

AMENDED IN ASSEMBLY MAY 5, 2009

AMENDED IN ASSEMBLY APRIL 22, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1349**

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**Introduced by Assembly Member Torlakson**

February 27, 2009

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An act to amend Sections 8483.5, ~~8483.51, and 8483.7~~ and *8483.51* of the Education Code, relating to before and after school programs.

LEGISLATIVE COUNSEL'S DIGEST

AB 1349, as amended, Torlakson. After School Education and Safety Program Act of 2002.

(1) The After School Education and Safety Program Act of 2002, enacted by the initiative measure Proposition 49, establishes the After School Education and Safety Program to serve pupils in kindergarten and grades 1 to 9, inclusive, at participating public elementary, middle, junior high, and charter schools. The act continuously appropriates each fiscal year ~~an amount~~ up to \$550,000,000 from the General Fund to the State Department of Education for purposes of the After School Education and Safety Program, except in fiscal years when the state's minimum funding obligation for schools is determined pursuant to a specified provision, in which case the appropriation for the program is reduced by a specified percentage.

This bill would allow the reduction in a fiscal year in which the moneys applied by the state for the support of school districts and community college districts is reduced, revise the formula by which the percentage reduction is determined, and specify that the state would not incur a maintenance factor when the appropriation is reduced.

(2) Existing law makes the continuous appropriation for purposes of the After School Education and Safety Program available for encumbrance for one year after the date upon which they first become available for encumbrance and subject to reversion to the General Fund.

This bill instead would make the appropriation available for encumbrance for 2 years.

~~(3) Existing law makes a school that establishes a program pursuant to the After School Education and Safety Program eligible to receive a 3-year direct grant that is awarded in 3 one-year increments. The amount of these grants is determined, in part, on a per-pupil basis.~~

~~This bill would provide that the maximum total direct grant amount and per-pupil rates may be adjusted for cost of living in the annual Budget Act.~~

~~(4)~~

(3) The California Constitution authorizes the Legislature to amend an initiative statute by another statute that becomes effective only when approved by the voters unless the initiative statute permits amendment or repeal without the approval of the voters. The initiative measure that enacted the After School Education and Safety Program Act of 2002 authorizes the Legislature to amend, by statute passed in each house by a majority vote of the membership concurring and signed by the Governor, certain of its provisions to further the purpose of the initiative statute.

The bill would provide for one of its provisions to be submitted to the voters for approval and would state a legislative finding and declaration that the other provisions further the purpose of the initiative measure.

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 8483.5 of the Education Code is amended
- 2 to read:
- 3 8483.5. (a) There shall be continuously appropriated each
- 4 fiscal year to the department from the General Fund for the program
- 5 established pursuant to this article an amount not to exceed five
- 6 hundred fifty million dollars (\$550,000,000) that is the greater of
- 7 (1) an amount equal to the appropriation from the General Fund
- 8 for the program established pursuant to this article for the

1 immediately preceding fiscal year, or (2) an amount equal to the  
2 sum of (A) the appropriation from the General Fund for the  
3 program established pursuant to this article for fiscal year 2003–04  
4 and (B) the amount by which the state’s non-guaranteed General  
5 Fund appropriations for the current fiscal year exceed the sum of  
6 (i) the amount of the state’s non-guaranteed General Fund  
7 appropriations for the base year plus (ii) one billion five hundred  
8 million dollars (\$1,500,000,000). This section does not prohibit  
9 the Legislature from appropriating funds in excess of this  
10 continuous appropriation for the program established pursuant to  
11 this article.

12 (b) For purposes of this section, the term “state’s non-guaranteed  
13 General Fund appropriations” shall mean those General Fund  
14 appropriations of the state in a fiscal year other than those  
15 appropriations guaranteed to be applied by the state for the support  
16 of school districts and community college districts pursuant to  
17 Sections 8 and 8.5 of Article XVI of the California Constitution.  
18 For purposes of this section, the “base year” is the fiscal year  
19 during the period July 1, 2000 through June 30, 2004 for which  
20 the state’s non-guaranteed General Fund appropriations are the  
21 highest as compared to any other fiscal year during such period.

22 (c) (1) Notwithstanding subdivision (a), in a fiscal year in which  
23 the Legislature has legal authority pursuant to Section 8 of Article  
24 XVI of the California Constitution to reduce the moneys applied  
25 by the state for the support of school districts and community  
26 college districts for the current fiscal year, the continuous  
27 appropriation pursuant to subdivision (a) may be reduced for that  
28 fiscal year by the same percentage by which the moneys applied  
29 by the state for the support of school districts and community  
30 college districts in the current fiscal year is less than the moneys  
31 that would be applied by the state for the support of school districts  
32 and community college districts under paragraph (2) of subdivision  
33 (b) of Section 8 of Article XVI of the California Constitution.

34 (2) If this subdivision becomes applicable, the state shall not  
35 incur an obligation to provide a maintenance factor for purposes  
36 of this section.

