

AMENDED IN ASSEMBLY APRIL 15, 2011

AMENDED IN ASSEMBLY MARCH 25, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 202

Introduced by Assembly Member Brownley

January 27, 2011

An act to amend ~~Section 17557~~ *Sections 17557, 17557.1, 17560, and 17562* of, and to add Sections 17518.83, 17562.5, and 17579.5 to, the Government Code, relating to local educational agencies.

LEGISLATIVE COUNSEL'S DIGEST

AB 202, as amended, Brownley. Local educational agencies: reimbursable state mandates.

Existing law establishes a procedure for local governmental agencies to file, with the Commission on State Mandates, claims for reimbursement of specified costs associated with state-mandated local programs, and sets forth the procedure for a determination by the commission for eligibility for reimbursement, appropriation, and payment of claims, including payment pursuant to the enactment of a local government claims bill, the establishment of interest accrued on claims, and the review of state mandates by the Legislative Analyst generally.

This bill would express the intent of the Legislature that statutes creating a reimbursable state mandate on school districts be periodically reviewed, and that the Legislature consider recommendations on whether those statutes should be amended, repealed, or remain unchanged. The bill would require that, in addition to a report submitted pursuant to existing law, the Legislative Analyst review and report on each

reimbursable state mandate relating to local educational agencies that meets prescribed criteria. The bill would specify the information to be provided in the review and report, and would require that the review and report be provided to the chairpersons of the Assembly Committee on Education, the Senate Committee on Education, and the fiscal committees of the Assembly and the Senate, on or before the January 1 following the adjournment of the regular session of the Legislature for which the review was made.

This bill would render state-mandated local programs, that apply to local educational agencies and become operative on or after January 1, 2012, inoperative with respect to a local educational agency on the date 5 years following the operative date of the state-mandated local program. The bill would require the Legislative Counsel, for each bill identified as imposing a state-mandated local program that applies to a local educational agency, to include a comment in the Legislative Counsel's digest that the state-mandated local program would become inoperative with respect to a local educational agency on the date 5 years following the operative date of the state-mandated local program, except as specified.

This bill would authorize a successful test claimant that is a local educational agency to designate another local educational agency to prepare and submit the proposed reimbursement parameters and guidelines to the commission, as specified. *The bill would modify provisions governing the development of a draft reasonable reimbursement methodology and would provide for binding arbitration in the case of an impasse, as specified. The bill would enact other related provisions.*

Existing law requires the Controller to submit various reports to the Legislature and the Department of Finance on each state mandate, including the total amount of claims paid per fiscal year and whether there are mandate deficiencies or surpluses.

This bill would also require the Controller to notify the appropriate fiscal and education policy committees of the Legislature within 30 days of the date upon which the total claims for reimbursement filed in a fiscal year, on any mandate where the test claim was filed by a local educational agency, exceed the adopted statewide estimate of costs for that mandate by more than 25%. The bill would also require the Commission on State Mandates to notify the above-referenced committees within 30 days of the date upon which a test claim is filed by a local educational agency, where that agency submits a written

narrative that identifies certain information regarding a regulation alleged to contain a mandate.

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 17518.83 is added to the Government
2 Code, to read:

3 17518.83. "Local educational agency" means a school district
4 as defined in Section 17519, except that it does not include a
5 community college district.

6 SEC. 2. Section 17557 of the Government Code is amended
7 to read:

8 17557. (a) (1) If the commission determines there are costs
9 mandated by the state pursuant to Section 17551, it shall determine
10 the amount to be subvended to local agencies and school districts
11 for reimbursement. In so doing it shall adopt parameters and
12 guidelines for reimbursement of any claims relating to the statute
13 or executive order. Except as provided in paragraph (2), the
14 successful test claimants shall submit proposed parameters and
15 guidelines within 30 days of adoption of a statement of decision
16 on a test claim. The proposed parameters and guidelines may
17 include proposed reimbursable activities that are reasonably
18 necessary for the performance of the state-mandated program. At
19 the request of a successful test claimant, the commission may
20 provide for one or more extensions of this 30-day period at any
21 time prior to its adoption of the parameters and guidelines. If
22 proposed parameters and guidelines are not submitted within the
23 30-day period and the commission has not granted an extension,
24 then the commission shall notify the test claimant that the amount
25 of reimbursement the test claimant is entitled to for the first 12
26 months of incurred costs will be reduced by 20 percent, unless the
27 test claimant can demonstrate to the commission why an extension
28 of the 30-day period is justified.

