

AMENDED IN ASSEMBLY APRIL 16, 2015

AMENDED IN ASSEMBLY MARCH 26, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 625**

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**Introduced by Assembly Member Bonta**

February 24, 2015

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An act to amend Section ~~42127.3~~ *41320.1* of the Education Code, relating to ~~schools~~. *school finance*.

LEGISLATIVE COUNSEL'S DIGEST

AB 625, as amended, Bonta. School finance: ~~school district budgets~~. *emergency apportionments: compliance audits*.

*Existing law authorizes the governing board of a school district to request an emergency apportionment through the Superintendent of Public Instruction if the governing board of the school district determines during a fiscal year that its revenues are less than the amount necessary to meet its current year expenditure obligations. Under existing law, if a school district accepts an emergency apportionment, that acceptance constitutes agreement by the school district to numerous conditions, among which is an agreement that the Controller, or his or her designee, shall conduct an annual audit of the books and accounts of the school district, as specified. This provision requires these audits to continue until the Controller determines, in consultation with the Superintendent, that the school district is financially solvent, but in no event earlier than one year following the implementation of the school district's fiscal plan or later than the time the apportionment is repaid, including interest.*

*This bill would require the Controller and the Superintendent, or their respective designees, to meet before each audit undertaken under this provision, develop an audit plan, and coordinate the audit.*

~~(1) Existing law requires a school district to adopt a budget for the subsequent fiscal year, as specified. Existing law requires the county superintendent of schools to examine the adopted budget, make certain determinations related to the adopted budget, and approve, conditionally approve, or disapprove the adopted budget for each school district, as specified.~~

~~If the adopted budget is conditionally approved or disapproved, existing law specifies a process for revising the budget. If the county superintendent of schools disapproves the revised budget, existing law requires him or her to call for the formation of a budget review committee, as specified. Existing law requires the budget review committee to review the proposed budget of the school district and the underlying fiscal policies of the school district and to transmit to the Superintendent of Public Instruction, the county superintendent of schools, and the governing board of the school district either a recommendation that the school district budget be approved or a report disapproving the school district budget and setting forth recommendations for revisions to the school district budget, as specified.~~

~~If the budget review committee disapproves the school district budget, existing law authorizes the governing board of the school district to submit a response to the Superintendent, as specified, and, based upon the recommendations of the budget review committee and any response to those recommendations provided by the governing board of the school district, requires the Superintendent to either approve or disapprove the budget. If the Superintendent disapproves the budget, existing law requires the Superintendent to notify the governing board of the school district in writing of the reasons for that disapproval and requires the county superintendent of schools to take certain actions as necessary, including, among others, determining whether there are any financial problem areas and employing, subject to approval by the Superintendent, a certified public accounting firm to investigate financial problem areas.~~

~~This bill would add appointing a fiscal adviser to perform specified duties of the county superintendent of schools to the list of actions a county superintendent of schools is required to take as necessary. To the extent this bill would impose additional duties on a county superintendent of schools, the bill would impose a state-mandated local program. The bill would also make various nonsubstantive changes.~~

~~(2)The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

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

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

1     SECTION 1. Section 41320.1 of the Education Code is amended  
2 to read:

3     41320.1. Acceptance by the school district of the  
4 apportionments made pursuant to Section 41320 constitutes the  
5 agreement by the school district to all of the following conditions:

6     (a) The Superintendent shall appoint a trustee who has  
7 recognized expertise in management and finance and may employ,  
8 on a short-term basis, staff necessary to assist the trustee, including,  
9 but not limited to, certified public accountants, as follows:

10    (1) The expenses incurred by the trustee and necessary staff  
11 shall be borne by the school district.

12    (2) The Superintendent shall establish the terms and conditions  
13 of the employment, including the remuneration of the trustee. The  
14 trustee shall serve at the pleasure of, and report directly to, the  
15 Superintendent.

