

AMENDED IN SENATE JUNE 15, 2011

AMENDED IN ASSEMBLY APRIL 6, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 360

Introduced by Assembly Member Brownley

February 14, 2011

An act to add Section 47604.1 to the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 360, as amended, Brownley. Charter schools.

(1) The Ralph M. Brown Act requires that all meetings of a legislative body, as defined, of a local agency be open and public and all persons be permitted to attend unless a closed session is authorized. The Bagley-Keene Open Meeting Act requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend.

This bill would expressly state that a charter school is subject to the Ralph M. Brown Act, unless it is operated by an entity governed by the Bagley-Keene Open Meeting Act, in which case the school would be subject to the Bagley-Keene Open Meeting Act.

(2) The California Public Records Act requires state and local agencies to make their records available for public inspection and to make copies available upon request and payment of a fee unless the records are exempt from disclosure.

This bill would expressly state that a charter school is subject to the California Public Records Act.

(3) Existing law prohibits certain public officials, including, but not limited to, members of governing boards of school districts and citizens' oversight committees, from engaging in specified activities that are inconsistent or incompatible with, or inimical to, their duties as public officials, including, but not limited to, entering into a contract in which the official or the official's family member has a financial interest, as specified.

This bill would expressly state that a charter school is subject to these provisions.

(4) The Political Reform Act of 1974 requires every state agency and local governmental agency to adopt a conflict-of-interest code, formulated at the most decentralized level possible, that requires designated employees of the agency to file statements of economic interest disclosing any investments, business positions, interests in real property, or sources of income that may foreseeably be affected materially by any governmental decision made or participated in by the designated employee by virtue of his or her position.

This bill would expressly state that a charter school is subject to the Political Reform Act of 1974.

(5) This bill would state various exceptions and clarifications regarding the applicability of the acts described above in paragraphs (1) to (4), inclusive.

(6) Existing law requires a member of the governing board of a school district to abstain from voting on personnel matters that uniquely affect a relative of the member.

This bill would provide that an employee of a charter school is not disqualified from serving as a member of the governing body of the charter school because of that employment status. The bill would require a member of the governing body of a charter school to abstain from voting on any matter affecting his or her own employment or any personnel matter that uniquely affects a relative of the member.

(7) The bill would make these provisions operative on July 1, 2012.

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. It is the intent of the Legislature in enacting this
2 act to do all of the following:

1 (a) Establish conflict-of-interest policies for the governing board
2 of charter schools that mirror existing conflict-of-interest policies
3 followed by the governing board of school districts.

4 (b) Provide transparency in the operations of the many charter
5 schools that are providing quality educational options for parents
6 and pupils and renew the faith of parents and the community that
7 their local charter school is acting in the best interests of pupils.

8 (c) Continue to provide greater autonomy to charter schools
9 than traditional public schools and provide greater transparency
10 to parents and the public with regard to the use of public funds by
11 the governing board of charter schools for the educational benefit
12 of their pupils.

13 (d) Establish standards and procedures consistent with the
14 Charter Schools Act of 1992 to avoid conflicts of interest in charter
15 schools.

16 SEC. 2. Section 47604.1 is added to the Education Code, to
17 read:

18 47604.1. (a) A charter school is subject to all of the following:

19 (1) The Ralph M. Brown Act (Chapter 9 (commencing with
20 Section 54950) of Part 1 of Division 2 of Title 5 of the Government
21 Code), except that a charter school operated by an entity governed
22 by the Bagley-Keene Open Meeting Act (Article 9 (commencing
23 with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title
24 2 of the Government Code) is subject to the Bagley-Keene Open
25 Meeting Act regardless of the authorizing entity. *A charter school*
26 *is also subject to Section 35147.*

27 (2) The California Public Records Act (Chapter 3.5
28 (commencing with Section 6250) of Division 7 of Title 1 of the
29 Government Code).

