

AMENDED IN SENATE JUNE 6, 2012

AMENDED IN ASSEMBLY APRIL 26, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 925

Introduced by Assembly Members Lara and Alejo

February 18, 2011

An act to amend Section ~~47610~~ 47605 of, and to add Section 47611.6 to, the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 925, as amended, Lara. Charter schools: *petition: description of personnel policies and procedures.*

(1) ~~The~~

The Charter Schools Act of 1992 permits teachers and parents to petition the governing board of a school district to approve a charter school to operate independently from the existing school district structure as a method of accomplishing, among other things, improved pupil learning. Existing law exempts charter schools from the laws governing school districts except those of the Charter Schools Act, those establishing minimum age for public school attendance, specified building code regulations, and other specified laws. Existing law requires a charter school to comply with its charter. Existing law prohibits the governing board of a school district from denying a petition for the establishment of a charter school unless the governing board finds that the petition does not contain specified information, including, among other information, the qualifications to be met by individuals to be employed by the school and a declaration whether or not the charter school will be deemed the exclusive public school employer of the

employees of the charter school for purposes of laws governing collective bargaining.

This bill would require a petition for the establishment of a charter school to include a description of the personnel policies and procedures of the charter school, including, but not limited to, those related to jury duty, vacations, holidays, employee discipline, and leave for pregnancy, bereavement, and illness.

~~This bill would require a charter school to comply with specified laws governing school employees, including, among others, those governing classified employees. The bill would require a charter school to give its employees employed in positions that would be classified positions in a school district sick leave and vacation time based on time served, in addition to 11 paid holidays, and would require a charter school to establish policies for paid sick leave and vacation time. To the extent this bill would impose additional duties on charter schools, this bill would impose a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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

1 district for review after either of the following conditions ~~are~~ *is*
2 met:

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

7 (B) The petition ~~has been~~ *is* signed by a number of teachers that
8 is equivalent to at least one-half of the number of teachers that the
9 charter school estimates will be employed at the *charter* school
10 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~~ *is* signed by not less than 50
17 percent of the permanent status teachers currently employed at the
18 public school to be converted.

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

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

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

1 the location of the charter school before it commences operations,
2 and either of the following circumstances ~~exist~~ exists:

3 (A) The *charter* school has attempted to locate a single site or
4 facility to house the entire program, but a site or facility is
5 unavailable in the area in which the *charter* school chooses to
6 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~~ *shall* not be approved to serve pupils in a grade level
11 that 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 *The 60-day period may be extended by an additional 30 days if*
24 ~~both parties the governing board of the school district and the~~
25 *proponents of the petition agree to the extension.* In reviewing
26 petitions for the establishment of charter schools pursuant to this
27 section, the chartering authority shall be guided by the intent of
28 the Legislature that charter schools are and should become an
29 integral part of the California educational system and that
30 establishment of charter schools should be encouraged. The
31 governing board of the school district shall grant a charter for the
32 operation of a *charter* school under this part if it is satisfied that
33 granting the charter is consistent with sound educational practice.
34 The governing board of the school district shall not deny a petition
35 for the establishment of a charter school unless it makes written
36 factual findings, specific to the particular petition, setting forth
37 specific facts to support one or more of the following findings:

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

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

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

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

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

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

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

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

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

32 (D) The governance structure of the *charter* school, including,
33 but not limited to, the process to be followed by the *charter* school
34 to ensure parental involvement.

35 (E) The qualifications to be met by individuals to be employed
36 by the *charter* school.

37 (F) The procedures that the *charter* school will follow to ensure
38 the health and safety of pupils and staff. These procedures shall
39 include the requirement that each employee of the *charter* school

1 furnish the *charter* school with a criminal record summary as
2 described in Section 44237.

3 (G) The means by which the *charter* school will achieve a racial
4 and ethnic balance among its pupils that is reflective of the general
5 population residing within the territorial jurisdiction of the school
6 district to which the charter petition is submitted.

7 (H) Admission requirements, if applicable.

8 (I) The manner in which annual, independent financial audits
9 shall be conducted, which shall employ generally accepted
10 accounting principles, and the manner in which audit exceptions
11 and deficiencies shall be resolved to the satisfaction of the
12 chartering authority.

13 (J) The procedures by which pupils can be suspended or
14 expelled.

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

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

20 (M) A description of the rights of any employee of the school
21 district upon leaving the employment of the school district to work
22 in a charter school, and of any rights of return to the school district
23 after employment at a charter school.

24 (N) The procedures to be followed by the charter school and
25 the entity granting the charter to resolve disputes relating to
26 provisions of the charter.