16    (3) The trustee, and necessary staff, shall serve until the school  
17 district has adequate fiscal systems and controls in place, the  
18 Superintendent has determined that the school district's future  
19 compliance with the fiscal plan approved for the school district  
20 under Section 41320 is probable, and the Superintendent decides  
21 to terminate the trustee's appointment, but in no event, for less  
22 than three years. The Superintendent shall notify the county  
23 superintendent of schools, the Legislature, the Department of  
24 Finance, and the Controller no less than 60 days before the time  
25 that the Superintendent expects these conditions to be met.

26    (4) Before the school district repays the loan, including interest,  
27 the recipient of the loan shall select an auditor from a list  
28 established by the Superintendent and the Controller to conduct

1 an audit of its fiscal systems. If the fiscal systems are deemed to  
2 be inadequate, the Superintendent may retain the trustee until the  
3 deficiencies are corrected. The cost of this audit and any additional  
4 cost of the trustee shall be borne by the school district.

5 (5) Notwithstanding any other law, all reports submitted to the  
6 trustee are public records.

7 (6) To facilitate the appointment of the trustee and the  
8 employment of necessary staff, for purposes of this section, the  
9 Superintendent is exempt from the requirements of Article 6  
10 (commencing with Section 999) of Chapter 6 of Division 4 of the  
11 Military and Veterans Code and Part 2 (commencing with Section  
12 10100) of Division 2 of the Public Contract Code.

13 (7) Notwithstanding any other law, the Superintendent may  
14 appoint an employee of the department to act as trustee for up to  
15 the duration of the trusteeship. The salary and benefits of that  
16 employee shall be established by the Superintendent and paid by  
17 the school district. During the time of appointment, the employee  
18 is an employee of the school district, but shall remain in the same  
19 retirement system under the same plan as if the employee had  
20 remained in the department. Upon the expiration or termination  
21 of the appointment, the employee shall have the right to return to  
22 his or her former position, or to a position at substantially the same  
23 level as that position, with the department. The time served in the  
24 appointment shall be counted for all purposes as if the employee  
25 had served that time in his or her former position with the  
26 department.

27 (b) (1) The trustee appointed by the Superintendent shall  
28 monitor and review the operation of the school district. During the  
29 period of his or her service, the trustee may stay or rescind an  
30 action of the governing board of the school district that, in the  
31 judgment of the trustee, may affect the financial condition of the  
32 school district.

33 (2) After the trustee's period of service, and until the loan is  
34 repaid, the county superintendent of schools that has jurisdiction  
35 over the school district may stay or rescind an action of the  
36 governing board of the school district that, in his or her judgment,  
37 may affect the financial condition of the school district. The county  
38 superintendent of schools shall notify the Superintendent, within  
39 five business days, if he or she stays or rescinds an action of the

1 governing board of the school district. The notice shall include,  
2 but not be limited to, both of the following:

3 (A) A description of the governing board of the school district's  
4 intended action and its financial implications.

5 (B) The rationale and findings that support the county  
6 superintendent of school's decision to stay or rescind the action  
7 of the governing board of the school district.

8 (3) If the Superintendent is notified by the county superintendent  
9 of schools pursuant to paragraph (2), the Superintendent shall  
10 report to the Legislature, on or before December 30 of every year,  
11 whether the school district is complying with the fiscal plan  
12 approved for the school district.

13 (4) The Superintendent may establish timelines and prescribe  
14 formats for reports and other materials to be used by the trustee to  
15 monitor and review the operations of the school district. The trustee  
16 shall approve or reject all reports and other materials required from  
17 the school district as a condition of receiving the apportionment.  
18 The Superintendent, upon the recommendation of the trustee, may  
19 reduce an apportionment to the school district in an amount up to  
20 two hundred dollars (\$200) per day for each late or unacceptable  
21 report or other material required under this part, and shall report  
22 to the Legislature a failure of the school district to comply with  
23 the requirements of this section. If the Superintendent determines,  
24 at any time, that the fiscal plan approved for the school district  
25 under Section 41320 is unsatisfactory, he or she may modify the  
26 plan as necessary, and the school district shall comply with the  
27 plan as modified.

28 (c) At the request of the Superintendent, the Controller shall  
29 transfer to the department, from an apportionment to which the  
30 school district would otherwise have been entitled pursuant to  
31 Section 42238, the amount necessary to pay the expenses incurred  
32 by the trustee and associated costs incurred by the county  
33 superintendent of schools.

