AMENDED IN ASSEMBLY AUGUST 16, 2010

AMENDED IN ASSEMBLY JUNE 23, 2010

AMENDED IN ASSEMBLY JUNE 10, 2010

AMENDED IN SENATE MAY 28, 2009

AMENDED IN SENATE APRIL 29, 2009

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL No. 331

Introduced by ~~Senator Romero~~ *Senators Romero and Florez*
(Principal coauthors: Assembly Members Arambula and Coto)
(Coauthors: Senators Alquist, Cedillo, Ducheny, Hancock, and Liu)
(Coauthors: Assembly Members Arambula and Solorio)

February 25, 2009

An act to amend Sections 54440, 54441.5, 54442, 54443.1, 54444.1, and 54444.2 of the Education Code, relating to migrant education.

LEGISLATIVE COUNSEL'S DIGEST

SB 331, as amended, Romero. Migrant education.

(1) Existing law requires the State Board of Education to adopt a state master plan for services to migrant children, as defined, that includes the provision of specified services and ~~activities.~~

~~This bill, commencing with the next revision, amendment, or adoption of the plan after July 1, 2001, would require the Superintendent of Public Instruction, in collaboration with parents of migratory children, to develop and revise the plan to include the collection of individual and aggregate data for migrant pupils, as specified.~~

~~(2) Under~~ *activities. Under* existing law, a child may be deemed a "migrant child" for a period not to exceed 5 years during which the child resides in an area where programs are provided for migrant children. Existing law requires priority to be given to programs and activities for migrant children and prohibits migrant programs from being provided solely for children who have ceased to migrate.

This bill would reduce the number of years a child may be deemed a migrant child from 5 years to 3 years. The bill would delete the provisions above regarding priority and the prohibition against programs solely for children who have ceased to migrate, and would instead specify that priority for services shall be consistent with federal law.

~~(3)~~

(2) Existing law requires the Superintendent of Public Instruction to establish the service regional system as the primary method for the delivery of services to migrant children and requires that regions be contiguous, with no less than 1,500, and no more than 8,000, migratory children.

The bill would delete the cap on the number of migratory children that may be served in a region.

~~(4) Existing law requires each operating agency that receives migrant education funds or services to establish a parent advisory council to actively solicit parent involvement in the planning, operation, and evaluation of its programs.~~

~~This bill would require interpretation to be provided at each state and regional migrant parent advisory council meeting by a person trained in interpreting and who is fully fluent in English and in the language understandable to the parents.~~

~~(5)~~

(3) Existing law requires the Superintendent of Public Instruction to sponsor an annual ~~state parent advisory council conference~~ *State Parent Advisory Council Conference,* and requires the council to prepare and submit a report to the Legislature, the State Board of Education, and the Governor regarding the status of the migrant education program. *Existing law also requires the Superintendent and each operating agency to establish and implement training programs for members of the statewide and operating agency parent advisory councils to enable them to carry out their responsibilities.*

The bill would require the report to include an evaluation of the program, a review of annual needs, a year-end assessment, policy recommendations, and the data collected regarding the program. The

bill would require the ~~Superintendent to provide training and technical assistance to the council on the preparation of the report~~ *council to submit the report within 120 days from the conclusion of a training program on preparing the report provided by the Superintendent.*

~~(6)~~

(4) The bill also would make ~~technical,~~ *clarifying and* nonsubstantive changes.

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

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

SECTION 1. Section 54440 of the Education Code is amended to read:

54440. The Legislature finds and declares all of the following:

(a) A significant number of children under ~~the age of 18~~ *18 years of age* whose parents are migratory agricultural workers or migratory fishermen reside in California for at least a part of each year. These children, from among the least affluent segments of American society, tend to move frequently, attend school irregularly, and suffer health problems and language barriers. This results in many becoming early school dropouts, poorly prepared to enter the workforce or for academic success and upward social mobility.

