

AMENDED IN SENATE APRIL 14, 2008

SENATE BILL

No. 1492

Introduced by Senator McClintock

February 21, 2008

An act to amend ~~Sections 8482.55 and 8483.5 of Section 8482.55 of,~~ to repeal Sections 8483.51 and 8483.6 of, to repeal and add Section 8483.5 of, and to add Section 8482.1 to, the Education Code, and to repeal Section 14 of Proposition 49 of the 2002 general election, relating to education.

LEGISLATIVE COUNSEL'S DIGEST

SB 1492, as amended, McClintock. After School Education and Safety Program Act of 2002: funding.

Proposition 49, an initiative measure approved by the electors at the November 5, 2002, general election, enacted the After School Education and Safety Program Act of 2002. The initiative measure prohibits the amendment of specified provisions of the act by the Legislature, including a provision that, commencing with the fiscal year beginning July 1, 2004, and for each fiscal year thereafter, requires a continuous appropriation of an amount not to exceed \$550,000,000 from the General Fund to the State Department of Education for the After School Education and Safety Program.

This bill would ~~instead require the continuous appropriation to commence after specified fiscal requirements are met, including, but not limited to, that funds approved from the General Fund are sufficient to provide both the minimum amount of funding to school districts and community college districts required by specified provisions of the California Constitution and the total amount of any outstanding balance of a maintenance factor~~ repeal the continuous appropriation of funds,

and would instead authorize the Legislature to appropriate funds for the program in the annual Budget Act or another statute. The bill would further authorize the Legislature to make subsequent amendments to the After School Education and Safety Program Act of 2002 by a majority vote of the membership of each house and the Governor's signature. The bill would make conforming changes.

Because the bill would amend an initiative act, the bill would provide for its *specified* provisions to be submitted to the voters for approval.

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

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

1 SECTION 1. Section 8482.1 is added to the Education Code,
 2 to read:
 3 8482.1. This article may be amended by a statute, passed in
 4 each house by a majority vote of the membership concurring and
 5 signed by the Governor.
 6 ~~SEC. 2.—Section 8482.55 of the Education Code is amended to~~
 7 ~~read:~~
 8 ~~8482.55.—(a) To accomplish the purposes of the After School~~
 9 ~~Education and Safety Program, commencing with the fiscal year~~
 10 ~~beginning July 1, 2004, and for each fiscal year thereafter, all~~
 11 ~~grants made pursuant to this article shall be awarded as set forth~~
 12 ~~in this section.~~
 13 ~~(b) (1) Grants made to public schools pursuant to this article~~
 14 ~~shall commence as set forth in paragraph (2) of subdivision (b) of~~
 15 ~~Section 8483.5 and shall continue to be funded in each subsequent~~
 16 ~~fiscal year at that initial fiscal year level, after the adjustments~~
 17 ~~provided in paragraphs (1) and (2) of subdivision (a) of Section~~
 18 ~~8483.7 and paragraphs (1) and (2) of subdivision (a) of Section~~
 19 ~~8483.75 have been made, before any other grants are funded under~~
 20 ~~this article, provided those schools continue to make application~~
 21 ~~for the grants and are otherwise qualified pursuant to this article.~~
 22 ~~Receipt of a grant at the initial fiscal year level made pursuant to~~
 23 ~~this subdivision shall not affect a school's eligibility for additional~~
 24 ~~grant funding as permitted in subdivisions (c) and (d) up to the~~
 25 ~~maximum grants permitted in Sections 8483.7 and 8483.75.~~
 26 ~~(2) (A) An elementary or middle school program grantee funded~~
 27 ~~pursuant to Section 8484.8 when grants were initially made~~

1 pursuant to paragraph (2) of subdivision (b) of Section 8483.5
2 shall apply to receive a new grant under this article in the next
3 fiscal year after grants have initially commenced pursuant to
4 paragraph (2) of subdivision (b) of Section 8483.5. These programs
5 shall receive priority for funding before any new grant is funded
6 pursuant to this article, if the program is otherwise qualified
7 pursuant to this article. Notwithstanding the maximum grant
8 amounts permitted in Sections 8483.7 and 8483.75, the grantee
9 shall receive the same amount of grant funding that it was awarded
10 pursuant to Section 8484.8 in the fiscal year prior to the year for
11 which the grantee requests funding pursuant to this article. The
12 grantee shall apply to the department, and elect to receive funding
13 under this article, on or before a date established by the department
14 that is prior to the date by which the department awards new grants
15 pursuant to this article.