29 (2) If the successful test claimant is a local educational agency,
30 the test claimant may designate another local educational agency
31 to prepare and submit the proposed parameters and guidelines to
32 the commission. A designation made pursuant to this paragraph
33 shall be made in writing and submitted to the commission.

1 (b) In adopting parameters and guidelines, the commission may
2 adopt a reasonable reimbursement methodology.

3 (c) The parameters and guidelines adopted by the commission
4 shall specify the fiscal years for which local agencies and school
5 districts shall be reimbursed for costs incurred. However, the
6 commission may not specify in the parameters and guidelines any
7 fiscal year for which payment could be provided in the annual
8 Budget Act.

9 (d) (1) A local agency, school district, or the state may file a
10 written request with the commission to amend the parameters or
11 guidelines. The commission may, after public notice and hearing,
12 amend the parameters and guidelines. A parameters and guidelines
13 amendment submitted within 90 days of the claiming deadline for
14 initial claims, as specified in the claiming instructions pursuant to
15 Section 17561, shall apply to all years eligible for reimbursement
16 as defined in the original parameters and guidelines. A parameters
17 and guidelines amendment filed more than 90 days after the
18 claiming deadline for initial claims, as specified in the claiming
19 instructions pursuant to Section 17561, and on or before the
20 claiming deadline following a fiscal year, shall establish
21 reimbursement eligibility for that fiscal year.

22 (2) For purposes of this subdivision, the request to amend
23 parameters and guidelines may be filed to make any of the
24 following changes to parameters and guidelines, consistent with
25 the statement of decision:

26 (A) Delete any reimbursable activity that has been repealed by
27 statute or executive order after the adoption of the original or last
28 amended parameters and guidelines.

29 (B) Update offsetting revenues and offsetting savings that apply
30 to the mandated program and do not require a new legal finding
31 that there are no costs mandated by the state pursuant to subdivision
32 (e) of Section 17556.

33 (C) Include a reasonable reimbursement methodology for all or
34 some of the reimbursable activities.

35 (D) Clarify what constitutes reimbursable activities.

36 (E) Add new reimbursable activities that are reasonably
37 necessary for the performance of the state-mandated program.

38 (F) Define what activities are not reimbursable.

39 (G) Consolidate the parameters and guidelines for two or more
40 programs.

(H) Amend the boilerplate language. For purposes of this section, “boilerplate language” means the language in the parameters and guidelines that is not unique to the state-mandated program that is the subject of the parameters and guidelines.

(e) A test claim shall be submitted on or before June 30 following a fiscal year in order to establish eligibility for reimbursement for that fiscal year. The claimant may thereafter amend the test claim at any time, but before the test claim is set for a hearing, without affecting the original filing date as long as the amendment substantially relates to the original test claim.

(f) In adopting parameters and guidelines, the commission shall consult with the Department of Finance, the affected state agency, the Controller, the fiscal and policy committees of the Assembly and Senate, the Legislative Analyst, and the claimants to consider a reasonable reimbursement methodology that balances accuracy with simplicity.

SEC. 3. Section 17557.1 of the Government Code is amended to read:

17557.1. (a) Notwithstanding any other provision of this part, within 30 days of the commission’s adoption of a statement of decision on a test claim, the test claimant, *or a local educational agency designated pursuant to subdivision (a) of Section 17557*, and the Department of Finance may notify the executive director of the commission in writing of their intent to follow the process described in this section to develop a reasonable reimbursement methodology and statewide estimate of costs for the initial claiming period and budget year for reimbursement of costs mandated by the state in accordance with the statement of decision. The letter of intent shall include the date on which the test claimant and the Department of Finance will submit a plan to ensure that costs from a representative sample of eligible local agency or school district claimants are considered in the development of a reasonable reimbursement methodology.

(b) This plan shall also include all of the following information:

(1) The date on which the test claimant and Department of Finance will provide to the executive director an informational update regarding their progress in developing the reasonable reimbursement methodology.

(2) The date on which the test claimant and Department of Finance will submit to the executive director the draft reasonable

1 reimbursement methodology and proposed statewide estimate of
2 costs for the initial claiming period and budget year. This date
3 shall be no later than 180 days after the date the letter of intent is
4 sent by the test claimant and Department of Finance to the
5 executive director.

6 (c) ~~(1)~~ At the request of ~~the~~ *a test claimant that is not a local*
7 *educational agency* and Department of Finance, the executive
8 director may provide for up to four extensions of this 180-day
9 period.