(b) The problems of children of migratory agricultural parents and of migratory fisherman parents are of such magnitude and severity that local school districts have been unable to solve them with the resources normally available. It is, therefore, necessary for the state to aid local school districts through regional coordinating offices and the provision of special programs of educational and related services for these children.

SEC. 2. Section 54441.5 of the Education Code is amended to read:

54441.5. With the concurrence of the child's parent, a child who has been identified as a "migrant child" may be deemed a migrant child for a period, not in excess of three years, during which the child resides in an area where programs are provided for migrant children. Priority for the provision of services shall be consistent with federal statutes and regulations governing migrant education programs.

SEC. 3. Section 54442 of the Education Code is amended to read:

54442. The state board shall adopt a state master plan for services to migrant children. ~~Commencing with the next revision, amendment, or adoption after July 1, 2011, the Superintendent, in collaboration with parents of migratory children, shall develop and revise, as necessary, the state master plan.~~ The plan shall include all of the following:

(a) Instructional activities on a regular and extended year basis. These activities shall be designed to identify, assess, and provide treatment for academic deficiencies of migrant children. Special emphasis shall be given to oral and written communications, reading, and mathematics. Small group or individual instruction and tutorial services shall be provided to assist migrant children to attain normal progress rates in all subject areas. All instructional services shall be provided as supplements to regular programs of instruction provided by the public schools for all children.

(b) Health and welfare services. These services shall be designed to identify, assess, and provide treatment for conditions that interfere with the education and learning of migrant children, including dental, emotional, or environmental conditions. To the extent possible, existing community resources will be utilized to provide these services.

(c) Preservice and in-service education of professional and nonprofessional personnel. This education shall be planned to prepare school administrators, teachers, aides, and other personnel to meet the special needs of migrant children.

(d) Supportive services including transportation, family liaison, and other services necessary to the success of the programs.

(e) Child development activities including, but not limited to, social, sensorimotor, conceptual and language development, and perceptual discrimination activities for migrant infants and prekindergarten children *who are* too young to participate in instructional services normally provided by the public schools.

(f) The active involvement of parents, teachers, and community representatives in the local implementation of migrant education programs.

~~(g) Collection through the California Longitudinal Pupil Achievement Data System and the Migrant Student Database of~~

~~the following individual and aggregate data regarding migrant children:~~

~~(1) Eligible migrant children.~~

~~(2) Preschool participation in migrant education funded programs.~~

~~(3) Enrollment in kindergarten and grades 1 to 12, inclusive.~~

~~(4) Achievement based on the California Standards Tests, the English language development test, and the high school exit examination adopted pursuant to Section 60850.~~

~~(5) Enrollment in and completion of courses that satisfy the subject requirements for admission to the California State University and the University of California.~~

~~(6) Suspensions and expulsions.~~

~~(7) Dropout rates.~~

~~(8) Graduation and completion of the high school exit examination.~~

~~(9) Retention in grade level.~~

~~(10) Designation and redesignation of English learners.~~

~~(11) Completion of career technical education courses.~~

~~(12) Distribution of teachers based on highly qualified status and years of experience in education.~~

~~(h) Individual and aggregate enrollment data also shall include separate data concerning the number of migrant pupils enrolled in alternative education programs including, but not limited to, juvenile court schools, county community schools, community day schools, continuation high schools, and independent studies.~~

SEC. 4. Section 54443.1 of the Education Code is amended to read:

54443.1. Migrant education programs shall include all of the following:

(a) An individual assessment of the educational and relevant health needs of each participating pupil within 30 days of enrollment. This assessment shall include assessments concurrently provided pursuant to compensatory education, bilingual-crosscultural education, school improvement programs, and other programs serving the pupil.

(b) A general needs assessment developed in compliance with federal requirements summarizing the needs of the population to be served.

(c) A comprehensive program to meet the educational, health, and related needs of participating pupils which is supplemental to the program the operating agency is otherwise required to provide. The program shall include, but need not be limited to, the following:

(1) Academic instruction.

