

AMENDED IN ASSEMBLY MAY 1, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 139**

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**Introduced by Assembly Member ~~Calderon~~ Florez**

January 24, 2001

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~~An act relating to public utilities, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately. An act to amend Sections 1240, 1241.5, and 42638 of the Education Code, relating to public school finance.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 139, as amended, ~~Calderon~~ Florez. ~~School districts and community college districts: electrical energy~~ County Superintendent of Schools: fiscal duties.

*Existing law requires the superintendent of schools of each county to perform prescribed duties, including, but not limited to, visiting and examining each school in his or her county.*

*This bill would, in addition, require that the superintendent of schools of each county maintain the fiscal solvency of the county office of education and the school districts in his or her county, enforce the proper use of county and school district revenues, and annually present a report, as prescribed, regarding fiscal solvency and safety of facilities.*

*Existing law authorizes the county superintendent to audit at any time and report, as prescribed, regarding the expenditures and internal controls of a school district.*

*This bill would, in addition, authorize these audits to determine if expenditures are legally authorized and to report, as prescribed. The*

*bill would make conforming changes. By establishing these additional requirements, this bill would impose a state-mandated local program.*

*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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.*

*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.*

~~Existing law requires the Public Utilities Commission to designate a baseline quantity of electricity and gas, as defined, necessary for a significant portion of the reasonable energy needs of the average residential customer. Existing law requires the commission to require that every electrical and gas corporation file a schedule for rates and charges providing baseline rates. Existing law provides that nothing in those provisions be construed to prohibit the experimentation with alternative gas or electrical rate schedules for the purpose of achieving energy conservation. Pursuant to the authority granted by those provisions, the commission has established a program whereby consumers may enter into an interruptible service contract that allows them to pay lower electric utility rates in exchange for reducing consumption during designated times.~~

~~This bill would appropriate the amount of \$2,000,000 from the General Fund to the State Department of Education for allocation to school districts and community colleges districts solely for the purpose of providing financial assistance to school districts and community college districts who participate in an interruptible service program, who have incurred additional expenses related to electrical energy during a Stage 2 or Stage 3 emergency, as designated by the Independent System Operator, because they were unable to curtail their energy consumption in accordance with the terms and conditions of the service contract due to the necessity of maintaining and operating the school or community college facility during regular school hours.~~

~~The appropriation pursuant to this bill would be General Fund revenues appropriated to school districts for the purposes of Section 8 of Article XVI of the California Constitution.~~



~~The bill, however, would include a statement that any appropriation made by this act would not be deemed to be “General Fund revenues appropriated to school districts,” as defined in subdivision (c) of Section 41202 of the Education Code for the 1997-98 fiscal year, for the purposes of making computations required by Section 8 of Article XVI of the California Constitution.~~

~~This bill would declare that it is to take effect immediately as an urgency statute.~~

Vote: ~~2/3~~ majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: ~~no~~ yes.

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

- 1 ~~SECTION 1.—(a) The amount of two million dollars~~
- 2 *SECTION 1. Section 1240 of the Education Code is amended*
- 3 *to read:*
- 4 1240. The superintendent of schools of each county shall do
- 5 all of the following:
- 6 (a) Superintend the schools of his or her county.
- 7 (b) Visit and examine each school in his or her county at
- 8 reasonable intervals to observe its operation and to learn of its
- 9 problems. He or she may annually present a report of the state of
- 10 the schools in his or her county, and of his or her office, including,
- 11 but not limited to, his or her observations while visiting the
- 12 schools, to the board of education and the board of supervisors of
- 13 his or her county.
- 14 (c) Distribute all laws, reports, circulars, instructions, and
- 15 blanks that he or she may receive for the use of the school officers.
- 16 (d) *Maintain the fiscal solvency of the county office of*
- 17 *education and the school districts within his or her county.*
- 18 (e) *Enforce the proper use of county and school district*
- 19 *revenues by auditing expenditures to determine that they are*
- 20 *legally authorized.*
- 21 (f) *Annually present a report to the school district board, the*
- 22 *county board of education, and the Superintendent of Public*
- 23 *Instruction regarding the fiscal solvency and safety of facilities of*
- 24 *any school district with a disapproved budget, qualified interim*
- 25 *certification, or a negative interim certification.*
- 26 ~~(d)~~



