

AMENDED IN SENATE FEBRUARY 1, 2010

AMENDED IN SENATE AUGUST 25, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 142

Introduced by Assembly Member Hayashi

(Principal coauthors: Senators Lowenthal and Hancock)

**(Coauthors: Assembly Members Block, Blumenfield, Coto, Davis,
De La Torre, Evans, Mendoza, V. Manuel Perez, Skinner, Solorio,
Swanson, and Torlakson)**

(Coauthor: Senator Price)

(Principal coauthor: Senator Maldonado)

January 22, 2009

~~An act to amend Section 101012 of, and to add Section 17077.36 to, the Education Code, relating to school facilities, and declaring the urgency thereof, to take effect immediately. An act to amend, repeal, and add Sections 8880.4, 8880.63, and 8880.64 of, and to add and repeal Section 8880.4.5 of, the Government Code, relating to the California State Lottery, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 142, as amended, Hayashi. ~~School facilities: Energy Cost Savings Stimulus Program. California State Lottery.~~

(1) The California State Lottery Act of 1984, enacted by initiative, authorizes a California State Lottery and provides for its operation and administration by the California State Lottery Commission and the Director of the California State Lottery, with certain limitations. The

act requires that not less than 84% of the total annual revenues from the sale of state lottery tickets or shares be returned to the public in the form of prizes and net revenues to benefit public education, and that no more than 16% of those revenues be used for expenses of the lottery. The act further specifies that, of that 84%, 50% of the total annual lottery revenues be returned to the public in the form of prizes, and that at least 34% of those revenues be allocated to the benefit of public education. The act establishes the State Lottery Fund, a continuously appropriated fund for carrying out the purposes of the act.

This bill would require revenues of the state lottery to be allocated so as to maximize the amount of funding allocated to public education, and would require that not less than 87% of the total annual revenues of the state lottery be returned to the public, and no more than 13% be used for lottery expenses. The bill would further specify that, of that 87%, not less than 50% of the total annual lottery revenues, in an amount to be determined by the commission, be returned to the public in the form of prizes. The bill would require the commission to establish the percentage to be allocated to the benefit of public education at a level that maximizes the total net revenues allocated to the benefit of public education. By changing these allocations, the bill would change the purposes for which the funds of a continuously appropriated fund may be appropriated, and thereby would make an appropriation. The bill would make other conforming changes.

This bill would require the lottery, following the end of each full fiscal year, to calculate and report to the Controller and to the Legislature the amount of total net revenues allocated to the benefit of public education from the California State Lottery Education Fund for that fiscal year. The bill would require the Controller, if in any one of the first 5 full fiscal years after the enactment of this measure, the Controller determines that specified events occur, to notify the Legislature and the Governor, and post that notification on its Internet Web site. The bill would then provide for the repeal of the changes made by this measure on the following January 1, and the prior law to be restored. If those events do not occur, the bill would require the commission, when setting the percentage to be allocated to the benefit of public education, to ensure that net revenues allocated to public schools are at least as much as were allocated on average in the prior 5 fiscal years, and increased in proportion to any upward increases in lottery net revenues. The bill would require the Controller, at the end of the first 5 full fiscal years following enactment of this measure, to convene a lottery review group

to report to the Legislature, no later than December 31 following the final fiscal year, on whether the amendments made by this measure have furthered the purposes of the California State Lottery Act of 1984 as intended.

(2) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on January 8, 2010.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on January 8, 2010, pursuant to the California Constitution.

(3) The California State Lottery Act of 1984, an initiative measure, specifies that none of its provisions may be changed except to further its purpose by a bill passed by a $\frac{2}{3}$ vote of each house of the Legislature and signed by the Governor.

This bill would declare that it furthers the purpose of the act and would require a $\frac{2}{3}$ vote as an amendment of that act.

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

~~The Kindergarten-University Public Education Facilities Bond Act of 2006 (bond act), approved by the voters as Proposition 1D at the November 7, 2006, statewide general election, authorizes the issuance and sale of a total of \$10,416,000,000 in general obligation bonds. The bond act requires that \$3,300,000,000 of the proceeds from the sale of those bonds be allocated for purposes of the modernization of school facilities pursuant to specified statutory provisions. The bond act authorizes the Legislature to adjust the funding allocations specified by the act only by a statute that is consistent with and furthers the purposes of the act and is approved by at least $\frac{2}{3}$ of the Members of the Senate and the Assembly, or by a statute that becomes effective only when approved by the voters.~~

