

AMENDED IN ASSEMBLY MAY 16, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1568

Introduced by Assembly Member Roger Hernández
(Coauthor: Assembly Member Ammiano)

January 31, 2012

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

LEGISLATIVE COUNSEL’S DIGEST

AB 1568, as amended, Roger Hernández. Charter schools: preferences for admission.

Existing law requires, if the number of pupils who wish to attend a charter school exceeds its capacity, preference to be extended to pupils currently attending the charter school and pupils who reside in the school district. Existing law also authorizes other preferences to be extended, on an individual school basis, if consistent with the law.

This bill would prohibit preferences based on ~~the~~ *a parent’s or guardian’s contribution of time to support charter school activities or money financial contribution to the charter school.*

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. 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

1 may be circulated by one or more persons seeking to establish the
2 charter school. A petition for the establishment of a charter school
3 shall identify a single charter school that will operate within the
4 geographic boundaries of that school district. A charter school
5 may propose to operate at multiple sites within the school district,
6 as long as each location is identified in the charter school petition.
7 The petition may be submitted to the governing board of the school
8 district for review after either of the following conditions~~are~~ is
9 met:

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

14 (B) The petition has been signed by a number of teachers that
15 is equivalent to at least one-half of the number of teachers that the
16 charter school estimates will be employed at the *charter* school
17 during its first year of operation.

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

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

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

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

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

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

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

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

1 school unless it makes written factual findings, specific to the
2 particular petition, setting forth specific facts to support one or
3 more of the following findings:

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (H) Admission requirements, if applicable.

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

18 (J) The procedures by which pupils can be suspended or
19 expelled.

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

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

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

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

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

37 (P) A description of the procedures to be used if the charter
38 school closes. The procedures shall ensure a final audit of the
39 *charter* school to determine the disposition of all assets and

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

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

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

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

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

25 (B) However, if the number of pupils who wish to attend the
26 charter school exceeds the *charter* school's capacity, attendance,
27 except for existing pupils of the charter school, shall be determined
28 by a public random drawing. Preference shall be extended to pupils
29 currently attending the charter school and pupils who reside in the
30 *school* district except as provided for in Section 47614.5. Other
31 preferences, except preferences based on ~~the a parent's or~~
32 ~~guardian's contribution of time to support charter school activities~~
33 ~~or money; a parent's or guardian's financial contribution to the~~
34 *charter school*, may be permitted by the chartering authority on
35 an individual *charter* school basis and only if consistent with the
36 law.

37 (C) In the event of a drawing, the chartering authority shall
38 make reasonable efforts to accommodate the growth of the charter
39 school and in no event shall take any action to impede the charter
40 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~~ an employee of the school district to be employed in a charter school.

(f) The governing board of a school district shall not require ~~any~~ a 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 *charter* school, including, but not limited to, the facilities to be ~~utilized~~ *used* by the *charter* school, the manner in which administrative services of the *charter* school are to be provided, and potential civil liability effects, if any, upon the *charter* school and upon the school district. The description of the facilities to be used by the charter school shall specify where the *charter* 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~~ *before* 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) (1) If the governing board of a school district denies a petition, the petitioner may elect to submit the petition for the

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

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

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

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

35 (5) The state board shall adopt regulations implementing this
36 subdivision.

37 (6) Upon the approval of the petition by the county board of
38 education, the petitioner or petitioners shall provide written notice
39 of that approval, including a copy of the petition, to the department
40 and the state board.

1 (k) (1) The state board may, by mutual agreement, designate
2 its supervisorial and oversight responsibilities for a charter school
3 approved by the state board to any local educational agency in the
4 county in which the charter school is located or to the governing
5 board of the school district that first denied the petition.

6 (2) The designated local educational agency shall have all
7 monitoring and supervising authority of a chartering agency,
8 including, but not limited to, powers and duties set forth in Section
9 47607, except the power of revocation, which shall remain with
10 the state board.

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

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

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