16 (B) Grantees funded pursuant to Section 8484.8 in the fiscal
17 year in which grants initially commenced pursuant to paragraph
18 (2) of subdivision (b) of Section 8483.5 may elect to receive
19 funding pursuant to this article in the next fiscal year and shall be
20 funded under the conditions outlined in subparagraph (A), if funds
21 are available.

22 (c) Each public elementary, middle, and junior high school in
23 the state shall be eligible to receive a three year renewable direct
24 grant for after school programs to be operated during the regular
25 school year, as provided in subparagraph (A) of paragraph (1) of
26 subdivision (a) of Section 8483.7. In the case of schools serving
27 a combination of elementary, middle, and junior high school pupils,
28 the applicant may apply for a grant with funding based on the
29 middle school grant maximum. The program shall comply with
30 the elementary program and attendance requirements for pupils in
31 the elementary grades. For purposes of this article, a school serving
32 a combination of middle and junior high school and high school
33 pupils shall be eligible to apply for a grant to serve pupils through
34 grade 9. Except as provided in this subdivision, grants for after
35 school programs made pursuant to this subdivision shall be subject
36 to all other sections of this article. Grants for after school programs
37 made pursuant to this subdivision shall not exceed one hundred
38 twelve thousand five hundred dollars (\$112,500) for each regular
39 school year for each elementary school or one hundred fifty
40 thousand dollars (\$150,000) for each regular school year for each

1 middle or junior high school. Except as provided in subdivision
2 (f) of this section and subdivision (a) of Section 8482.5, each public
3 elementary, middle, and junior high school in the state shall have
4 equal priority of funding for grants for after school programs made
5 pursuant to this subdivision. Receipt of a grant for an after school
6 program made pursuant to this subdivision shall not affect a
7 school's eligibility for additional grant funding as permitted in
8 subdivision (d) up to the maximum grants permitted in Sections
9 8483.7 and 8483.75. Grants made pursuant to this subdivision shall
10 be funded after grants made pursuant to subdivision (b) and before
11 any grants made pursuant to subdivision (d). Grants made pursuant
12 to this subdivision shall be referred to as "After School Education
13 and Safety Universal Grants."

14 (d) All funds remaining from the appropriation provided in
15 Section 8483.5 after award of grants pursuant to subdivisions (b)
16 and (e) shall be distributed pursuant to Sections 8483.7 and
17 8483.75. Grants for programs made pursuant to this subdivision
18 shall be subject to all other sections of this article. Priority for
19 grants for programs made pursuant to this subdivision shall be
20 established pursuant to subdivision (a) of Section 8482.5 and
21 Section 8483.3.

22 (e) With the exception of schools previously funded under both
23 this article and Section 8484.8, a school shall not receive grants
24 in excess of the amounts provided in Sections 8483.7 and 8483.75.

25 (f) If in any fiscal year the appropriation made pursuant to
26 Section 8483.5 is insufficient to fund all eligible schools who
27 submit an eligible application for After School Education and
28 Safety Universal Grants pursuant to subdivision (e), priority for
29 After School Education and Safety Universal Grants shall be
30 established pursuant to subdivision (a) of Sections 8482.5 and
31 8483.3.

32 SEC. 3. Section 8483.5 of the Education Code is amended to
33 read:

34 8483.5. (a) It is the intent of the Legislature that a minimum
35 of eighty-five million dollars (\$85,000,000) be appropriated for
36 the program established pursuant to this article, through the annual
37 Budget Act. Of the funds appropriated for the program, current
38 grant recipients have priority for receiving continued funding for
39 the same purposes for which they previously received an award.