27 (O) A declaration whether or not the charter school shall be
28 deemed the exclusive public school employer of the employees of
29 the charter school for the purposes of Chapter 10.7 (commencing
30 with Section 3540) of Division 4 of Title 1 of the Government
31 Code.

32 (P) A description of the procedures to be used if the charter
33 school closes. The procedures shall ensure a final audit of the
34 *charter* school to determine the disposition of all assets and
35 liabilities of the charter school, including plans for disposing of
36 any net assets and for the maintenance and transfer of pupil records.

37 (Q) *A description of the personnel policies and procedures of*
38 *the charter school, including, but not limited to, those related to*
39 *jury duty, vacations, holidays, employee discipline, and leave for*
40 *pregnancy, bereavement, and illness.*

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

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

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

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

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

(C) In the event of a drawing, the chartering authority shall make reasonable efforts to accommodate the growth of the charter school and in no event shall take any action to impede the charter 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, *shall* provide that school district with a copy of the cumulative record of the pupil, including a transcript of grades or report card,

1 and health information. This paragraph applies only to pupils
2 subject to compulsory full-time education pursuant to Section
3 48200.

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

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

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

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

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

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

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

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

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

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

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

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

36 (k) (1) The state board ~~may~~, by mutual agreement, *may*
37 designate its supervisory and oversight responsibilities for a
38 charter school ~~approved by the state board~~ *it approves* to any local
39 educational agency in the county in which the charter school is

1 located or to the governing board of the school district that first
2 denied the petition.

3 (2) The designated local educational agency shall have all
4 monitoring and supervising authority of a chartering agency,
5 including, but not limited to, powers and duties set forth in Section
6 47607, except the power of revocation, which shall remain with
7 the state board.

8 (3) A charter school that ~~has been~~ is granted its charter through
9 an appeal to the state board and elects to seek renewal of its charter
10 shall, ~~prior to expiration of the charter~~, submit its petition for
11 renewal, *before the charter expires*, to the governing board of the
12 school district that initially denied the charter. If the governing
13 board of the school district denies the school's petition for renewal,
14 the school may petition the state board for renewal of its charter.

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

23 (m) A charter school shall transmit a copy of its annual,
24 independent financial audit report for the preceding fiscal year, as
25 described in subparagraph (I) of paragraph (5) of subdivision (b),
26 to its chartering entity, the Controller, the county superintendent
27 of schools of the county in which the charter school is sited, unless
28 the county board of education of the county in which the charter
29 school is sited is the chartering entity, and the department by
30 December 15 of each year. This subdivision does not apply if the
31 audit of the charter school is encompassed in the audit of the
32 chartering entity pursuant to Section 41020.

33 ~~SECTION 1. Section 47610 of the Education Code is amended~~
34 ~~to read:~~

35 ~~47610. A charter school shall comply with this part and all of~~
36 ~~the provisions set forth in its charter, but is otherwise exempt from~~
37 ~~the laws governing school districts, except all of the following:~~

38 ~~(a) All laws establishing minimum age for public school~~
39 ~~attendance.~~

1 ~~(b) The California Building Standards Code (Part 2~~
2 ~~(commencing with Section 101) of Title 24 of the California Code~~
3 ~~of Regulations), as adopted and enforced by the local building~~
4 ~~enforcement agency with jurisdiction over the area in which the~~
5 ~~charter school is located. Charter school facilities shall comply~~
6 ~~with this subdivision by January 1, 2007.~~

7 ~~(c) Sections 41365, 44031, 44037, 45101, 45102, 45113, 45116,~~
8 ~~45117, and 47611, and Article 4 (commencing with Section 45190)~~
9 ~~of Chapter 5 of Part 25 of Division 3, except Sections 45191,~~
10 ~~45197, 45200, 45201, 45203, 45204, 45205, 45206, 45206.5,~~
11 ~~45209, and 45210 of that article.~~

12 ~~SEC. 2. Section 47611.6 is added to the Education Code, to~~
13 ~~read:~~

14 ~~47611.6. (a) Notwithstanding any other law, a charter school~~
15 ~~employee employed in a position that would be a classified position~~
16 ~~in a school district shall earn sick leave and vacation time based~~
17 ~~on time served. A charter school shall establish policies for paid~~
18 ~~sick leave and vacation time.~~

19 ~~(b) Notwithstanding any other law, a charter school employee~~
20 ~~employed in a position that would be a classified position in a~~
21 ~~school district shall receive 11 paid holidays that shall be~~
22 ~~comparable to the paid holidays provided to the classified~~
23 ~~employees of school districts.~~

24 ~~SEC. 3. If the Commission on State Mandates determines that~~
25 ~~this act contains costs mandated by the state, reimbursement to~~
26 ~~local agencies and school districts for those costs shall be made~~
27 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~
28 ~~4 of Title 2 of the Government Code.~~