~~The Leroy F. Greene School Facilities Act of 1998 (Greene Act) requires the State Allocation Board to allocate to applicant school districts prescribed per-unhoused-pupil state funding for construction and modernization of school facilities. The Greene Act authorizes a modernization apportionment to be used for an improvement to extend the useful life of, or to enhance the physical environment of, a school, as specified.~~

~~This bill would establish the Energy Cost Savings Stimulus Program, to be administered by the board. The bill would make \$320,000,000 out of the \$3,300,000,000 in bond proceeds that the bond act allocated for purposes of modernization available to fund the program. The bill would authorize a school district to apply to the board for funding pursuant to the program if the applicant district self-certifies in the project application that it meets specified conditions. The bill would make the program inoperative 3 years after the date the bill becomes effective. The bill would require that the portion of the \$320,000,000 that remains unencumbered when the program becomes inoperative be used for purposes of the modernization of school facilities.~~

~~The bill would state findings and declarations of the Legislature that the bill is consistent with, and furthers the purposes of, the bond act.~~

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

Vote: $\frac{2}{3}$. Appropriation: ~~no~~-yes. Fiscal committee: yes.
 State-mandated local program: no.

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

1 SECTION 1. Section 8880.4 of the Government Code is
 2 amended to read:

3 8880.4. Revenues of the state lottery shall be allocated so as
 4 to maximize the amount of funding allocated to public education,
 5 as follows:

6 (a) Not less than ~~84~~ 87 percent of the total annual revenues from
 7 the sale of state lottery tickets or shares shall be returned to the
 8 public in the form of prizes and net revenues to benefit public
 9 education.

10 (1) ~~Fifty percent of the~~ *The commission shall determine the*
 11 *percentage of total annual revenues that shall be returned to the*
 12 *public in the form of prizes as described in this chapter, provided*
 13 *that the percentage shall not be less than 50 percent of the total*
 14 *revenues.*

15 (2) ~~At least 34 percent~~ *(A) The percentage of the total annual*
 16 *revenues shall to be allocated to the benefit of public education,*
 17 *as specified in Section 8880.5. However, shall be established by*
 18 *the commission at a level that maximizes the total net revenues*
 19 *allocated to the benefit of public education.*

1 (B) *However*, for the 1998–99 fiscal year and each fiscal year
2 thereafter, 50 percent of any increase in the amount calculated
3 pursuant to this paragraph from the amount calculated in the
4 1997–98 fiscal year shall be allocated to school districts and
5 community college districts for the purchase of instructional
6 materials, on the basis of an equal amount per unit of average daily
7 attendance, as defined by law, and through a fair and equitable
8 distribution system across grade levels.

9 (3) All unclaimed prize money shall revert to the benefit of
10 public education, as provided for in subdivision (e) of Section
11 8880.32.

12 (4) All of the interest earned upon funds held in the State Lottery
13 Fund shall be allocated to the benefit of public education, as
14 specified in Section 8880.5. This interest is in addition to, and shall
15 not be considered as any part of, ~~the 34 percent of~~ the total annual
16 revenues that *is are* required to be allocated for the benefit of public
17 education as specified in paragraph (2).

18 (5) No more than ~~16~~ 13 percent of the total annual revenues
19 shall be allocated for payment of expenses of the lottery as
20 described in this chapter. To the extent that expenses of the lottery
21 are less than ~~16~~ 13 percent of the total annual revenues, any surplus
22 funds also shall be allocated to the benefit of public education, as
23 specified in this section or in Section 8880.5.

24 (b) Funds allocated for the benefit of public education pursuant
25 to subdivision (a) are in addition to other funds appropriated or
26 required under existing constitutional reservations for educational
27 purposes. No program shall have the amount appropriated to
28 support that program reduced as a result of funds allocated pursuant
29 to subdivision (a). Funds allocated for the benefit of public
30 education pursuant to subdivision (a) shall not supplant funds
31 committed for child development programs.

32 (c) None of the following shall be considered revenues for the
33 purposes of this section:

34 (1) Revenues recorded as a result of a nonmonetary exchange.
35 “Nonmonetary exchange” means a reciprocal transfer, in
36 compliance with generally accepted accounting principles, between
37 the lottery and another entity that results in the lottery acquiring
38 assets or services and the lottery providing assets or services.

1 (2) Reimbursements received by the lottery for the cost of goods
 2 or services provided by the lottery that are less than or equal to
 3 the cost of the same goods or services provided by the lottery.

4 (d) Reimbursements received in excess of the cost of the same
 5 goods and services provided by the lottery, as specified in
 6 paragraph (2) of subdivision (c), are not a part of the ~~34 percent~~
 7 of total annual revenues required to be allocated for the benefit of
 8 public education, as specified in paragraph (2) of subdivision (a).
 9 However, this amount shall be allocated for the benefit of public
 10 education as specified in Section 8880.5.