37 (d) All funds expended pursuant to this article shall be used  
38 only for the purposes expressed in this article. Except for funds  
39 expended pursuant to subdivision (a) of Section 8482.55, all funds

1 expended pursuant to this article shall be used to supplement and  
2 not supplant existing levels of service.

3 SEC. 2. Section 8483.51 of the Education Code is amended to  
4 read:

5 8483.51. For purposes of Section 8483.5, the term  
6 “continuously appropriated” shall not be construed to mean  
7 “without regard to fiscal year.” The funds appropriated pursuant  
8 to subdivision (a) of Section 8483.5 are available for encumbrance  
9 for two years after the date upon which they first become available  
10 for encumbrance and are subject to Section 16304.1 of the  
11 Government Code.

12 ~~SEC. 3. Section 8483.7 of the Education Code is amended to~~  
13 ~~read:~~

14 ~~8483.7. (a) (1) (A) Each school that establishes a program~~  
15 ~~pursuant to this article is eligible to receive a three-year direct~~  
16 ~~grant, that shall be awarded in three one-year increments and is~~  
17 ~~subject to the semiannual attendance reporting and requirements~~  
18 ~~described in Section 8482.3 once every three years.~~

19 ~~(i) The department shall provide technical support for the~~  
20 ~~development of a program improvement plan for grantees under~~  
21 ~~the following conditions:~~

22 ~~(I) If actual pupil attendance falls below 75 percent of the target~~  
23 ~~attendance level in any year of the grant.~~

24 ~~(II) If the grantee fails, in any year of the grant, to demonstrate~~  
25 ~~measurable outcomes pursuant to Section 8484.~~

26 ~~(ii) The department shall adjust the grant level of a school within~~  
27 ~~the program that is under its targeted attendance level by more~~  
28 ~~than 15 percent in each of two consecutive years.~~

29 ~~(iii) In any year after the initial grant year, if the actual~~  
30 ~~attendance level of a school within the program falls below 75~~  
31 ~~percent of the target attendance level, the department shall perform~~  
32 ~~a review of the program and adjust the grant level as the department~~  
33 ~~deems appropriate.~~

34 ~~(iv) The department shall create a process to allow a grantee~~  
35 ~~voluntarily to lower its annual grant amount if one or more sites~~  
36 ~~are unable to meet the proposed pupil attendance levels by the end~~  
37 ~~of the second year of the grant.~~

38 ~~(v) A grantee who has had its grant amount reduced may~~  
39 ~~subsequently request an increase in funding up to the maximum~~  
40 ~~grant amounts provided under this subdivision.~~

1 ~~(vi) The department may terminate the grant of a site or program~~  
2 ~~that does not comply with fiscal reporting, attendance reporting,~~  
3 ~~or outcomes reporting requirements established by the department~~  
4 ~~and pursuant to Section 8484. The department may withhold the~~  
5 ~~grant allocation for a program or site if the prior grant year's fiscal~~  
6 ~~or attendance reporting remain outstanding, until the reports have~~  
7 ~~been filed with the department.~~

8 ~~(vii) Notwithstanding any other provision of this subdivision~~  
9 ~~or any other provision of law, after the technical assistance required~~  
10 ~~under clause (i) has been provided, the department may at any time~~  
11 ~~terminate the grant of any school in a program that fails for three~~  
12 ~~consecutive years to meet either of the following requirements:~~

13 ~~(I) Demonstrate measurable program outcomes pursuant to~~  
14 ~~Section 8484.~~

15 ~~(II) Attain 75 percent of its proposed attendance level after~~  
16 ~~having had its program reviewed and grant level adjusted by the~~  
17 ~~department.~~

18 ~~(B) Direct grants may be awarded to applicants that have~~  
19 ~~demonstrated readiness to begin operation of a program or to~~  
20 ~~expand existing programs.~~

21 ~~(C) The maximum total direct grant amount awarded annually~~  
22 ~~pursuant to this paragraph shall be one hundred twelve thousand~~  
23 ~~five hundred dollars (\$112,500) for each regular school year for~~  
24 ~~each elementary school and one hundred fifty thousand dollars~~  
25 ~~(\$150,000) for each regular school year for each middle or junior~~  
26 ~~high school. The superintendent shall determine the total annual~~  
27 ~~direct grant amount for which a site is eligible based on a formula~~  
28 ~~of seven dollars and fifty cents (\$7.50) per pupil per day of pupil~~  
29 ~~attendance that the program plans to serve, with a maximum total~~  
30 ~~grant of thirty-seven dollars and fifty cents (\$37.50) per projected~~  
31 ~~pupil per week, and a formula of seven dollars and fifty cents~~  
32 ~~(\$7.50) per projected pupil per day of staff development, with a~~  
33 ~~maximum of three staff development days per year. A program~~  
34 ~~may provide the three days of staff development during regular~~  
35 ~~program hours using funds from the total grant award.~~

36 ~~(2) For large schools, the maximum total grant amounts~~  
37 ~~described in paragraph (1) may be increased based on the following~~  
38 ~~formulas, up to a maximum amount of twice the respective limits~~  
39 ~~specified in paragraph (1):~~

