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## SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair  
2015 - 2016 Regular

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**Bill No:** SB 1457  
**Author:** Morrell  
**Version:** April 19, 2016  
**Urgency:** No  
**Consultant:** Lenin Del Castillo  
**Hearing Date:** April 20, 2016  
**Fiscal:** No

**Subject:** Pupil instruction: high school graduation requirements: credit for released time instruction

**NOTE:** This bill was previously heard by this Committee on March 30, 2016, failed passage by a vote of 4-4, and was granted reconsideration. The bill has subsequently been amended as follows:

- 1) Specifies that pupils participating in released time instruction must attend school for no less than the minimum school day on each day of released time instruction.
- 2) Specifies that a school district electing to authorize released time instruction may allow a pupil to receive up to two elective credits, clarifying that a program may be offered regardless of whether a pupil receives credit.
- 3) Provides that the secular criteria for determining whether to authorize credit may include a review of the course syllabus that reflects a clear learning objective.

The analysis has been updated to reflect these amendments.

### SUMMARY

This bill expands the authority of school districts to authorize a student to be excused from school to receive moral and religious instruction by authorizing a local governing board to adopt a policy, as specified, to allow pupils to earn up to two elective credits towards high school graduation requirements for the completion of "released time instruction," excluding any cap on the number of excused absences for this purpose.

### BACKGROUND

Existing law:

- 1) Provides for pupils, with the written consent of their parents or guardians, to be excused from school in order to participate in religious exercise or to receive moral and religious instruction at their respective places of worship or at other suitable places away from school property designated by the religious group, church, or denomination, which shall be in addition and supplementary to the instruction in manners and morals required elsewhere.

- 2) Provides that such absences shall not be deemed absences in computing ADA, if all of the following conditions are complied with:
  - a) The governing board of the school district adopts a resolution permitting pupils to be absent from school for such exercises or instruction.
  - b) The governing board of the school district adopts regulations governing the attendance of pupils at such exercises or instruction and the reporting thereof.
  - c) Each pupil so excused shall attend school at least the minimum school day for his grade for elementary schools, and as provided by the relevant provisions for secondary schools, as specified.
  - d) No pupil shall be excused from school for such purpose on more than four days per school month. (Education Code § 46014)

## ANALYSIS

This bill:

- 1) Provides various legislative findings and declarations, including the finding and declaration that private religious education is a legitimate and complimentary part of the American school system, and that parents have a recognized constitutional right to educate their children at religious private schools.
- 2) Defines “released time instruction” as the instruction received by a pupil for the purposes and under the conditions of Education Code § 46014 which allows pupils, with the consent of their parents, to be excused from school in order to participate in religious exercises or to receive moral and religious instruction, as specified.
- 3) Provides that Education Code § 46014 shall be construed to additionally permit a pupil to be excused from school to participate in instruction in nonsectarian morals and systems of belief by a nonsectarian entity.
- 4) Defines “sponsoring entity” as the entity that provides released time instruction to a pupil pursuant to this chapter.
- 5) Provides that the governing board of a school district may adopt a policy authorizing a pupil in high school to participate in released time instruction.
- 6) Requires the policy to include the following conditions:
  - a) The pupil’s parent or guardian makes a written request.
  - b) The released time instruction is conducted off school district property.
  - c) No public funds are expended and no public school personnel are involved in providing the instruction.

- d) The sponsoring entity maintains attendance records and makes those records available to the school district the pupil attends.
  - e) Transportation to and from the place of released time instruction, including transportation for pupils with disabilities, is the complete responsibility of the sponsoring entity, parent, guardian, or pupil.
  - f) The sponsoring entity makes provisions for and assumes liability for the pupil.
  - g) The pupil assumes responsibility for any missed schoolwork.
  - h) The pupil does not miss any core curriculum subject courses to attend released time instruction.
  - i) The pupil attends school for no less than the minimum school day applicable to that pupil on each day of released time instruction.
- 7) Provides that a policy may allow a pupil to receive up to two elective credits toward that pupil's high school graduation requirements for the completion of released time instruction.
- 8) Requires the policy to include secular criteria for determining whether to authorize a pupil to earn credit for the completion of released time instruction. Requires the criteria to be substantially the same criteria used to evaluate a similar nonpublic high school course for the purpose of determining whether to award credit for that course to a pupil transferring from a nonpublic high school to a public high school.
- 9) Provides that the secular criteria may include, but not be limited to the following:
- a) The number of hours of classroom instruction time.
  - b) A review of the course syllabus that reflects course requirements, materials used, and a clear learning objective.
  - c) The methods of assessment used in the course.
  - d) The qualifications of the course instructor, which shall be similar to the qualifications of other teachers in the school district.
- 10) Provides that there shall be no criteria requiring that released time instruction be completed only at a nonpublic school.
- 11) Provides that a decision to award credit for released time instruction shall be neutral to, and shall not involve any test for religious content or denominational affiliation.

- 12) Prohibits school district staff and faculty from encouraging or discouraging participation by pupils in released time instruction.
- 13) Provides that an absence for released time instruction shall not be deemed an absence in computing average daily attendance.