11 (e) *This section shall remain in effect only until December 31*
 12 *of the year following notification from the Controller to the*
 13 *Legislature and the Governor that the events described in*
 14 *paragraphs (1) and (2) of subdivision (c) of Section 8880.4.5 have*
 15 *occurred, and as of that date is repealed, unless a later enacted*
 16 *statute, that is enacted before December 31 of that year, deletes*
 17 *or extends that date.*

18 SEC. 2. Section 8880.4 is added to the Government Code, to
 19 read:

20 8880.4. Revenues of the state lottery shall be allocated as
 21 follows:

22 (a) *Not less than 84 percent of the total annual revenues from*
 23 *the sale of state lottery tickets or shares shall be returned to the*
 24 *public in the form of prizes and net revenues to benefit public*
 25 *education.*

26 (1) *Fifty percent of the total annual revenues shall be returned*
 27 *to the public in the form of prizes as described in this chapter.*

28 (2) *At least 34 percent of the total annual revenues shall be*
 29 *allocated to the benefit of public education, as specified in Section*
 30 *8880.5. However, for the 1998–99 fiscal year and each fiscal year*
 31 *thereafter, 50 percent of any increase in the amount calculated*
 32 *pursuant to this paragraph from the amount calculated in the*
 33 *1997–98 fiscal year shall be allocated to school districts and*
 34 *community college districts for the purchase of instructional*
 35 *materials, on the basis of an equal amount per unit of average*
 36 *daily attendance, as defined by law, and through a fair and*
 37 *equitable distribution system across grade levels.*

38 (3) *All unclaimed prize money shall revert to the benefit of*
 39 *public education, as provided for in subdivision (e) of Section*
 40 *8880.32.*

1 (4) All of the interest earned upon funds held in the State Lottery
2 Fund shall be allocated to the benefit of public education, as
3 specified in Section 8880.5. This interest is in addition to, and
4 shall not be considered as any part of, the 34 percent of the total
5 annual revenues that is required to be allocated for the benefit of
6 public education as specified in paragraph (2).

7 (5) No more than 16 percent of the total annual revenues shall
8 be allocated for payment of expenses of the lottery as described
9 in this chapter. To the extent that expenses of the lottery are less
10 than 16 percent of the total annual revenues, any surplus funds
11 also shall be allocated to the benefit of public education, as
12 specified in this section or in Section 8880.5.

13 (b) Funds allocated for the benefit of public education pursuant
14 to subdivision (a) are in addition to other funds appropriated or
15 required under existing constitutional reservations for educational
16 purposes. No program shall have the amount appropriated to
17 support that program reduced as a result of funds allocated
18 pursuant to subdivision (a). Funds allocated for the benefit of
19 public education pursuant to subdivision (a) shall not supplant
20 funds committed for child development programs.

21 (c) None of the following shall be considered revenues for the
22 purposes of this section:

23 (1) Revenues recorded as a result of a nonmonetary exchange.
24 “Nonmonetary exchange” means a reciprocal transfer, in
25 compliance with generally accepted accounting principles, between
26 the lottery and another entity that results in the lottery acquiring
27 assets or services and the lottery providing assets or services.

28 (2) Reimbursements received by the lottery for the cost of goods
29 or services provided by the lottery that are less than or equal to
30 the cost of the same goods or services provided by the lottery.

31 (d) Reimbursements received in excess of the cost of the same
32 goods and services provided by the lottery, as specified in
33 paragraph (2) of subdivision (c), are not a part of the 34 percent
34 of total annual revenues required to be allocated for the benefit
35 of public education, as specified in paragraph (2) of subdivision
36 (a). However, this amount shall be allocated for the benefit of
37 public education as specified in Section 8880.5.

38 (e) This section shall become operative on January 1 of the year
39 following notification from the Controller to the Legislature and

1 *the Governor that the events described in paragraphs (1) and (2)*
2 *of subdivision (c) of Section 8880.4.5 have occurred.*

3 *SEC. 3. Section 8880.4.5 is added to the Government Code, to*
4 *read:*

5 *8880.4.5. (a) Following the end of each full fiscal year, the*
6 *lottery shall calculate and report to the Controller and to the*
7 *Legislature the amount of total net revenues allocated to the benefit*
8 *of public education from the California State Lottery Education*
9 *Fund for that fiscal year.*