(2) Remedial and compensatory instruction.

(3) Bilingual and crosscultural instruction.

(4) Career technical instruction.

(5) Counseling and career education services.

(6) Preschool services in accordance with Section 54443.

(7) Other educational services that are not available in sufficient quantity or quality to eligible migratory children.

(8) The acquisition of instructional materials and equipment necessary to adequately provide the appropriate services.

(9) Other related services to meet the special needs of eligible migratory children ~~which~~ *that* are necessary to enable these children to effectively participate in instructional services.

(10) The coordination and teaming of existing resources serving migrant pupils, such as bilingual-crosscultural education, health screening, and compensatory education.

(d) A brief individual learning plan listing the services to be provided to each pupil shall be provided in writing or at a parent conference to the parent or guardian of each participating pupil, annually and each time the pupil moves to a new district.

(e) Staffing and staff development plans and practices to meet the needs of pupils and implement the program.

(f) Parent and community involvement as specified in Section 54444.2.

(g) Evaluations ~~which~~ *that* shall include annual pupil progress and overall program effectiveness and quality control reports.

(h) School districts and other education agencies shall be eligible to apply for funding to serve migrant pupils upon application to their respective region, or, if they meet the criteria established in subdivision (b) of Section 54444.1, to the department. Operating agencies shall include in their application a description of how the entities will coordinate the planning, budgeting, and operation of the migrant education programs with the planning, budgeting, and operation of other federal and state education programs addressing the needs of the same or similar pupils of the operating agency.

The description shall include time lines and cover services provided through school improvement, nonmigrant Title I, state compensatory and limited- and non-English proficient, Title VII, and other funds. If the application meets state and federal requirements, negotiations for an appropriate service agreement shall begin involving the parties listed in subdivision (a) or (b) of Section 54444.1.

SEC. 5. Section 54444.1 of the Education Code is amended to read:

54444.1. (a) In implementing the state master plan for services to migrant children, the Superintendent shall establish the service regional system as the primary method for the delivery of services to migrant children. The Superintendent shall review and approve plans for the establishment of service regions and shall incorporate the following criteria in the approval of regional plans:

(1) The boundaries of regions shall include all geographic areas with migrant and seasonal agricultural workers and fishermen.

(2) Regional service centers shall be located in areas with high concentrations of migrant and seasonal agricultural workers and fishermen. Regional headquarters shall be located as follows:

(A) In areas requiring large numbers of these workers for a period of at least two consecutive months during each year.

(B) In areas ~~which~~ *that* normally contract for migrant and seasonal agricultural workers with families rather than single adults.

(C) In areas where migrant and seasonal agricultural workers are involved in the transition from hand labor to mechanization.

(3) Regions shall be located in each geographic area of the state, except areas within the boundaries of directly funded districts.

(4) Except areas within the boundaries of directly funded districts, regions shall be contiguous to one another and should have no less than 1,500 migratory children. In no event shall a county be split among two separate regions in order to meet the requirements of this paragraph.

(5) Regions shall be organized so as to provide quality services to all affected parties and maintain fiscal procedures in conformity with requirements adopted by the department.

(6) The boundaries of regions shall be drawn in a manner that avoids excessive commuting by personnel or by participants in

the programs, not to exceed 100 miles from the schoolsite to the operating agency.

(7) If a proposed region cannot meet the criteria established in paragraph (4) or (6), it may request that the criteria be waived by the state board. The waiver request shall be based upon a study, conducted by the entities, including their respective parent advisory councils, comprising the proposed region, that explains why the waiver is required and that describes likely outcomes if the waiver is not granted.