1 ~~(b) (1) Commencing with the fiscal year after the fiscal year~~
2 ~~in which all of the conditions set forth in paragraph (2) are met,~~
3 ~~and for each fiscal year thereafter, there shall be continuously~~
4 ~~appropriated to the State Department of Education from the General~~
5 ~~Fund for the program established pursuant to this article an amount~~
6 ~~not to exceed five hundred fifty million dollars (\$550,000,000)~~
7 ~~that is the greater of (A) an amount equal to the appropriation from~~
8 ~~the General Fund for the program established pursuant to this~~
9 ~~article for the immediately preceding fiscal year, or (B) an amount~~
10 ~~equal to the sum of (i) the appropriation from the General Fund~~
11 ~~for the program established pursuant to this article for fiscal year~~
12 ~~2003-04 and (ii) the amount by which the state's nonguaranteed~~
13 ~~General Fund appropriations for the current fiscal year exceed the~~
14 ~~sum of (I) the amount of the state's nonguaranteed General Fund~~
15 ~~appropriations for the base year plus (II) one billion five hundred~~
16 ~~million dollars (\$1,500,000,000). Nothing in this section prohibits~~
17 ~~the Legislature from appropriating funds for the program~~
18 ~~established pursuant to this article in excess of this continuous~~
19 ~~appropriation.~~

20 ~~(2) Funds shall be appropriated pursuant to this subdivision~~
21 ~~commencing the fiscal year after the fiscal year in which all of the~~
22 ~~following conditions are met:~~

23 ~~(A) Funds appropriated from the General Fund for the fiscal~~
24 ~~year are sufficient to provide both the minimum amount of funding~~
25 ~~to school districts and community college districts required by~~
26 ~~subdivision (b) of Section 8 of Article XVI of the California~~
27 ~~Constitution and the total amount of any outstanding balance of a~~
28 ~~maintenance factor.~~

29 ~~(B) Prior to July 1 of the fiscal year, the amount of General~~
30 ~~Fund moneys appropriated to school districts and community~~
31 ~~college districts for each fiscal year back to and including the~~
32 ~~2003-04 fiscal year was sufficient to provide the minimum amount~~
33 ~~of funding to school districts and community college districts~~
34 ~~required by subdivision (b) of Section 8 of Article XVI of the~~
35 ~~California Constitution.~~

36 ~~(C) The Department of Finance, in consultation with the~~
37 ~~Legislative Analyst's Office, certifies both of the following:~~

38 ~~(i) The fiscal year will end with a projected balance in the~~
39 ~~Budget Stabilization Account of at least 3 percent of the estimated~~
40 ~~amount of General Fund revenues for the fiscal year.~~

1 ~~(ii) The annual baseline General Fund revenues are estimated~~
2 ~~to exceed annual baseline General Fund expenditures in the~~
3 ~~succeeding two fiscal years.~~

4 ~~(e) For purposes of this section, the following definitions apply:~~

5 ~~(1) “State’s nonguaranteed General Fund appropriations” means~~
6 ~~those General Fund appropriations of the state in a fiscal year other~~
7 ~~than those appropriations guaranteed to be applied by the state for~~
8 ~~the support of school districts and community college districts~~
9 ~~pursuant to Sections 8 and 8.5 of Article XVI of the California~~
10 ~~Constitution.~~

11 ~~(2) “Base year” means the fiscal year during the period July 1,~~
12 ~~2000 through June 30, 2004 for which the state’s nonguaranteed~~
13 ~~General Fund appropriations are the highest as compared to any~~
14 ~~other fiscal year during such period.~~

15 ~~(3) “Baseline General Fund revenues and expenditures” shall~~
16 ~~be defined by the Legislature for purposes of this section to~~
17 ~~incorporate inflation adjustments, one-time costs arising from court~~
18 ~~cases and other factors, workload adjustments, caseloads, and other~~
19 ~~relevant fiscal matters.~~

