

AMENDED IN ASSEMBLY MARCH 30, 2011

CALIFORNIA LEGISLATURE—2011—12 REGULAR SESSION

ASSEMBLY BILL

No. 609

Introduced by Assembly Member Swanson

February 16, 2011

~~An act to amend Section 41326.1 of the Education Code, relating to school districts.~~ *An act to add Section 41344.45 to the Education Code, and to amend Section 9 of Chapter 14 of the Statutes of 2003, relating to the Oakland Unified School District.*

LEGISLATIVE COUNSEL'S DIGEST

AB 609, as amended, Swanson. ~~School districts: state administrators.~~ *Oakland Unified School District: audits: emergency loan deductions.*

(1) Existing law appropriates \$100,000,000 from the General Fund to the Superintendent of Public Instruction for apportionment to the Oakland Unified School District as an emergency loan.

Existing law requires the Controller, or his or her designee, to cause an audit to be conducted of the books and accounts of the Oakland Unified School District for the fiscal years in which emergency loan moneys are disbursed to the school district. Existing law provides that, at the discretion of the Controller, the audit may be conducted by the Controller, his or her designee, or an auditor selected by the county superintendent of schools and approved by the Controller. Existing law also requires that the cost of the audit be paid by the school district.

This bill would delete the requirement that the Oakland Unified School District be subject to, and be responsible for paying for, these audits, and would instead require the school district to comply with certain other provisions of existing law relating to annual audits. The bill would

require the Controller to deduct specified amounts related to the cost to the school district of these audits from the amount owed by the school district for the emergency loan. The bill would additionally require the Controller to deduct \$16,630,000 from the amount owed for that emergency loan.

(2) This bill would make legislative findings and declarations as to the necessity of a special statute for the Oakland Unified School District.

~~(1) Existing law provides for emergency apportionments made by the state to school districts that are experiencing financial problems or that become insolvent. Existing law requires the Superintendent of Public Instruction to appoint a trustee to any district that has accepted emergency apportionments because it has determined during a fiscal year that its revenues are less than the amount necessary to meet its current year expenditure obligations:~~

~~Existing law further provides that if a school district accepts an emergency apportionment that exceeds an amount equal to 200% of the amount of reserve recommended for that district, as specified, the Superintendent must, among other things, assume the legal rights, duties, and powers of the governing board and appoint an administrator to act on his or her behalf.~~

~~Existing law requires the Superintendent and the state-appointed administrator to prepare reports and plans, including a management review and recovery plan, a multiyear financial recovery plan, and an annual report on the financial condition of the district, as specified.~~

~~Existing law further requires that, within 30 days of assuming authority, the state-appointed administrator discuss options for resolving the fiscal problems of the district with several designated groups, and consider, on at least a monthly basis, information from one or more of these groups:~~

~~This bill would additionally require the state-appointed administrator, within 60 calendar days of assuming authority, and at intervals of no more than 90 calendar days thereafter during the term of his or her authority, to convene a meeting open to the public. The bill would require that at least 14 calendar days' notice of the location, date, and time of the public meeting be provided on the Internet Web site of the district, and that the location, date, and time of the public meeting reasonably be expected to accommodate attendance of members of the community. The bill would require the meeting to provide an opportunity for free discussion of the issues facing the district.~~

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 41344.45 is added to the Education Code,
2 immediately following Section 41344.4, to read:
3 41344.45. (a) On and after January 1, 2012, the Oakland
4 Unified School District shall be released from any requirement to
5 be subject to, or to pay for, audits pursuant to former subdivision
6 (d) of Section 9 of Chapter 14 of the Statutes of 2003, and shall
7 instead comply with Section 41020.
8 (b) No later than April 1, 2012, the Controller shall determine
9 both of the following with respect to audits performed pursuant
10 to former subdivision (d) of Section 9 of Chapter 14 of the Statutes
11 of 2003:
12 (1) The cost to the Oakland Unified School District of each of
13 the audits required by former subdivision (d) of Section 9 of
14 Chapter 14 of the Statutes of 2003 for the 2003–04 fiscal year to
15 the 2010–11 fiscal year, inclusive.
16 (2) The amounts paid by the Oakland Unified School District
17 for audits required by former subdivision (d) of Section 9 of
18 Chapter 14 of the Statutes of 2003 for audits that were issued by
19 the Controller six or more months late.
20 (c) Notwithstanding any other law, no later than July 1, 2012,
21 the Controller shall do all of the following:
22 (1) Subtract one-half of the amount calculated under paragraph
23 (2) of subdivision (b) from the amount owed by the Oakland Unified
24 School District for the loan that it received pursuant to subdivision
25 (a) of Section 9 of Chapter 14 of the Statutes of 2003.
26 (2) Calculate the total amount of any audit fines or penalties
27 charged to the Oakland Unified School District as a result of the
28 audits performed pursuant to former subdivision (d) of Section 9
29 of Chapter 14 of the Statutes of 2003 between the 2003–04 fiscal
30 year and the 2010–11 fiscal year, inclusive, and deduct that amount
31 from the amount owed by the Oakland Unified School District for
32 the loan that it received pursuant to subdivision (a) of Section 9
33 of Chapter 14 of the Statutes of 2003.
34 (3) Deduct sixteen million six hundred thirty thousand dollars
35 (\$16,630,000) from the amount owed by the Oakland Unified