(b) An agency meeting the criteria set forth in this subdivision and subdivision (f) of Section 54441 may apply to the department for designation as a region. The application shall be in a format with sufficient information and at times designated by the Superintendent. The application shall include documentation of active participation, review and comment by the appropriate parent advisory councils, and signatures by parent advisory council chairpersons that the review and comment has taken place, and shall further include documentation that the agencies and parent representative comprising the proposed region have met as a group prior to submission of the application and have agreed upon the formation of, and participation in, the region and a general delineation of the services which will be provided in the region.

Directly funded districts shall be invited by the regions to participate in regional activities and meetings. Staff and parent advisory council members in the districts shall also be invited to regional inservice activities and conferences.

(c) The department may directly fund local educational agencies, in whole or in part, to provide services to eligible migrant children if it is cost effective to do so; if the applicant agency serves not less than 1,500, nor more than 8,000, currently migratory children; has sufficient programmatic and fiscal resources to deliver an effective migrant education program; is in compliance with the federal and state requirements regarding migrant education programs; maintains an ongoing and functional parent advisory council ~~which~~ *that* has voted on a biennial basis to approve the participation in the directly funded program, including the approval of a majority of the members who are the parents of migrant children; and maintains fiscal procedures in conformity with the requirements adopted by the department. All districts ~~which~~ *that* are directly funded on January 1, 1982, may continue to be funded

directly, provided that the districts comply with the criteria prescribed by this subdivision, except for the size criterion.

(d) The responsibilities of the various parties involved in the delivery of services to migrant children shall be set forth in a service agreement. A service agreement shall be a legally binding contract signed by the duly constituted authorities at the state, county, district, or private or public nonprofit agencies, or a combination thereof. In the regional delivery system, there shall be two parties to every service agreement; the region and the district or other operating agencies in which the eligible migrant pupils are enrolled. When a district or agency is funded directly by the state, the parties to the service agreement shall include the department and the district or operating agency in which the eligible migrant pupils are enrolled. The basic responsibilities of these three parties shall be as specified in Section 54444.4.

The parties, whether regional or directly funded, shall take the necessary steps to ensure the effective involvement of the migrant parent advisory committee for that district or agency. Representatives of the migrant parent advisory committee shall have the right to be present and participate in all deliberations between the parties regarding the service agreement or any subsequent changes thereto. The service agreement shall include a signed statement from the officers of the migrant parent advisory committee signifying that the participation has occurred.

(e) The Superintendent shall develop an annual operating calendar for regions and directly funded districts, including dates for the submission and approval of applications and service agreements. Any changes in regional boundaries for the subsequent fiscal year shall be made and approved by December 31 of the current year. Any changes in funding allocations for regions shall be made by December 31 of the current year or immediately after notification of a federal grant award.

(f) The Superintendent shall preserve the supplemental nature of the migrant education program. The program shall be maintained outside the supervision or above the administrative level of the consolidated application programs. The Superintendent shall not incorporate the migrant education program into the consolidated application process, except as provided below:

(1) Directly funded districts may apply for migrant education funds as part of their consolidated application provided the district

parent advisory council on migrant education approves the inclusion.

(2) A copy of the district's annual application for migrant education funds as required by *subdivision (h) of* Section 54443.1 shall be attached to the district's annual consolidated application.

SEC. 6. Section 54444.2 of the Education Code is amended to read:

54444.2. (a) The Superintendent of Public Instruction shall take the steps necessary to ensure effective parental involvement throughout the state migrant education program, which shall include, but need not be limited to, the following:

(1) The Superintendent shall adopt rules and regulations requiring each operating agency receiving migrant education funds or services to actively solicit parental involvement in the planning, operation, and evaluation of its programs through the establishment of, and consultation with, a parent advisory council.