20 ~~(d) Notwithstanding subdivision (b), in any fiscal year in which~~
21 ~~the Legislature has legal authority pursuant to paragraph (3) of~~
22 ~~subdivision (b) of Section 8 of Article XVI of the California~~
23 ~~Constitution to reduce the moneys applied by the state for the~~
24 ~~support of school districts and community college districts for the~~
25 ~~current fiscal year as compared to the moneys applied by the state~~
26 ~~for the support of school districts and community colleges during~~
27 ~~the immediately preceding fiscal year, the continuous appropriation~~
28 ~~pursuant to subdivision (b) shall be reduced for that fiscal year by~~
29 ~~the same percentage by which the moneys applied by the state for~~
30 ~~the support of school districts and community college districts in~~
31 ~~the current fiscal year is less than the moneys applied by the state~~
32 ~~for the support of school districts and community college districts~~
33 ~~during the immediately preceding fiscal year.~~

34 ~~(e) All funds expended pursuant to this article shall be used only~~
35 ~~for the purposes expressed in this article. Except for funds~~
36 ~~expended pursuant to subdivision (b) of Section 8482.55, all funds~~
37 ~~expended pursuant to this article shall be used to supplement and~~
38 ~~not supplant existing levels of service.~~

39 *SEC. 2. Section 8482.55 of the Education Code is amended to*
40 *read:*

1 8482.55. (a) To accomplish the purposes of the After School
2 Education and Safety Program, commencing with the fiscal year
3 beginning July 1, 2004, and for each fiscal year thereafter, all
4 grants made pursuant to this article shall be awarded as set forth
5 in this section.

6 (b) (1) Grants made to public schools pursuant to this article
7 for the 2005–06 fiscal year shall continue to be funded in each
8 subsequent fiscal year at the 2005–06 fiscal year level, after the
9 adjustments provided in paragraphs (1) and (2) of subdivision (a)
10 of Section 8483.7 and paragraphs (1) and (2) of subdivision (a) of
11 Section 8483.75 have been made, before any other grants are
12 funded under this article, provided those schools continue to make
13 application for the grants and are otherwise qualified pursuant to
14 this article. Receipt of a grant at the 2005–06 fiscal year level made
15 pursuant to this subdivision shall not affect a school’s eligibility
16 for additional grant funding as permitted in subdivisions (c) and
17 (d) up to the maximum grants permitted in Sections 8483.7 and
18 8483.75.

19 (2) (A) An elementary or middle school program grantee funded
20 pursuant to Section 8484.8 shall apply to receive a new grant under
21 this article in the 2006–07 fiscal year. These programs shall receive
22 priority for funding before any new grant is funded pursuant to
23 this article, if the program is otherwise qualified pursuant to this
24 article. Notwithstanding the maximum grant amounts permitted
25 in Sections 8483.7 and 8483.75, the grantee shall receive the same
26 amount of grant funding that it was awarded pursuant to Section
27 8484.8 in the fiscal year prior to the year for which the grantee
28 requests funding pursuant to this article. The grantee shall apply
29 to the department, and elect to receive funding under this article,
30 on or before a date established by the department that is prior to
31 the date by which the department awards new grants pursuant to
32 this article.

33 (B) Grantees funded pursuant to Section 8484.8 in the 2005–06
34 fiscal year may elect to receive funding pursuant to this article
35 after the 2006–07 fiscal year and shall be funded under the
36 conditions outlined in subparagraph (A), if funds are available.

37 (c) Each public elementary, middle, and junior high school in
38 the state shall be eligible to receive a three year renewable direct
39 grant for after school programs to be operated during the regular
40 school year, as provided in subparagraph (A) of paragraph (1) of