34 (d) For the fiscal year in which the apportionments are disbursed  
35 and every year thereafter, the Controller, or his or her designee,  
36 shall cause an audit to be conducted of the books and accounts of  
37 the school district, in lieu of the audit required by Section 41020.  
38 At the Controller's discretion, the audit may be conducted by the  
39 Controller, his or her designee, or an auditor selected by the school  
40 district and approved by the Controller. The costs of these audits

1 shall be borne by the school district. These audits shall be required  
2 until the Controller determines, in consultation with the  
3 Superintendent, that the school district is financially solvent, but  
4 in no event earlier than one year following the implementation of  
5 the plan or later than the time the apportionment made is repaid,  
6 including interest. *The Controller and the Superintendent, or their*  
7 *respective designees, shall meet before each audit, develop an*  
8 *audit plan, and coordinate the audit.* In addition, the Controller  
9 shall conduct quality control reviews pursuant to subdivision (c)  
10 of Section 14504.2.

11 (e) For purposes of errors and omissions liability insurance  
12 policies, the trustee appointed pursuant to this section is an  
13 employee of the local educational agency to which he or she is  
14 assigned. For purposes of workers' compensation benefits, the  
15 trustee is an employee of the local educational agency to which  
16 he or she is assigned, except that a trustee appointed pursuant to  
17 paragraph (7) of subdivision (a) is an employee of the department  
18 for those purposes.

19 (f) Except for an individual appointed by the Superintendent as  
20 trustee pursuant to paragraph (7) of subdivision (a), the  
21 state-appointed trustee is a member of the State Teachers'  
22 Retirement System, if qualified, for the period of service as trustee,  
23 unless the trustee elects in writing not to become a member. A  
24 person who is a member or retirant of the State Teachers'  
25 Retirement System at the time of appointment shall continue to  
26 be a member or retirant of the system for the duration of the  
27 appointment. If the trustee chooses to become a member or is  
28 already a member, the trustee shall be placed on the payroll of the  
29 school district for the purpose of providing appropriate  
30 contributions to the system. The Superintendent may also require  
31 that an individual appointed as trustee pursuant to paragraph (7)  
32 of subdivision (a) be placed on the payroll of the school district  
33 for purposes of remuneration, other benefits, and payroll  
34 deductions. For purposes of workers' compensation benefits, the  
35 state-appointed trustee is deemed an employee of the local  
36 educational agency to which he or she is assigned, except that a  
37 trustee who is appointed pursuant to paragraph (7) of subdivision  
38 (a) is an employee of the department for those purposes.

39 -

1 SECTION 1. ~~Section 42127.3 of the Education Code is~~  
2 ~~amended to read:~~

3 ~~42127.3. (a) If the budget review committee established~~  
4 ~~pursuant to Sections 42127.1 and 42127.2 recommends approval~~  
5 ~~of the school district budget, the county superintendent of schools~~  
6 ~~shall accept the recommendation of the budget review committee~~  
7 ~~and approve the budget.~~

8 ~~(b) If the budget review committee established pursuant to~~  
9 ~~Sections 42127.1 and 42127.2 disapproves the school district~~  
10 ~~budget, the governing board of the school district, not later than~~  
11 ~~five working days after receipt of the report described in paragraph~~  
12 ~~(2) of subdivision (b) of Section 42127.2, may submit a response~~  
13 ~~to the Superintendent, including any revisions to the adopted final~~  
14 ~~budget and any other proposed actions to be taken as a result of~~  
15 ~~the recommendations of the budget review committee. Based upon~~  
16 ~~the recommendations of the budget review committee and any~~  
17 ~~response to those recommendations provided by the governing~~  
18 ~~board of the school district, the Superintendent shall either approve~~  
19 ~~or disapprove the budget. If the Superintendent disapproves the~~  
20 ~~budget, he or she shall notify the governing board of the school~~  
21 ~~district in writing of the reasons for that disapproval and, until the~~  
22 ~~county superintendent of schools certifies the school district's first~~  
23 ~~interim report pursuant to Section 42131, the county superintendent~~  
24 ~~of schools shall do the following as necessary:~~