(A) The membership of each parent advisory council shall be comprised of members who are knowledgeable of the needs of migrant children and shall be elected by the parents of migrant children enrolled in the operating agency's programs. The composition of the council shall be determined by the parents at a general meeting to which all parents of pupils enrolled in the migrant program shall be invited. Parents shall be informed, in a language they understand, that the parents have the sole authority to decide on the composition of the council. All parent candidates for the council shall be nominated by parents; nonparent candidates shall be nominated by the groups they represent: teachers by teachers, administrators by administrators, other school personnel by other school personnel, and pupils by pupils. All other community candidates shall be nominated by the parents. Each parent advisory council shall hold meetings on a regular basis during the operation of the regular program, but not less than six times during the year.

(B) At least two-thirds of the members of each parent advisory council shall be the parents of migrant children. Each parent advisory council shall have the responsibilities listed in subdivision (a) of Section 54444.4.

(2) The Superintendent shall establish a statewide parent advisory council ~~which~~ *that* shall participate in the planning, operation, and evaluation of the state migrant education program.

The membership of the statewide parent advisory council shall be comprised of members who are knowledgeable of the needs of migrant children and shall be nominated and elected by the parents of migrant children enrolled in the operating agencies. At least two-thirds of the members of the ~~state parent advisory council~~ *State Parent Advisory Council* shall be the parents of migrant children. The state council shall meet a minimum of six times a calendar year to provide input on issues relating to the operation of the program. Special meetings may be called at the discretion of the state director.

(3) (A) The Superintendent also shall sponsor an annual ~~state parent advisory council conference~~ *State Parent Advisory Council Conference*. The conference shall be scheduled during the spring of every year.

~~(B) Within 120 days from the conclusion of the conference, the state parent advisory council~~

(B) The State Parent Advisory Council shall prepare and submit a report to the Legislature, state board, the Superintendent, and the Governor regarding the status of the migrant education program. *The report shall be submitted within 120 days from the conclusion of a training program on preparing the report provided by the Superintendent in accordance with paragraph (5).*

(C) The report shall include an evaluation of the migrant education program, as required pursuant to paragraph (2) of subdivision (a), a review of annual needs and a year-end assessment, as required pursuant to paragraph (2) of subdivision ~~(a) of Section 54444.4, policy recommendations, and the most recent data collected pursuant to subdivision (g) of Section 54442 to the extent that the data is available.~~ *(a) of Section 54444.4, and policy recommendations.*

~~(D) The Superintendent shall provide the council with training and technical assistance on the preparation of the report. Training and technical assistance shall be provided prior to, during, or after the annual parent conference but no later than 30 days after the annual parent conference.. Technical assistance or training for the purpose of drafting the report that is provided by the Superintendent shall be objective and provided free of charge. It is the sole responsibility of the state parent advisory council to determine the contents of the report.~~

(4) The Superintendent and each operating agency shall furnish, without charge, to the statewide and operating agency parent advisory councils and, upon request, to each member, a copy of all applicable state and federal migrant education statutes, rules and regulations, and guidelines. In addition, the Superintendent and each operating agency shall furnish, without charge, to the statewide and operating agency parent advisory councils and, upon request, to each member, copies of all applicable state and federal audits, monitoring reports, and evaluations.

(5) The Superintendent and each operating agency shall establish and implement training programs for members of the statewide and operating agency parent advisory councils to enable them to carry out their responsibilities. Each training program shall be developed in consultation with the parent advisory councils and shall include appropriate training materials in a language understandable to each member. Costs incurred in providing training under this paragraph, including federally authorized expenses associated with the attendance of members at training sessions, shall be funded, to the extent that funds are available, by federal funds allocated to the state, based upon the educational and related health needs of migratory children defined in subdivisions (a) and (b) of Section 54441, and may be supported by funds from the state migrant education program.

~~(6) Interpretation shall be provided at each state and regional migrant parent advisory council meeting by an individual who has received training in interpreting and who is fully fluent in English and in the language understandable to the parents.~~

(b) Each operating agency ~~which~~ *that* provides services on a statewide basis shall be exempt from the requirement that it create its own parent advisory council, but shall consult the statewide parent advisory council in the planning, operation, and evaluation of its programs.

O