1 subdivision (a) of Section 8483.7. In the case of schools serving
2 a combination of elementary, middle, and junior high school pupils,
3 the applicant may apply for a grant with funding based on the
4 middle school grant maximum. The program shall comply with
5 the elementary program and attendance requirements for pupils in
6 the elementary grades. For purposes of this article, a school serving
7 a combination of middle and junior high school and high school
8 pupils shall be eligible to apply for a grant to serve pupils through
9 grade 9. Except as provided in this subdivision, grants for after
10 school programs made pursuant to this subdivision shall be subject
11 to all other sections of this article. Grants for after school programs
12 made pursuant to this subdivision shall not exceed one hundred
13 twelve thousand five hundred dollars (\$112,500) for each regular
14 school year for each elementary school or one hundred fifty
15 thousand dollars (\$150,000) for each regular school year for each
16 middle or junior high school. Except as provided in subdivision
17 (f) of this section and subdivision (a) of Section 8482.5, each public
18 elementary, middle, and junior high school in the state shall have
19 equal priority of funding for grants for after school programs made
20 pursuant to this subdivision. Receipt of a grant for an after school
21 program made pursuant to this subdivision shall not affect a
22 school's eligibility for additional grant funding as permitted in
23 subdivision (d) up to the maximum grants permitted in Sections
24 8483.7 and 8483.75. Grants made pursuant to this subdivision shall
25 be funded after grants made pursuant to subdivision (b) and before
26 any grants made pursuant to subdivision (d). Grants made pursuant
27 to this subdivision shall be referred to as "After School Education
28 and Safety Universal Grants."

29 (d) All funds remaining from the appropriation provided in
30 Section 8483.5 after award of grants pursuant to subdivisions (b)
31 and (c) shall be distributed pursuant to Sections 8483.7 and
32 8483.75. Grants for programs made pursuant to this subdivision
33 shall be subject to all other sections of this article. Priority for
34 grants for programs made pursuant to this subdivision shall be
35 established pursuant to subdivision (a) of Section 8482.5 and
36 Section 8483.3.

37 (e) With the exception of schools previously funded under both
38 this article and Section 8484.8, a school shall not receive grants
39 in excess of the amounts provided in Sections 8483.7 and 8483.75.

1 (f) If in any fiscal year the appropriation made pursuant to
2 Section 8483.5 is insufficient to fund all eligible schools who
3 submit an eligible application for After School Education and
4 Safety Universal Grants pursuant to subdivision (c), priority for
5 After School Education and Safety Universal Grants shall be
6 established pursuant to subdivision (a) of Sections 8482.5 and
7 8483.3.

8 (g) *The award of any grants specified in this article shall be*
9 *contingent upon appropriation of funds by the Legislature for*
10 *purposes of this article in the annual Budget Act or another statute.*

11 *SEC. 3. Section 8483.5 of the Education Code is repealed.*

12 ~~8483.5.—(a) It is the intent of the Legislature that a minimum~~
13 ~~of eighty-five million dollars (\$85,000,000) be appropriated for~~
14 ~~the program established pursuant to this article, through the annual~~
15 ~~Budget Act. Of the funds appropriated for the program, current~~
16 ~~grant recipients have priority for receiving continued funding for~~
17 ~~the same purposes for which they previously received an award.~~
18 ~~This subdivision shall be in effect only until June 30, 2004.~~

19 ~~(b) Commencing with the fiscal year beginning July 1, 2004,~~
20 ~~and for each fiscal year thereafter, there shall be continuously~~
21 ~~appropriated to the State Department of Education from the General~~
22 ~~Fund for the program established pursuant to this article an amount~~
23 ~~not to exceed five hundred fifty million dollars (\$550,000,000)~~
24 ~~that is the greater of (1) an amount equal to the appropriation from~~
25 ~~the General Fund for the program established pursuant to this~~
26 ~~article for the immediately preceding fiscal year, or (2) an amount~~
27 ~~equal to the sum of (A) the appropriation from the General Fund~~
28 ~~for the program established pursuant to this article for fiscal year~~
29 ~~2003–04 and (B) the amount by which the state’s non-guaranteed~~
30 ~~General Fund appropriations for the current fiscal year exceed the~~
31 ~~sum of (i) the amount of the state’s non-guaranteed General Fund~~
32 ~~appropriations for the base year plus (ii) one billion five hundred~~
33 ~~million dollars (\$1,500,000,000). Nothing in this section prohibits~~
34 ~~the Legislature from appropriating funds for the program~~
35 ~~established pursuant to this article in excess of this continuous~~
36 ~~appropriation.~~

37 ~~(c) For purposes of this section, the term “state’s non-guaranteed~~
38 ~~General Fund appropriations” shall mean those General Fund~~
39 ~~appropriations of the state in a fiscal year other than those~~
40 ~~appropriations guaranteed to be applied by the state for the support~~

1 of school districts and community college districts pursuant to
2 Sections 8 and 8.5 of Article XVI of the California Constitution.
3 For purposes of this section, the “base year” is the fiscal year
4 during the period July 1, 2000 through June 30, 2004 for which
5 the state’s non-guaranteed General Fund appropriations are the
6 highest as compared to any other fiscal year during such period.