10 *(b) To ensure increases in lottery net revenues allocated to*
11 *public education, if in any one of the first five full fiscal years after*
12 *the enactment of the act adding this section, the Controller*
13 *determines that both of the events described in paragraphs (1) and*
14 *(2) of subdivision (c) occur, then the Controller shall notify the*
15 *Legislature and the Governor, and post that notification on its*
16 *Internet Web site, and on January 1 of the following year, both of*
17 *the following shall occur:*

18 *(1) The amendments of Sections 8880.4, 8880.63, and 8880.64*
19 *made by the act adding this section shall become inoperative.*

20 *(2) Sections 8880.4, 8880.63, and 8880.64, as they existed prior*
21 *to the effective date of the act adding this section shall become*
22 *operative.*

23 *(c) No later than September 1 following each of the first five*
24 *fiscal years in which the amendments made by the act adding this*
25 *section are in effect, the Controller shall report to the Legislature*
26 *whether either of the following occurred in the prior fiscal year:*

27 *(1) The total net revenues allocated to the benefit of public*
28 *education by the California State Lottery Education Fund are less*
29 *than the total net revenues allocated to the benefit of public*
30 *education in the last full fiscal year prior to the enactment of the*
31 *act adding this section.*

32 *(2) The annual average of total net revenues allocated to the*
33 *benefit of public education from the California State Lottery*
34 *Education Fund after the enactment of the act adding this section*
35 *is less than the total net revenues allocated to the benefit of public*
36 *education in the last full fiscal year prior to the enactment of the*
37 *act adding this section, adjusted for an annual growth rate of 1.8*
38 *percent or the actual growth rate of lottery revenues since*
39 *enactment of the act adding this section, whichever is greater.*

1 (d) If the conditions specified in subdivision (c) do not occur,
2 then in subsequent fiscal years, to ensure continued growth in
3 lottery net revenues allocated to public education, the commission,
4 when setting the percentage required in subparagraph (A) of
5 paragraph (2) of subdivision (a) of Section 8880.4, shall ensure
6 that net revenues allocated to public schools are at least as much
7 as were allocated on average in the prior five fiscal years, and
8 increased in proportion to any upward increases in lottery net
9 revenues.

10 (e) At the end of the first five full fiscal years following
11 enactment of the act adding this section, the Controller shall
12 convene a lottery review group to consist of the Controller, the
13 Superintendent of Public Instruction, and the chairperson of the
14 commission. The review group shall report to the Legislature, no
15 later than December 31 following the final fiscal year, on whether
16 the amendments made by the act adding this section have furthered
17 the purposes of the California State Lottery Act of 1984 as
18 intended.

19 (f) This section shall remain in effect only until December 31
20 of the year following notification from the Controller to the
21 Legislature and the Governor that the events described in
22 paragraphs (1) and (2) of subdivision (c) have occurred, and as
23 of that date is repealed, unless a later enacted statute, that is
24 enacted before December 31 of that year, deletes or extends that
25 date.

26 SEC. 4. Section 8880.63 of the Government Code is amended
27 to read:

28 8880.63. (a) As nearly as practical, at least 50 percent of the
29 total projected revenue, computed on a fiscal-year basis, accruing
30 from the sales of all lottery tickets or shares shall be apportioned
31 for payment of prizes.

32 (b) This section shall remain in effect only until December 31
33 of the year following notification from the Controller to the
34 Legislature and the Governor that the events described in
35 paragraphs (1) and (2) of subdivision (c) of Section 8880.4.5 have
36 occurred, and as of that date is repealed, unless a later enacted
37 statute, that is enacted before December 31 of that year, deletes
38 or extends that date.

39 SEC. 5. Section 8880.63 is added to the Government Code, to
40 read:

1 8880.63. (a) *As nearly as practical, 50 percent of the total*
2 *projected revenue, computed on a fiscal-year basis, accruing from*
3 *the sales of all lottery tickets or shares shall be apportioned for*
4 *payment of prizes.*

5 (b) *This section shall become operative on January 1 of the year*
6 *following notification from the Controller to the Legislature and*
7 *the Governor that the events described in paragraphs (1) and (2)*
8 *of subdivision (c) of Section 8880.4.5 have occurred.*

9 SEC. 6. *Section 8880.64 of the Government Code is amended*
10 *to read:*

11 8880.64. (a) Expenses of the lottery shall include all costs
12 incurred in the operation and administration of the lottery and all
13 costs resulting from any contracts entered into for the purchase or
14 lease of goods and services required by the lottery, including, but
15 not limited to, the costs of supplies, materials, tickets, independent
16 audit services, independent studies, data transmission, advertising,
17 promotion, incentives, public relations, communications,
18 compensation paid to the lottery game retailers, bonding for lottery
19 game retailers, printing, distribution of tickets or shares,
20 reimbursement of costs of services provided to the lottery by other
21 governmental entities, and for the costs for any other goods and
22 services necessary for effectuating the purposes of this chapter.
23 As a promotional expense, the commission may supplement the
24 prize pool of a game or games upon its determination that a
25 supplement will benefit the public purpose of this chapter.

