLY MAY 28, 2010
AMENDED IN ASSEMBLY APRIL 28, 2010
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 and 47607 of, and to repeal Section 47605.5 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.

~~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. The bill would require a county board of education, if it finds, by substantial evidence, that a procedural violation was committed, to remand the petition, application, or revocation to the school district governing board to correct the procedural violation. The bill would delete the authority for a petitioner to appeal a petition denial or renewal denial to the state board. The bill also would make conforming changes.~~

(3) ~~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~~ *charter petition to be submitted directly to a county board of education in the same manner as a petition submitted directly to a school district if the proposed charter school will serve pupils for whom the county office of education would otherwise be responsible for providing direct education and related services.*

This bill would delete that provision.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25 (iv) How the implementation of the items described in clauses
26 (i) to (iii), inclusive, will provide vigorous competition within the
27 public school system to stimulate continual improvements in all
28 public schools.

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

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

36 (D) The governance structure of the school, including, but not
37 limited to, the process to be followed by the school to ensure
38 parental involvement and how that governance structure will create
39 new professional opportunities for teachers, including the

1 opportunity to be responsible for the learning program at the
2 schoolsite.

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

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

9 (G) The means by which the school will achieve a racial and
10 ethnic balance among its pupils, and a balance of pupils who
11 receive free and reduced-price meals, are English language learners,
12 or are individuals with exceptional needs, that is reflective of the
13 general population residing within the territorial jurisdiction of the
14 school district to which the charter petition is submitted.

15 (H) Admission requirements, if applicable.

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

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

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

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

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

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

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

1 (P) A description of the procedures to be used if the charter
2 school closes. The procedures shall ensure a final audit of the
3 school to determine the disposition of all assets and liabilities of
4 the charter school, including plans for disposing of any net assets
5 and for the maintenance and transfer of pupil records.

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

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

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

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

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

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

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

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

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

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

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

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

~~(j) If the governing board of a school district denies a petition, the petitioner may appeal that denial to the county board of education. A county board of education may consider an appeal~~

~~pursuant to this subdivision only if the appeal alleges that the school district governing board committed a procedural violation under this part in reviewing the petition. If a county board of education finds, by substantial evidence, that the school district governing board committed a procedural violation under this part in reviewing the petition, the county board shall remand the petition to the school district governing board to correct the procedural violation.~~

(j) (1) If the governing board of a school district denies a petition, the petitioner may elect to submit the petition for the establishment of a charter school to the county board of education. The county board of education shall review the petition pursuant to subdivision (b). A charter school that receives approval of its petition from the county board of education on appeal shall be subject to the same requirements concerning geographic location to which it would otherwise be subject if it had received approval from the entity to which it originally submitted its petition. A charter petition that is submitted to the county board of education shall meet all otherwise applicable petition requirements, including the identification of the proposed site or sites where the charter school will operate.

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

(3) If the county board of education fails to act on a petition within 120 days of receipt, the decision of the governing board of the school district to deny a petition shall, thereafter, be subject to judicial review.

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

(l) A charter school shall transmit a copy of its annual, independent financial audit report for the preceding fiscal year, as described in subparagraph (I) of paragraph (5) of subdivision (b),

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

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

9 SEC. 3. Section 47607 of the Education Code is amended to
10 read:

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

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

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

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

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

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

39 (4) (A) The entity that granted the charter determines that the
40 academic performance of the charter school is at least equal to the

1 academic performance of the public schools that the charter school
2 pupils would otherwise have been required to attend, as well as
3 the academic performance of the schools in the school district in
4 which the charter school is located, taking into account the
5 composition of the pupil population that is served at the charter
6 school.

7 (B) The determination made pursuant to this paragraph shall be
8 based upon all of the following:

9 (i) Documented and clear and convincing data.

10 (ii) Pupil achievement data from assessments, including, but
11 not limited to, the Standardized Testing and Reporting Program
12 established by Article 4 (commencing with Section 60640) for
13 demographically similar pupil populations in the comparison
14 schools.

15 (iii) Information submitted by the charter school.

16 (C) A chartering authority shall submit to the Superintendent
17 copies of supporting documentation and a written summary of the
18 basis for any determination made pursuant to this paragraph. The
19 Superintendent shall review the materials and make
20 recommendations to the chartering authority based on that review.
21 The review may be the basis for a recommendation made pursuant
22 to Section 47604.5.

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

26 (5) Has qualified for an alternative accountability system
27 pursuant to subdivision (h) of Section 52052.

28 (c) A charter may be revoked by the authority that granted the
29 charter under this chapter if the authority finds, through a showing
30 of substantial evidence, that the charter school did any of the
31 following:

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

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

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

38 (4) Violated any provision of law.

39 (d) Prior to revocation, the authority that granted the charter
40 shall notify the charter public school of any violation of this section

1 and give the school a reasonable opportunity to remedy the
2 violation, unless the authority determines, in writing, that the
3 violation constitutes a severe and imminent threat to the health or
4 safety of the pupils.

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

21 (f) (1) If a school district is the chartering authority and it
22 revokes a charter pursuant to this section, the charter school may
23 appeal the revocation to the county board of education within 30
24 days following the final decision of the chartering authority.

25 (2) The county board may reverse the revocation decision if the
26 county board determines that the findings made by the chartering
27 authority under subdivision (e) are not supported by substantial
28 evidence. The school district may appeal the reversal to the state
29 board.

30 (3) If the county board does not issue a decision on the appeal
31 within 90 days of receipt, or the county board upholds the
32 revocation, the charter school may appeal the revocation to the
33 state board.

34 (4) The state board may reverse the revocation decision if the
35 state board determines that the findings made by the chartering
36 authority under subdivision (e) are not supported by substantial
37 evidence. The state board may uphold the revocation decision of
38 the school district if the state board determines that the findings
39 made by the chartering authority under subdivision (e) are
40 supported by substantial evidence.

1 (g) (1) If a county office of education is the chartering authority
2 and the county board revokes a charter pursuant to this section,
3 the charter school may appeal the revocation to the state board
4 within 30 days following the decision of the chartering authority.

5 (2) The state board may reverse the revocation decision if the
6 state board determines that the findings made by the chartering
7 authority under subdivision (e) are not supported by substantial
8 evidence.

9 (h) If the revocation decision of the chartering authority is
10 reversed on appeal, the agency that granted the charter shall
11 continue to be regarded as the chartering authority.

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

19 (j) Immediately following the decision of a county board to
20 reverse a decision of a school district to revoke a charter, the
21 following shall apply:

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

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

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

30 (k) A final decision of a revocation or appeal of a revocation
31 pursuant to subdivision (c) shall be reported to the chartering
32 authority, the county board, and the department.