7 (d) Notwithstanding subdivision (b), in any fiscal year in which
8 the Legislature has legal authority pursuant to paragraph (3) of
9 subdivision (b) of Section 8 of Article XVI of the California
10 Constitution to reduce the moneys applied by the state for the
11 support of school districts and community college districts for the
12 current fiscal year as compared to the moneys applied by the state
13 for the support of school districts and community colleges during
14 the immediately preceding fiscal year, the continuous appropriation
15 pursuant to subdivision (b) shall be reduced for that fiscal year by
16 the same percentage by which the moneys applied by the state for
17 the support of school districts and community college districts in
18 the current fiscal year is less than the moneys applied by the state
19 for the support of school districts and community college districts
20 during the immediately preceding fiscal year.

21 (e) All funds expended pursuant to this article shall be used only
22 for the purposes expressed in this article. Except for funds
23 expended pursuant to subdivision (b) of Section 8482.55, all funds
24 expended pursuant to this article shall be used to supplement and
25 not supplant existing levels of service.

26 *SEC. 4. Section 8483.5 is added to the Education Code, to*
27 *read:*

28 *8483.5. (a) The Legislature may appropriate funds for the*
29 *program established pursuant to this article through the annual*
30 *Budget Act or another statute. Of the funds appropriated for the*
31 *program, current grant recipients have priority for receiving*
32 *funding for the same purposes for which they previously received*
33 *an award.*

34 *SEC. 5. Section 8483.51 of the Education Code is repealed.*

35 ~~8483.51. For purposes of Section 8483.5, the term~~
36 ~~“continuously appropriated” shall not be construed to mean~~
37 ~~“without regard to fiscal year.” The funds appropriated pursuant~~
38 ~~to subdivision (b) of Section 8483.5 are available for encumbrance~~
39 ~~for one year after the date upon which they first become available~~

1 ~~for encumbrance and are subject to Section 16304.1 of the~~
2 ~~Government Code.~~

3 *SEC. 6. Section 8483.6 of the Education Code is repealed.*

4 ~~8483.6. Notwithstanding subdivision (f) of Section 41202, in~~
5 ~~any fiscal year commencing with the fiscal year beginning July 1,~~
6 ~~2004, that portion of any continuous appropriation made by Section~~
7 ~~8483.5 for the program established pursuant to this article which~~
8 ~~is in excess of the amount appropriated for the program established~~
9 ~~pursuant to this article for the immediately preceding fiscal year~~
10 ~~shall not be appropriated until the Legislature has appropriated~~
11 ~~sums sufficient to fully fund the requirements of Sections 8 and~~
12 ~~8.5 of Article XVI of the California Constitution for that year and~~
13 ~~shall be appropriated in addition to the sums required by, and shall~~
14 ~~not be considered towards fulfilling the funding requirements of,~~
15 ~~Sections 8 and 8.5 of Article XVI of the California Constitution~~
16 ~~for that fiscal year.~~

17 ~~SEC. 4.~~

18 *SEC. 7. Section 14 of Proposition 49, as approved by the voters*
19 *at the November 5, 2002, general election, is repealed.*

20 ~~SEC. 5.~~

21 *SEC. 8. Sections 1 to 4, inclusive, 2, 3, 5, 6, and 7 of this act*
22 *shall become effective only if approved by the voters pursuant to*
23 *subdivision (c) of Section 10 of Article II of the California*
24 *Constitution.*

25 ~~SEC. 6.~~

26 *SEC. 9. The Secretary of State shall submit Sections 1 to 4,*
27 *inclusive, 2, 3, 5, 6, and 7 of this act to the voters at the _____,*
28 *20____, statewide _____ election in accordance with provisions*
29 *of the Government Code and the Elections Code governing the*
30 *submission of a statewide measure to the voters.*