26 (b) (1) ~~Not more than 16~~ 13 percent of the total annual revenues
27 accruing from the sale of all lottery tickets and shares from all
28 lottery games shall be expended for the payment of the expenses
29 of the lottery.

30 (2) Expenses recorded as a result of a nonmonetary exchange
31 shall not be considered an expense for the purposes of Section
32 8880.4 and this section. “Nonmonetary exchange” means a
33 reciprocal transfer, in compliance with generally accepted
34 accounting principles, between the lottery and another entity that
35 results in the lottery acquiring assets or services and the lottery
36 providing assets or services.

37 (c) *This section shall remain in effect only until December 31*
38 *of the year following notification from the Controller to the*
39 *Legislature and the Governor that the events described in*
40 *paragraphs (1) and (2) of subdivision (c) of Section 8880.4.5 have*

1 occurred, and as of that date is repealed, unless a later enacted
2 statute, that is enacted before December 31 of that year, deletes
3 or extends that date.

4 SEC. 7. Section 8880.64 is added to the Government Code, to
5 read:

6 8880.64. (a) Expenses of the lottery shall include all costs
7 incurred in the operation and administration of the lottery and all
8 costs resulting from any contracts entered into for the purchase
9 or lease of goods and services required by the lottery, including,
10 but not limited to, the costs of supplies, materials, tickets,
11 independent audit services, independent studies, data transmission,
12 advertising, promotion, incentives, public relations,
13 communications, compensation paid to the lottery game retailers,
14 bonding for lottery game retailers, printing, distribution of tickets
15 or shares, reimbursement of costs of services provided to the lottery
16 by other governmental entities, and for the costs for any other
17 goods and services necessary for effectuating the purposes of this
18 chapter. As a promotional expense, the commission may
19 supplement the prize pool of a game or games upon its
20 determination that a supplement will benefit the public purpose
21 of this chapter.

22 (b) (1) Not more than 16 percent of the total annual revenues
23 accruing from the sale of all lottery tickets and shares from all
24 lottery games shall be expended for the payment of the expenses
25 of the lottery.

26 (2) Expenses recorded as a result of a nonmonetary exchange
27 shall not be considered an expense for the purposes of Section
28 8880.4 and this section. "Nonmonetary exchange" means a
29 reciprocal transfer, in compliance with generally accepted
30 accounting principles, between the lottery and another entity that
31 results in the lottery acquiring assets or services and the lottery
32 providing assets or services.

33 (c) This section shall become operative on January 1 of the year
34 following notification from the Controller to the Legislature and
35 the Governor that the events described in paragraphs (1) and (2)
36 of subdivision (c) of Section 8880.4.5 have occurred.

37 SEC. 8. This act addresses the fiscal emergency declared by
38 the Governor by proclamation on January 8, 2010, pursuant to
39 subdivision (f) of Section 10 of Article IV of the California
40 Constitution.

1 *SEC. 9. The Legislature finds and declares that this act furthers*
 2 *the purpose of the California State Lottery Act of 1984, enacted*
 3 *by Proposition 37 at the November 6, 1984, statewide general*
 4 *election, which is to maximize lottery revenues available to*
 5 *supplement funding for public education. In the past 10 years,*
 6 *lottery revenues have grown at a much lower rate than has state*
 7 *spending on education. The experience of other states demonstrates*
 8 *that increasing the share of sales revenues allocated to prizes*
 9 *increases lottery ticket sales sufficient to increase the total net*
 10 *revenues available to the lottery’s beneficiary, which in California*
 11 *is public education. Thus, the purpose of this act is to increase*
 12 *lottery net revenues available to supplement funding for public*
 13 *education, and to maximize the amount of the increase in total net*
 14 *revenues generated by the lottery that are made available to public*
 15 *education.*

16 *SEC. 10. This act is an urgency statute necessary for the*
 17 *immediate preservation of the public peace, health, or safety within*
 18 *the meaning of Article IV of the Constitution and shall go into*
 19 *immediate effect. The facts constituting the necessity are:*

20 *Because the state is currently in a fiscal crisis, and this act will*
 21 *generate much needed revenue, it is necessary that this act take*
 22 *effect immediately.*

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<p>All matter omitted in this version of the bill appears in the bill as amended in the Senate, August 25, 2009. (JR11)</p>
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