

AMENDED IN SENATE JUNE 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 86

Introduced by Assembly Member Mendoza

January 6, 2011

An act to amend Section 47605 of the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 86, as amended, Mendoza. Charter schools: authorization: petition.

(1) The Charter Schools Act of 1992 allows one or more persons seeking to establish a charter school within a school district to circulate a petition to that effect. The act allows a charter petition to be submitted to the governing board of a school district for review after the petition has been signed by a number of parents or guardians of pupils that is equivalent to at least $\frac{1}{2}$ of the number of pupils that the petitioner estimates will enroll in the charter school for its first year of operation or has been signed by a number of teachers that is equivalent to at least $\frac{1}{2}$ of the number of teachers that the petitioner estimates will be employed at the charter school during its first year of operation.

This bill, in addition, would require that a charter petition signed by a number of teachers that is equivalent to at least $\frac{1}{2}$ the number of teachers that the charter school estimates will be employed at the charter school during its first year of operation also be signed by a number of classified employees that is equivalent to at least $\frac{1}{2}$ of the number of classified employees the petitioner estimates that the charter school will employ during its first year of operation prior to submission to the governing board of a school district for review, with respect to charter

petitions signed by teachers, would require instead that the petition be signed by a number of teachers and classified employees that combined is equivalent to at least $\frac{1}{2}$ of the total number of teachers and classified employees that the charter school estimates will be employed at the school during its first year of operation.

(2) The act allows a petition that proposes to convert an existing public school to a charter school that would not be eligible for a loan, as specified, to be circulated by one or more persons seeking to establish the charter school. The act allows such a petition to be submitted to the governing board of a school district for review after the petition has been signed by not less than 50% of the permanent status teachers currently employed at the public school to be converted.

~~This bill, in addition, would require that the petition be signed by not less than 50% of the classified employees currently employed at the public school to be converted before it may be submitted to the governing board of a school district~~ *instead, would require the petition to be signed by a number of permanent status teachers and permanent classified employees that combined is equivalent to at least $\frac{1}{2}$ of the total number of permanent status teachers and permanent classified employees that the charter school estimates will be employed at the school during its first year of operation.*

(3) The bill also would make conforming changes.

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

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

1 SECTION 1. Section 47605 of the Education Code is amended
2 to read:
3 47605. (a) (1) Except as set forth in paragraph (2), a petition
4 for the establishment of a charter school within a school district
5 may be circulated by one or more persons seeking to establish the
6 charter school. A petition for the establishment of a charter school
7 shall identify a single charter school that will operate within the
8 geographic boundaries of that school district. A charter school
9 may propose to operate at multiple sites within the school district,
10 as long as each location is identified in the charter school petition.
11 The petition may be submitted to the governing board of the school
12 district for review after either of the following conditions is met:

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

5 (B) The petition has been signed by a number of teachers ~~that~~
6 ~~is equivalent to at least one-half of the number of teachers, and by~~
7 ~~a number of~~ and classified employees that *combined* is equivalent
8 to at least one-half of the *total number of teachers and* classified
9 employees; that the charter school estimates will be employed at
10 the school during its first year of operation.

11 (2) A petition that proposes to convert an existing public school
12 to a charter school that would not be eligible for a loan pursuant
13 to subdivision (b) of Section 41365 may be circulated by one or
14 more persons seeking to establish the charter school. The petition
15 may be submitted to the governing board of the school district for
16 review after the petition has been signed by ~~not less than 50 percent~~
17 ~~of the permanent status teachers and not less than 50 percent of~~
18 ~~the permanent classified employees currently employed at the~~
19 ~~public school to be converted.~~ *a number of permanent status*
20 *teachers and permanent classified employees that combined is*
21 *equivalent to at least one-half of the total number of permanent*
22 *status teachers and permanent classified employees that the charter*
23 *school estimates will be employed at the school during its first*
24 *year of operation.*

25 (3) (A) A petition shall include a prominent statement that a
26 signature on the petition has one of the following meanings:

27 (i) In the case of a parent's or legal guardian's signature, that
28 the parent or legal guardian is meaningfully interested in having
29 his or her child or ward attend the charter school.

30 (ii) In the case of a teacher's signature, that the teacher is
31 meaningfully interested in teaching at the charter school.

32 (iii) In the case of a classified employee's signature, that the
33 classified employee is meaningfully interested in working at the
34 charter school.

35 (B) The proposed charter shall be attached to the petition.

36 (4) After receiving approval of its petition, a charter school that
37 proposes to establish operations at one or more additional sites
38 shall request a material revision to its charter, and shall notify the
39 authority that granted its charter of those additional locations. The
40 authority that granted its charter shall consider whether to approve

1 those additional locations at an open, public meeting. If the
2 additional locations are approved, they shall be a material revision
3 to the charter school's charter.

4 (5) A charter school that is unable to locate within the
5 jurisdiction of the chartering school district may establish one site
6 outside the boundaries of the school district, but within the county
7 in which that school district is located, if the school district within
8 the jurisdiction of which the charter school proposes to operate is
9 notified in advance of the charter petition approval, the county
10 superintendent of schools and the Superintendent are notified of
11 the location of the charter school before it commences operations,
12 and either of the following circumstances exists:

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

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

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

23 (b) No later than 30 days after receiving a petition, in accordance
24 with subdivision (a), the governing board of the school district
25 shall hold a public hearing on the provisions of the charter, at
26 which time the governing board of the school district shall consider
27 the level of support for the petition by teachers employed by the
28 district, other employees of the district, and parents. Following
29 review of the petition and the public hearing, the governing board
30 of the school district shall either grant or deny the charter within
31 60 days of receipt of the petition, provided, however, that the date
32 may be extended by an additional 30 days if both parties agree to
33 the extension. In reviewing petitions for the establishment of
34 charter schools pursuant to this section, the chartering authority
35 shall be guided by the intent of the Legislature that charter schools
36 are and should become an integral part of the California educational
37 system and that the establishment of charter schools should be
38 encouraged. The governing board of the school district shall grant
39 a charter for the operation of a school under this part if it is satisfied
40 that granting the charter is consistent with sound educational

1 practice. The governing board of the school district shall not deny
2 a petition for the establishment of a charter school unless it makes
3 written factual findings, specific to the particular petition, setting
4 forth specific facts to support one or more of the following
5 findings:

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

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

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

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

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

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

22 (ii) If the proposed school will serve high school pupils, a
23 description of the manner in which the charter school will inform
24 parents about the transferability of courses to other public high
25 schools and the eligibility of courses to meet college entrance
26 requirements. Courses offered by the charter school that are
27 accredited by the Western Association of Schools and Colleges
28 may be considered transferable and courses approved by the
29 University of California or the California State University as
30 creditable under the “A” to “G” admissions criteria may be
31 considered to meet college entrance requirements.

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

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

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

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

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

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

14 (H) Admission requirements, if applicable.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(l) 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.

(m) 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), to its chartering entity, the Controller, the county superintendent of schools of the county in which the charter school is sited, unless the county board of education of the county in which the charter school is sited is the chartering entity, and the department by December 15 of each year. This subdivision does not apply if the audit of the charter school is encompassed in the audit of the chartering entity pursuant to Section 41020.

CORRECTIONS:

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