30 (3) Article 4 (commencing with Section 1090) of Chapter 1 of
31 Division 4 of Title 1 of the Government Code.

32 (4) The Political Reform Act of 1974 (Title 9 (commencing
33 with Section 81000) of the Government Code).

34 (b) ~~Notwithstanding Section 1090 Article 4 (commencing with~~
35 ~~Section 1090) of Chapter 1 of Division 4 of Title 1 of the~~
36 ~~Government Code, an employee of a charter school is not~~
37 ~~disqualified because of that employment status from also serving~~
38 ~~as a member of the governing body of the charter school. A~~
39 ~~member of the governing body of a charter school shall abstain~~

1 from voting on all matters *uniquely* affecting his or her own
2 employment.

3 (c) A member of the governing body of a charter school shall
4 abstain from voting on personnel matters that uniquely affect a
5 relative of the member but may vote on collective bargaining
6 agreements and personnel matters that affect a class of employees
7 to which the relative belongs. For purposes of this section,
8 “relative” means an adult who is related to the person by blood or
9 affinity within the third degree, as determined by the common law,
10 or an individual in an adoptive relationship within the third degree.

11 (d) A person who is disqualified by the California Constitution
12 or laws of the state from holding a civil office shall not serve on
13 the governing body of a charter school.

14 (e) To the extent that the governing body of a charter school
15 engages in activities that are not related to the operation of the
16 charter school, this section does not make those unrelated activities
17 subject to *Section 1090 of the Government Code*, the Ralph M.
18 Brown Act, the Bagley-Keene Open Meeting Act, or the California
19 Public Records Act. A meeting of the governing body of a charter
20 school to discuss items related to the operation of the charter school
21 shall not include discussion of any item regarding an activity of
22 the governing body that is not related to the operation of the charter
23 school.

24 (f) The governing body of a charter school may meet within the
25 physical boundaries of the county or counties in which one or more
26 of the school’s facilities are located provided that proper notices
27 pursuant to the Ralph M. Brown Act and the Bagley-Keene Open
28 Meeting Act are posted within the physical boundaries of each of
29 the counties in which any of the school’s facilities is located. A
30 charter school also may meet in a county contiguous to the county
31 where one or more of the school’s facilities are located if at least
32 10 percent of the pupils who are enrolled in the school reside in
33 that contiguous county. A nonclassroom-based charter school that
34 does not have a facility may meet within the boundaries of the
35 county in which the greatest number of pupils who are enrolled in
36 the school reside. *This subdivision does not limit the authority of*
37 *the governing body to meet outside these boundaries to the extent*
38 *authorized by Section 54954 of the Government Code, provided*
39 *that the meeting place is in compliance with Section 54961 of the*
40 *Government Code.*

1 (g) The governing body of a charter school may hold closed
2 sessions to consider a matter regarding pupil discipline as described
3 in Section 48912.

4 ~~(h) For purposes of the Political Reform Act of 1974, the~~
5 ~~jurisdiction of a charter school shall be the county or counties in~~
6 ~~which the school's facility or facilities are located. The jurisdiction~~
7 ~~for a nonclassroom-based charter school that does not have a~~
8 ~~facility shall be the physical boundaries of the county or counties~~
9 ~~where at least 10 percent of the pupils who are enrolled in the~~
10 ~~school reside or, if at least 10 percent of the pupils do not reside~~
11 ~~in a single county, the county in which the greatest number of~~
12 ~~pupils who are enrolled in the school reside.~~

13 ~~(i)~~
14 (h) A statement of economic interest that is filed by a designated
15 person at a charter school after the required deadline pursuant to
16 the Political Reform Act of 1974 shall not be the sole basis for
17 revocation of a charter pursuant to Section 47607.

18 ~~(j)~~
19 (i) For purposes of this section, "facility" means a charter school
20 campus, resource center, meeting space, or satellite facility.

21 ~~(k)~~
22 (j) This section shall become operative on July 1, 2012.