10 (2) *At the request of a local educational agency test claimant,*
11 *or a local educational agency designated pursuant to subdivision*
12 *(a) of Section 17557, and the Department of Finance, the executive*
13 *director may provide for a single extension of this 180-day period,*
14 *not to exceed another 90 days.*

15 (d) ~~The~~ *A test claimant that is not a local educational agency*
16 *or Department of Finance may notify the executive director at any*
17 *time that the claimant or Department of Finance no longer intends*
18 *to develop a reasonable reimbursement methodology pursuant to*
19 *this section. In this case, paragraph (2) of subdivision (a) of Section*
20 *17553 and Section 17557 shall apply to the test claim. Upon receipt*
21 *of this notification, the executive director shall notify the test*
22 *claimant of the duty to submit proposed parameters and guidelines*
23 *within 30 days under subdivision (a) of Section 17557.*

24 (e) *A local educational agency test claimant, or a local*
25 *educational agency designated pursuant to subdivision (a) of*
26 *Section 17557, and Department of Finance may jointly notify the*
27 *executive director at any time that the local educational agency*
28 *and Department of Finance no longer intend to develop a*
29 *reasonable reimbursement methodology pursuant to this section.*
30 *In this case, paragraph (2) of subdivision (a) of Section 17553 and*
31 *Section 17557 shall apply to the test claim. Upon receipt of this*
32 *notification, the executive director shall notify the test claimant,*
33 *or its designee, of the duty to submit proposed parameters and*
34 *guidelines within 30 days under subdivision (a) of Section 17557.*

35 (f) *If the draft reasonable reimbursement methodology and*
36 *proposed statewide estimate of costs, developed pursuant to this*
37 *section, for a test claim filed by a local educational agency is not*
38 *submitted to the executive director prior to the date specified*
39 *pursuant to paragraph (2) of subdivision (b) or by the end of any*
40 *extension period provided pursuant to paragraph (2) of subdivision*

1 (c), or if the test claimant, the local educational agency designated
2 pursuant to subdivision (a) of Section 17557, and the Department
3 of Finance notify the executive director that no further progress
4 in developing the reasonable reimbursement methodology is
5 possible, then all of the following shall be implemented:

6 (1) The executive director shall do the following:

7 (A) Immediately declare that the development of the reasonable
8 reimbursement methodology is at an impasse, and that binding
9 arbitration is necessary.

10 (B) Notify the Chief Executive Officer of the Fiscal Crisis and
11 Management Assistance Team established pursuant to Section
12 42127.8 or his or her designee, the test claimant, any local
13 educational agency designated pursuant to subdivision (a) of
14 Section 17557, and the Department of Finance of the declaration
15 made pursuant to subparagraph (A).

16 (2) The Chief Executive Officer of the Fiscal Crisis and
17 Management Assistance Team or his or her designee shall do the
18 following:

19 (A) Serve as the sole arbitrator of the reasonable reimbursement
20 methodology impasse.

21 (B) Within 90 days of receiving the notification pursuant to
22 subparagraph (B) of paragraph (1), mediate or, if necessary,
23 arbitrate a draft reasonable reimbursement methodology that is
24 consistent with subdivisions (a) to (d), inclusive, of Section
25 17518.5, and provide that draft jointly to the test claimant, any
26 local educational agency designated pursuant to subdivision (a)
27 of Section 17557, and the Department of Finance.

28 (C) Be deemed to be “an interested party” for the purposes of
29 subdivision (e) of Section 17518.5.

30 (3) The local educational agency and the Department of Finance
31 shall do the following:

32 (A) Within 10 days of receiving the notification pursuant to
33 subparagraph (B) of paragraph (1), provide all available support
34 materials, including, but not limited to, estimates, local cost
35 projections, sample information, and input from associations or
36 other interested parties, to the arbitrator.

37 (B) Upon receipt of the draft reasonable reimbursement
38 methodology developed pursuant to paragraph (2), develop a
39 proposed statewide estimate of costs for the initial claiming period
40 and budget year.

1 (C) Within 30 days of receiving the draft reasonable
2 reimbursement methodology from the arbitrator pursuant to
3 subparagraph (B) of paragraph (2), jointly submit to the executive
4 director the draft reasonable reimbursement methodology and
5 proposed statewide estimate of costs for the initial claiming period
6 and budget year.

7 SEC. 4. Section 17560 of the Government Code is amended to
8 read:

9 17560. Reimbursement for state-mandated costs may be
10 claimed as follows:

11 (a) A local agency or school district may, by February 15
12 following the fiscal year in which costs are incurred, file an annual
13 reimbursement claim that details the costs actually incurred for
14 that fiscal year.