25 ~~(1) Not later than November 30, develop and adopt, in~~  
26 ~~consultation with the Superintendent and the governing board of~~  
27 ~~the school district, a fiscal plan and budget that will govern the~~  
28 ~~school district and will allow the school district to meet its financial~~  
29 ~~obligations, both in the current fiscal year and with regard to the~~  
30 ~~school district's multiyear financial commitments. The~~  
31 ~~Superintendent may extend the date by which the county~~  
32 ~~superintendent of schools is required to develop and adopt a fiscal~~  
33 ~~plan and budget. The governing board of the school district shall~~  
34 ~~govern the operation of the school district for the current fiscal~~  
35 ~~year in accordance with that adopted budget.~~

36 ~~(2) Cancel purchase orders, prohibit the issuance of nonsalary~~  
37 ~~warrants, and otherwise stay or rescind any action that is~~  
38 ~~inconsistent with the budget adopted pursuant to paragraph (1).~~  
39 ~~The county superintendent of schools shall inform the governing~~

- 1 board of the school district in writing of his or her justification for  
2 any exercise of authority under this paragraph.
- 3 ~~(3) Monitor and review the operation of the school district.~~
- 4 ~~(4) Appoint a fiscal adviser to perform any or all of the duties~~  
5 ~~of the county superintendent of schools prescribed by this section.~~
- 6 ~~(5) Determine the need for additional staff and may employ,~~  
7 ~~subject to approval by the Superintendent, short-term analytical~~  
8 ~~assistance or expertise to validate financial information if the~~  
9 ~~school district staff does not have the expertise or staff.~~
- 10 ~~(6) Require the school district to encumber all contracts and~~  
11 ~~other obligations, to prepare appropriate cashflow analyses and~~  
12 ~~monthly or quarterly budget revisions, and to appropriately record~~  
13 ~~all receivables and payables.~~
- 14 ~~(7) Determine whether there are any financial problem areas~~  
15 ~~and may employ, subject to approval by the Superintendent, a~~  
16 ~~certified public accounting firm to investigate financial problem~~  
17 ~~areas.~~
- 18 ~~(8) Withhold compensation of the members of the governing~~  
19 ~~board of the school district and the superintendent of the school~~  
20 ~~district for failure to provide requested financial information. A~~  
21 ~~forfeiture may be appealed to the Superintendent pursuant to~~  
22 ~~subdivision (b) of Section 42127.6.~~
- 23 ~~(e) If, during the selection of the budget review committee or~~  
24 ~~during the committee's review of the budget, an agreement is~~  
25 ~~reached between the governing board of the school district and the~~  
26 ~~county superintendent of schools, and the school district revises~~  
27 ~~its budget to comply with this agreement, the county superintendent~~  
28 ~~of schools shall approve the school district budget and the budget~~  
29 ~~review committee selection, or its review of the budget, shall be~~  
30 ~~anceled.~~
- 31 ~~(d) The school district shall pay 75 percent and the county office~~  
32 ~~of education shall pay 25 percent of the actual administrative~~  
33 ~~expenses incurred pursuant to subdivision (b), or costs associated~~  
34 ~~with improving the school district's financial management~~  
35 ~~practices. The Superintendent shall develop, and distribute to~~  
36 ~~affected school districts and county offices of education, advisory~~  
37 ~~guidelines regarding the appropriate amount of any fees charged~~  
38 ~~pursuant to this subdivision.~~
- 39 ~~(e) This section shall not be construed to authorize the county~~  
40 ~~superintendent of schools to abrogate any provision of a collective~~

1 ~~bargaining agreement that was entered into by a school district~~  
2 ~~before the date upon which the county superintendent of schools~~  
3 ~~disapproved the budget of the school district pursuant to~~  
4 ~~subdivision (b).~~

5 ~~SEC. 2. If the Commission on State Mandates determines that~~  
6 ~~this act contains costs mandated by the state, reimbursement to~~  
7 ~~local agencies and school districts for those costs shall be made~~  
8 ~~pursuant to Part 7 (commencing with Section 17500) of Division~~  
9 ~~4 of Title 2 of the Government Code.~~