- 1 (g) Keep in his or her office the reports of the Superintendent
- 2 of Public Instruction.
- 3 ~~(e)~~
- 4 (h) Keep a record of his or her official acts, and of all the
- 5 proceedings of the county board of education, including a record
- 6 of the standing, in each study, of all applicants for certificates who
- 7 have been examined, which shall be open to the inspection of any
- 8 applicant or his or her authorized agent.
- 9 ~~(f)~~
- 10 (i) Enforce the course of study.
- 11 ~~(g)~~
- 12 (j) Enforce the use of state textbooks and of high school
- 13 textbooks regularly adopted by the proper authority.
- 14 ~~(h)~~
- 15 (k) Preserve carefully all reports of school officers and
- 16 teachers.
- 17 ~~(i)~~
- 18 (l) Deliver to his or her successor, at the close of his or her
- 19 official term, all records, books, documents, and papers belonging
- 20 to the office, taking a receipt for them, which shall be filed with
- 21 the State Department of Education.
- 22 ~~(j)~~
- 23 (m) (1) Submit two reports during the fiscal year to the county
- 24 board of education in accordance with the following:
- 25 (A) The first report shall cover the financial and budgetary
- 26 status of the county office of education for the period ending
- 27 October 31. The second report shall cover the period ending
- 28 January 31. Both reports shall be reviewed by the county board of
- 29 education and approved by the county superintendent of schools
- 30 no later than 45 days after the close of the period being reported.
- 31 (B) As part of each report, the superintendent shall certify in
- 32 writing whether or not the county office of education is able to
- 33 meet its financial obligations for the remainder of the fiscal year
- 34 and, based on current forecasts, for two subsequent fiscal years.
- 35 The certifications shall be classified as positive, qualified, or
- 36 negative, pursuant to standards prescribed by the Superintendent
- 37 of Public Instruction, for the purposes of determining subsequent
- 38 state agency actions pursuant to Section 1240.1. For purposes of
- 39 this subdivision, a negative certification shall be assigned to any
- 40 county office of education that, based upon current projections,



1 will be unable to meet its financial obligations for the remainder  
2 of the fiscal year or for the subsequent fiscal year. A qualified  
3 certification shall be assigned to any county office of education  
4 that may not meet its financial obligations for the current fiscal  
5 year or two subsequent fiscal years. A positive certification shall  
6 be assigned to any county office of education that will meet its  
7 financial obligations for the current fiscal year and subsequent two  
8 fiscal years. In accordance with those standards, the  
9 Superintendent of Public Instruction may reclassify any  
10 certification. If a county office of education receives a negative  
11 certification, the Superintendent of Public Instruction, or his or her  
12 designee, may exercise the authority set forth in subdivision (c) of  
13 Section 1630. Copies of each certification, and of the report  
14 containing that certification, shall be sent to the Superintendent of  
15 Public Instruction at the time the certification is submitted to the  
16 county board of education. Copies of each qualified or negative  
17 certification, and of the report containing that certification, shall  
18 be sent to the Controller at the time the certification is submitted  
19 to the county board of education.

20 (2) All reports and certifications required under this  
21 subdivision shall be in a format or on forms prescribed by the  
22 Superintendent of Public Instruction, and shall be based on  
23 standards and criteria for fiscal stability adopted by the State Board  
24 of Education pursuant to Section 33127. The reports and  
25 supporting data shall be made available by the county  
26 superintendent of schools to any interested party upon request.

27 (3) This subdivision does not preclude the submission of  
28 additional budgetary or financial reports by the superintendent to  
29 the county board of education or to the Superintendent of Public  
30 Instruction.

31 (4) The county superintendent of schools is not responsible for  
32 the fiscal oversight of the community colleges in the county,  
33 however, he or she may perform financial services on behalf of  
34 those community colleges.

35 (5) *The county superintendent of schools is responsible for the*  
36 *fiscal oversight of the school districts in his or her county.*

37 ~~(k)~~

38 (n) When so requested, act as agent for the purchase of supplies  
39 for the city and high school districts of his or her county.

40 ~~(t)~~



1 (o) For purposes of Section 44421.5, report to the Commission  
2 on Teacher Credentialing the identity of any certificated person  
3 who knowingly and willingly reports false fiscal expenditure data  
4 relative to the conduct of any educational program. This  
5 requirement applies only if, in the course of his or her normal  
6 duties, the county superintendent of schools discovers information  
7 that gives him or her reasonable cause to believe that false fiscal  
8 expenditure data relative to the conduct of any educational  
9 program has been reported.

10 *SEC. 2. Section 1241.5 of the Education Code is amended to*  
11 *read:*

12 1241.5. (a) At any time during a fiscal year, the county  
13 superintendent may audit the expenditures and internal controls of  
14 school districts he or she determines to be fiscally accountable.  
15 The county superintendent shall report the findings and  
16 recommendation to the governing board of the district. The  
17 governing board shall, no later than 15 days after receipt of the  
18 report, notify the county superintendent of schools of its proposed  
19 actions on the county superintendent's recommendation. Upon  
20 review of the governing board report, the county superintendent,  
21 at his or her discretion, may revoke the authority for the district to  
22 be fiscally accountable pursuant to Section 42650.