15 (b) In the event revised claiming instructions are issued by the
16 Controller pursuant to subdivision (c) of Section 17558 between
17 November 15 and February 15, a local agency or school district
18 filing an annual reimbursement claim shall have 120 days following
19 the issuance date of the revised claiming instructions to file a claim.

20 (c) A local educational agency filing a reimbursement claim,
21 where reimbursements for that claim are based upon a reasonable
22 reimbursement methodology developed pursuant to Section 17557.1
23 and approved pursuant to Section 17557.2, shall provide with the
24 reimbursement claim a signed certification from the superintendent
25 attesting to the accuracy of the data used to calculate the amount
26 claimed under the approved reasonable reimbursement
27 methodology.

28 SEC. 5. Section 17562 of the Government Code is amended to
29 read:

30 17562. (a) The Legislature hereby finds and declares that the
31 increasing revenue constraints on state and local government and
32 the increasing costs of financing state-mandated local programs
33 make evaluation of state-mandated local programs imperative.
34 Accordingly, it is the intent of the Legislature to increase
35 information regarding state mandates and establish a method for
36 regularly reviewing the costs and benefits of state-mandated local
37 programs.

38 (b) (1) The Controller shall submit a report to the Joint
39 Legislative Budget Committee and fiscal committees by October
40 31 of each fiscal year beginning with the 2007–08 fiscal year. This

1 report shall summarize, by state mandate, the total amount of
2 claims paid per fiscal year and the amount, if any, of mandate
3 deficiencies or surpluses. This report shall be made available in
4 an electronic spreadsheet format. The report shall compare the
5 estimated annual cost of each mandate in the preceding fiscal year
6 to the amount determined to be payable by the state for that fiscal
7 year.

8 (2) The Controller shall submit a report to the Joint Legislative
9 Budget Committee, the applicable fiscal committees, and the
10 Director of Finance by April 30 of each fiscal year. This report
11 shall summarize, by state mandate, the total amount of unpaid
12 claims by fiscal year that were submitted before April 1 of that
13 fiscal year. The report shall also summarize any mandate
14 deficiencies or surpluses. It shall be made available in an electronic
15 spreadsheet, and shall be used for the purpose of determining the
16 state's payment obligation under paragraph (1) of subdivision (b)
17 of Section 6 of Article XIII B of the California Constitution.

18 *(c) The Controller shall notify the appropriate fiscal committees*
19 *and the education policy committees in each house of the*
20 *Legislature within 30 days of the date upon which the total claims*
21 *for reimbursement filed in a fiscal year, on any mandate where*
22 *the test claim was filed by a local educational agency, exceed the*
23 *adopted statewide estimate of costs for that mandate by more than*
24 *25 percent.*

25 ~~(e)~~
26 (d) After the commission submits its second semiannual report
27 to the Legislature pursuant to Section 17600, the Legislative
28 Analyst shall submit a report to the Joint Legislative Budget
29 Committee and legislative fiscal committees on the mandates
30 included in the commission's reports. The report shall make
31 recommendations as to whether the mandate should be repealed,
32 funded, suspended, or modified.

33 *(e) The commission shall notify the appropriate fiscal*
34 *committees and the education policy committees in each house of*
35 *the Legislature within 30 days of the date upon which a test claim*
36 *is filed by a local educational agency, where that local educational*
37 *agency submits a written narrative that identifies the effective date*
38 *and register number of any regulation alleged to contain a*
39 *mandate.*

40 ~~(d)~~

1 (f) In its annual analysis of the Budget Bill and based on
2 information provided pursuant to subdivision (b), the Legislative
3 Analyst shall report total annual state costs for mandated programs
4 and, as appropriate, provide an analysis of specific mandates and
5 make recommendations on whether the mandate should be
6 repealed, funded, suspended, or modified.

7 (e)

8 (g) (1) A statewide association of local agencies or school
9 districts or a Member of the Legislature may submit a proposal to
10 the Legislature recommending the elimination or modification of
11 a state-mandated local program. To make such a proposal, the
12 association or member shall submit a letter to the Chairs of the
13 Assembly Committee on Education or the Assembly Committee
14 on Local Government, as the case may be, and the Senate
15 Committee on Education or the Senate Committee on Local
16 Government, as the case may be, specifying the mandate and the
17 concerns and recommendations regarding the mandate. The
18 association or member shall include in the proposal all information
19 relevant to the conclusions. If the chairs of the committees desire
20 additional analysis of the submitted proposal, the chairs may refer
21 the proposal to the Legislative Analyst for review and comment.
22 The chairs of the committees may refer up to a total of 10 of these
23 proposals to the Legislative Analyst for review in any year.
24 Referrals shall be submitted to the Legislative Analyst by
25 December 1 of each year.