1     ~~(A) For elementary schools, multiply one hundred thirteen~~  
2     ~~dollars (\$113) by the number of pupils enrolled at the schoolsite~~  
3     ~~for the normal schoolday program that exceeds 600.~~

4     ~~(B) For middle schools, multiply one hundred thirteen dollars~~  
5     ~~(\$113) by the number of pupils enrolled at the schoolsite for the~~  
6     ~~normal schoolday program that exceeds 900.~~

7     ~~(3) The maximum total grant amounts set forth in subparagraph~~  
8     ~~(C) of paragraph (1) may be increased from any funds made~~  
9     ~~available for this purpose in the annual Budget Act for participating~~  
10    ~~schools that have pupils on waiting lists for the program. Grants~~  
11    ~~may be increased by the lesser of an amount that is either 25~~  
12    ~~percent of the current maximum total grant amount or equal to the~~  
13    ~~proportion of pupils unserved by the program as measured by~~  
14    ~~documented waiting lists as of January 1 of the previous grant~~  
15    ~~year, compared to the actual after school enrollment on the same~~  
16    ~~date. The amount of the required cash or in-kind matching funds~~  
17    ~~shall be increased accordingly. First priority for an increased~~  
18    ~~maximum grant pursuant to this paragraph shall be given to schools~~  
19    ~~that qualify for funding pursuant to subdivision (b) of Section~~  
20    ~~8482.55. Second priority shall be given to schools that receive~~  
21    ~~funding priority pursuant to subdivision (f) of Section 8482.55.~~

22    ~~(4) A school that establishes a program pursuant to this section~~  
23    ~~is eligible to receive a supplemental grant to operate the program~~  
24    ~~in excess of 180 regular schooldays or during any combination of~~  
25    ~~summer, intersession, or vacation periods for a maximum of the~~  
26    ~~lesser of the following amounts:~~

27    ~~(A) Seven dollars and fifty cents (\$7.50) per day per pupil.~~

28    ~~(B) Thirty percent of the total grant amount awarded to the~~  
29    ~~school per school year pursuant to subparagraph (C) of paragraph~~  
30    ~~(4).~~

31    ~~(5) Each program shall provide an amount of cash or in-kind~~  
32    ~~local funds equal to not less than one-third of the total grant from~~  
33    ~~the school district, governmental agencies, community~~  
34    ~~organizations, or the private sector. Facilities or space usage may~~  
35    ~~fulfill not more than 25 percent of the required local contribution.~~

36    ~~(6) (A) A grantee may allocate, with departmental approval,~~  
37    ~~up to 125 percent of the maximum total grant amount for an~~  
38    ~~individual school, so long as the maximum total grant amount for~~  
39    ~~all school programs administered by the program grantee is not~~  
40    ~~exceeded.~~

1 ~~(7) The maximum total direct grant amount and per-pupil rates~~  
2 ~~specified in this subdivision may be adjusted for cost of living in~~  
3 ~~the annual Budget Act.~~

4 ~~(B) A program grantee that transfers funds for purposes of~~  
5 ~~administering a program pursuant to subparagraph (A) shall have~~  
6 ~~an established waiting list for enrollment and may transfer only~~  
7 ~~from another school program that has met a minimum of 70 percent~~  
8 ~~of its attendance goal.~~

9 ~~(b) The administrator of a program established pursuant to this~~  
10 ~~article may supplement, but not supplant, existing funding for after~~  
11 ~~school programs with grant funds awarded pursuant to this article.~~  
12 ~~State categorical funds for remedial education activities shall not~~  
13 ~~be used to make the required contribution of local funds for those~~  
14 ~~after school programs.~~

15 ~~(c) Up to 15 percent of the initial year's grant amount for each~~  
16 ~~grant recipient may be utilized for startup costs. Under no~~  
17 ~~circumstance shall funding for startup costs result in an increase~~  
18 ~~in the grant recipient's total funding above the approved grant~~  
19 ~~amount.~~

20 ~~(d) For each year of the grant, the department shall award the~~  
21 ~~total grant amount for that year not later than 30 days after the date~~  
22 ~~the grantee accepts the grant.~~

23 ~~(e) The department may adjust the amount of a direct grant,~~  
24 ~~awarded to a new applicant pursuant to this section, on the basis~~  
25 ~~of the program start date, as determined by the department.~~

26 ~~SEC. 4.~~

27 ~~SEC. 3.~~ The Legislature finds and declares that ~~Sections 2 and~~  
28 ~~3 of this act further~~ *Section 2 of this act furthers* the purposes of  
29 the After School Education and Safety Program Act of 2002.

30 ~~SEC. 5.~~

31 ~~SEC. 4.~~ Section 1 of this act shall become effective only if  
32 approved by the voters pursuant to subdivision (c) of Section 10  
33 of Article II of the California Constitution.

34 ~~SEC. 6.~~

35 ~~SEC. 5.~~ The Secretary of State shall submit Section 1 of this  
36 act to the voters at the June 8, 2010, direct primary election in  
37 accordance with provisions of the Government Code and the

- 1 Elections Code governing the submission of a statewide measure
- 2 to the voters.

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