1 *School District for the loan that it received pursuant to subdivision*
2 *(a) of Section 9 of Chapter 14 of the Statutes of 2003.*

3 *SEC. 2. Section 9 of Chapter 14 of the Statutes of 2003 is*
4 *amended to read:*

5 Sec. 9. (a) The sum of one hundred million dollars
6 (\$100,000,000) is hereby appropriated from the General Fund to
7 the Superintendent of Public Instruction for apportionment to the
8 Oakland Unified School District for the purpose of an emergency
9 loan. In order to qualify for the loan, the district shall comply with
10 Article 2 (commencing with Section 41320) of, and Article 2.5
11 (commencing with Section 41325) of, Chapter 3 of Part 24 of
12 *Division 3 of Title 2 of the Education Code to the extent those*
13 *provisions are consistent with the conditions specified in this act.*

14 (b) Funds may be disbursed from the proceeds of the loan only
15 if the administrator and the County Office Fiscal Crisis and
16 Management Assistance Team jointly determine that the
17 disbursement is necessary.

18 (c) Based on the needs of the district to meet its obligations, the
19 Superintendent of Public Instruction may direct the Controller to
20 disburse, on a monthly basis, specific amounts of the emergency
21 loan before the approval of all of the conditions established by this
22 act.

23 ~~(d) For the fiscal year in which the loan moneys are disbursed~~
24 ~~and each fiscal year thereafter, the Controller, or his or her~~
25 ~~designee, shall cause an audit to be conducted of the books and~~
26 ~~accounts of the district, instead of the audit required by Section~~
27 ~~41020 of the Education Code. At the discretion of the Controller,~~
28 ~~the audit may be conducted by the Controller, his or her designee,~~
29 ~~or an auditor selected by the county superintendent and approved~~
30 ~~by the Controller. The costs of the audit shall be paid by the district.~~
31 ~~The audits shall be performed until the Superintendent of Public~~
32 ~~Instruction, in consultation with the Controller, determines that~~
33 ~~the district is financially solvent, but may not cease being~~
34 ~~performed earlier than one year following the implementation of~~
35 ~~the plan required by Section 7 nor later than the time the emergency~~
36 ~~loan, including interest, is repaid. In addition, the Controller shall~~
37 ~~conduct quality control reviews pursuant to subdivision (c) of~~
38 ~~Section 14504.2 of the Education Code.~~

39 *SEC. 3. The Legislature finds and declares that, due to the*
40 *unique circumstances relating to the fiscal emergency in the*

1 *Oakland Unified School District, a general statute cannot be made*
2 *applicable within the meaning of Section 16 of Article IV of the*
3 *California Constitution, and the enactment of this special statute*
4 *is therefore necessary.*

5 SECTION 1. ~~Section 41326.1 of the Education Code is~~
6 ~~amended to read:~~

7 ~~41326.1. (a) Within 30 calendar days of assuming authority,~~
8 ~~an administrator who has control over a school district pursuant~~
9 ~~to Section 41326 shall discuss options for resolving the fiscal~~
10 ~~problems of the district with all of the following groups, and shall~~
11 ~~consider, on a monthly basis, or more frequently if so desired by~~
12 ~~the administrator, information from one or more of the following~~
13 ~~groups:~~

- 14 ~~(1) The governing board of the school district.~~
- 15 ~~(2) Any advisory council of the school district.~~
- 16 ~~(3) Any parent-teacher organization of the school district.~~
- 17 ~~(4) Representatives from the community in which the school~~
18 ~~district is located.~~
- 19 ~~(5) The district administrative team.~~
- 20 ~~(6) The County Office Fiscal Crisis and Management Assistance~~
21 ~~Team.~~
- 22 ~~(7) Representatives of employee bargaining units.~~
- 23 ~~(8) The county superintendent of schools.~~

24 ~~(b) Within 60 calendar days of assuming authority, and at~~
25 ~~intervals of no more than 90 calendar days thereafter during the~~
26 ~~term of his or her authority, the administrator shall convene a~~
27 ~~meeting open to the public. Reasonable notice of the meeting shall~~
28 ~~be provided on the Internet Web site of the district, and the~~
29 ~~location, time, and date of the public meeting shall be posted no~~
30 ~~less than 14 calendar days before the meeting is to be convened.~~
31 ~~The meeting shall be convened at a site located within the district~~
32 ~~that can accommodate the attendance that is reasonably anticipated~~
33 ~~and on a date, and at a time of day, that can reasonably be expected~~
34 ~~to be convenient for the attendance of members of the community.~~
35 ~~The public meeting shall provide an opportunity for free discussion~~
36 ~~of the issues facing the district.~~