26 (2) The Legislative Analyst shall review and report to the
27 Legislature with regard to each proposal that is referred to the
28 office pursuant to paragraph (1). The Legislative Analyst shall
29 recommend that the Legislature adopt, reject, or modify the
30 proposal. The report and recommendations shall be submitted
31 annually to the Legislature by March 1 of the year subsequent to
32 the year in which referrals are submitted to the Legislative Analyst.

33 (3) The Department of Finance shall review all statutes enacted
34 each year that contain provisions making inoperative Section 17561
35 or Section 17565 that have resulted in costs or revenue losses
36 mandated by the state that were not identified when the statute
37 was enacted. The review shall identify the costs or revenue losses
38 involved in complying with the statutes. The Department of
39 Finance shall also review all statutes enacted each year that may
40 result in cost savings authorized by the state. The Department of

1 Finance shall submit an annual report of the review required by
2 this subdivision, together with the recommendations as it may
3 deem appropriate, by December 1 of each year.

4 (f)

5 (h) It is the intent of the Legislature that the Assembly
6 Committee on Local Government and the Senate Committee on
7 Local Government hold a joint hearing each year regarding the
8 following:

9 (1) The reports and recommendations submitted pursuant to
10 subdivision (e).

11 (2) The reports submitted pursuant to Sections 17570, 17600,
12 and 17601.

13 (3) Legislation to continue, eliminate, or modify any provision
14 of law reviewed pursuant to this subdivision. The legislation may
15 be by subject area or by year or years of enactment.

16 ~~SEC. 3.~~

17 *SEC. 6.* Section 17562.5 is added to the Government Code, to
18 read:

19 17562.5. (a) It is the intent of the Legislature that statutes
20 creating a reimbursable state mandate on local educational agencies
21 be periodically reviewed, and that the Legislature consider
22 recommendations on whether those statutes should be amended,
23 repealed, or remain unchanged.

24 (b) In addition to the report submitted pursuant to subdivision
25 (c) of Section 17562, at least once in each regular session of the
26 Legislature, the Legislative Analyst shall review and report on
27 each reimbursable state mandate relating to local educational
28 agencies that meets each of the following criteria:

29 (1) Pursuant to Section 17551, the Commission on State
30 Mandates has determined the existence of a reimbursable
31 state-mandated program.

32 (2) A claim for reimbursement has been filed with the Controller
33 by a school district, county office of education, or other eligible
34 local educational agency.

35 (3) The Legislature has not provided an appropriation to fully
36 fund current and pending claims for reimbursement filed with the
37 Controller.

38 (c) The review and report prepared by the Legislative Analyst
39 pursuant to subdivision (b) shall:

40 (1) Include all of the following for each mandate:

1 (A) A summary and its statutory source.

2 (B) Fiscal information, including, but not necessarily limited
3 to, the claims paid to date, unpaid claims, pending claims, and the
4 history of appropriations for the mandate.

5 (C) Recommendations as to whether the mandate should be
6 amended, repealed, or remain unchanged.

7 (2) Be provided to the chairpersons of the Assembly Committee
8 on Education, the Senate Committee on Education, and the fiscal
9 committees of the Assembly and the Senate, on or before the
10 January 1 following the adjournment of the regular session of the
11 Legislature for which the review was made.

12 ~~SEC. 4.~~

13 *SEC. 7.* Section 17579.5 is added to the Government Code, to
14 read:

15 17579.5. (a) Any state-mandated local program that applies
16 to a local educational agency and becomes operative on or after
17 January 1, 2012, shall be inoperative with respect to a local
18 educational agency on the date five years following the operative
19 date of the state-mandated local program.

20 (b) Each bill that the Legislative Counsel identifies, pursuant
21 to Section 17575, as imposing a state-mandated local program that
22 applies to a local educational agency shall include a comment in
23 the Legislative Counsel's digest that the state-mandated local
24 program shall become inoperative with respect to a local
25 educational agency on the date five years following the operative
26 date of the state-mandated local program. This subdivision shall
27 not apply to a bill that expressly notwithstanding the provisions of
28 this section.