23 (b) *At any time during a fiscal year, the county superintendent*  
24 *may audit the expenditures and internal controls of any school*  
25 *district in his or her county and determine whether the*  
26 *expenditures are legally authorized. The county superintendent*  
27 *shall audit the expenditures and internal controls of any school*  
28 *district with a disapproved budget, qualified interim certification,*  
29 *or a negative interim certification, or at any time the county*  
30 *superintendent determines that a school district within his or her*  
31 *county may be unable to meet its financial obligations pursuant to*  
32 *Section 42127.6. The county superintendent shall report the*  
33 *findings and recommendations to the governing board of the*  
34 *school district at a regularly scheduled school district board*  
35 *meeting. The governing board of the school district shall, no later*  
36 *than 15 calendar days after receipt of the report, notify the county*  
37 *superintendent of its proposed actions on the county*  
38 *superintendent's recommendations. Upon review of the school*  
39 *district governing board report, the county superintendent, at his*



1 *or her discretion, and consistent with law, may disapprove the*  
2 *order consistent with Section 42638.*

3 *SEC. 3. Section 42638 of the Education Code is amended to*  
4 *read:*

5 42638. (a) If the order is disapproved by the county  
6 superintendent of schools, it shall be returned to the governing  
7 board of the school district, except as otherwise provided in this  
8 code for the registration of warrants, with a statement of his *or her*  
9 reasons for disapproving the order.

10 (b) *If the county superintendent determines that expenditures*  
11 *have been improperly drawn or are illegal, the county*  
12 *superintendent shall notify the governing board of the school*  
13 *district, the State Controller, the Superintendent of Public*  
14 *Instruction and the local district attorney.*

15 *SEC. 4. Notwithstanding Section 17610 of the Government*  
16 *Code, if the Commission on State Mandates determines that this*  
17 *act contains costs mandated by the state, reimbursement to local*  
18 *agencies and school districts for those costs shall be made*  
19 *pursuant to Part 7 (commencing with Section 17500) of Division*  
20 *4 of Title 2 of the Government Code. If the statewide cost of the*  
21 *claim for reimbursement does not exceed one million dollars*  
22 *(\$1,000,000), reimbursement shall be made from the State*  
23 *Mandates Claims Fund.*

24 ~~(\$2,000,000) is hereby appropriated from the General Fund to the~~  
25 ~~State Department of Education for allocation to school districts~~  
26 ~~and community colleges districts solely for the purpose of~~  
27 ~~providing financial assistance to school districts and community~~  
28 ~~college districts that meet the criteria set forth in subdivision (b):~~

29 ~~(b) The appropriation made pursuant to subdivision (a) shall be~~  
30 ~~allocated to school districts and community college districts that~~  
31 ~~participate in an interruptible service program related to electrical~~  
32 ~~energy consumption, who have incurred additional expense~~  
33 ~~related to electrical energy consumption during a Stage 2 or Stage~~  
34 ~~3 emergency, as designated by the Independent System Operator,~~  
35 ~~because they were unable to curtail their energy consumption in~~  
36 ~~accordance with the terms and conditions of the service contract~~  
37 ~~due to the necessity of maintaining and operating the school or~~  
38 ~~community college facility during regular school hours.~~

39 ~~(c) To be eligible for financial assistance pursuant to this~~  
40 ~~section, a school district or community college shall determine the~~



1 ~~difference between the electrical utility charges that the school~~  
 2 ~~district or community college would have incurred if it had been~~  
 3 ~~able to curtail its electrical energy consumption during a Stage 2~~  
 4 ~~or Stage 3 emergency, and the charges that were actually incurred~~  
 5 ~~because it was unable to curtail its consumption in order to~~  
 6 ~~maintain the normal daily operation of the school or community~~  
 7 ~~college facility during regular school hours. A school district or~~  
 8 ~~community college shall only be eligible to receive financial~~  
 9 ~~assistance in an amount that is equal to the difference between the~~  
 10 ~~charges that would have been incurred if the school district or~~  
 11 ~~community college had been able to curtail its consumption during~~  
 12 ~~a Stage 2 or Stage 3 emergency and the charges that it actually~~  
 13 ~~incurred due to its consumption during those periods. The school~~  
 14 ~~district shall provide proof of these charges, and shall submit an~~  
 15 ~~application for that amount to the department. Upon determining~~  
 16 ~~the validity of these expenses, the department may allocate that~~  
 17 ~~amount to the school district or community college district.~~

18 ~~(d) For the purposes of making computations required by~~  
 19 ~~Section 8 of Article XVI of the California Constitution, the~~  
 20 ~~appropriation made by this section shall not be deemed to be~~  
 21 ~~“General Fund revenues appropriated to school districts,” as~~  
 22 ~~defined in subdivision (e) of Section 41202 of the Education Code~~  
 23 ~~for the 1997–98 fiscal year and shall not be included within the~~  
 24 ~~“total allocations to school districts and community college~~  
 25 ~~districts from General Fund proceeds of taxes appropriated~~  
 26 ~~pursuant to Article XIII B,” as defined in subdivision (e) of~~  
 27 ~~Section 41202 of the Education Code for the 1997–98 fiscal year.~~

28 ~~SEC. 2. This act is an urgency statute necessary for the~~  
 29 ~~immediate preservation of the public peace, health, or safety~~  
 30 ~~within the meaning of Article IV of the Constitution and shall go~~  
 31 ~~into immediate effect. The facts constituting the necessity are:~~

32 ~~In order to provide financial assistance to school districts and~~  
 33 ~~community college districts that have incurred unanticipated costs~~  
 34 ~~for electrical energy during a Stage 2 or Stage 3 emergency, it is~~  
 35 ~~necessary that this measure take effect immediately.~~