## STAFF COMMENTS

- 1) ***Rationale for the bill.*** According to the author the purpose of this bill is to enable school boards to take action to authorize more time than is allowed under current law for students to participate in religious exercise or religious and moral instruction and to receive elective credit toward high school graduation for this activity. According to the author, both Ohio and South Carolina have passed similar legislation allowing students to receive two elective credits for “released time instruction.”
- 2) ***Why is existing law a problem?*** As noted in the background of this analysis, current law already allows for students to be excused to participate in religious exercise or to receive religious or moral instruction as long as specified conditions are met. Such absences are currently limited to no more than four days per school month and a school district may generate average daily attendance (ADA) for these absences, as long as all statutory requirements are met.

The committee may wish to clarify why the current statutory authority is insufficient.

- 3) ***Clarification of the bill’s effect.*** As noted, students are already permitted to be excused from school to participate in religious exercise and receive religious or moral instruction. This bill redefines these activities as “released time instruction” and expands existing authority in three ways:
  - a) It allows school districts to adopt policies authorizing high school students to earn up to two elective credits towards their graduation requirements for the completion of religious exercise or moral and religious instruction.
  - b) It authorizes such instruction and specifically eliminates the cap on the number of allowable excused days for this purpose.
  - c) It expands the ability of school districts to generate ADA for these absences (current law caps these absences at four days per month). While the bill requires students to meet the minimum day requirement in current law for a school district to receive full ADA (which is typically four hours) on each day of released time instruction, it does not limit the frequency for which students may participate each month.
- 4) ***Blurring the lines between the separation of church and state?*** This bill provides that elective credit may be provided to students for religious exercise and religious or moral instruction if, among other things, no public funds are expended and no public personnel are involved in providing the instruction.

However, while no funds are being provided directly to the entity providing the instruction, this bill would expand the ability of school districts to receive public funding (ADA) for students who are receiving religious instruction from non-school personnel and away from the schoolsite during the regular school day.

While current law allows for some accommodation of religious instruction during the school day, should this committee further expand the ability of students attending public schools receiving public dollars via ADA to be excused from the regular school day to receive religious instruction? An argument can be made that because a student would have to meet the minimum day requirement for each day of released time instruction, a district would receive full ADA for that student regardless of whether he or she is excused from school. However, the bill does not place any limits on the frequency or number of times each month that students may be excused from school for this purpose.

- 5) **Average Daily Attendance.** This bill expands the ability of a school district to generate ADA for absences due to religious and moral instruction beyond the four days currently allowed under law. The committee may wish to consider:
- a) How much public funding should reasonably be generated by a school district for religious or moral instruction by an entity other than a public school?
  - b) Are the conditions outlined in the bill sufficient to ensure that absences for this purpose would not be excessive?
  - c) Are additional limitations or time restrictions necessary to ensure that these absences are not frequent or excessive?
  - d) Under current law, the generation of average daily attendance (ADA) generally requires that a student be under the direct supervision of school personnel. How much ADA should be generated for instruction that is not directly provided or overseen by the school district?
  - e) While this bill defers decisions on expansion of release time to local governing boards, what responsibility does the state have to ensure the use of public funds for public purposes and a clear separation of church and state in a publicly funded school system?
- 6) **Elective Credit.** This bill would authorize local boards to provide up to two elective credits toward graduation for religious and moral instruction delivered outside the public school system. It authorizes, but does not require, consideration of the number of hours of instruction, a review of a course syllabus that reflects a clear learning objective, methods of assessment, and the qualifications of the instructor in determining whether to authorize course credit. It also prohibits the decision to award credit from involving any test for religious content or denominational affiliation. The committee may wish to consider:
- a) Should instruction outside of the school setting be eligible for elective credit towards graduation without prescribing any criteria or requirements

for the coursework or the personnel that would be responsible for the instruction?

- b) Should course credit be offered for instruction that may not be under the direct supervision of a certificated teacher?
  - c) How much “released time instruction” for the generation of two credits is necessary or reasonable?
  - d) Why is it necessary that students be granted credit toward *graduation* for religious and moral instruction? Why are the existing means by which students could receive course credit for these activities insufficient?
- 7) ***High school graduation requirements.*** Students are required to complete a minimum set of courses to meet state requirements to graduate from high school and receive a diploma. Specifically, current law requires students to complete three courses in English, two courses in mathematics, two courses in science, three courses in social studies, one course in visual or performing arts, and two courses in physical education.

School district governing boards also have the authority to supplement the state minimum requirements at the local level with additional course work, which may include elective courses. High school electives are typically courses that fall outside of the core academic subject areas and may represent a student’s personal interests, introduce new skills, or serve as training for a future career.

This bill provides an alternative for earning elective credits through the completion of religious exercise and religious and moral instruction at a student’s respective place of worship or other suitable places away from school property.

## **SUPPORT**

None received on current version of the bill.

## **OPPOSITION**

None received on current version of the bill.

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