

AMENDED IN ASSEMBLY MAY 6, 2015
AMENDED IN ASSEMBLY APRIL 16, 2015
AMENDED IN ASSEMBLY MARCH 26, 2015
CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 625

Introduced by Assembly Member Bonta

February 24, 2015

An act to amend Section 41320.1 of the Education Code, relating to school finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 625, as amended, Bonta. School finance: 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 *Controller*; the Superintendent, *and the head of the affected school district's governing board*, or their respective designees, to meet before each audit undertaken under this provision, develop an audit plan, and coordinate the audit. *to discuss the terms of the audit and the timeline under which it will proceed.*

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 41320.1 of the Education Code is
2 amended 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~~, *event* for
22 less 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
29 an audit of its fiscal systems. If the fiscal systems are deemed to

1 be inadequate, the Superintendent may retain the trustee until the
2 deficiencies are corrected. The cost of this audit and any additional
3 cost of the trustee shall be borne by the school district.

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

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

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

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

32 (2) After the trustee's period of service, and until the loan is
33 repaid, the county superintendent of schools that has jurisdiction
34 over the school district may stay or rescind an action of the
35 governing board of the school district that, in his or her judgment,
36 may affect the financial condition of the school district. The county
37 superintendent of schools shall notify the Superintendent, within
38 five business days, if he or she stays or rescinds an action of the
39 governing board of the school district. The notice shall include,
40 but not be limited to, both of the following:

1 (A) A description of the governing board of the school district’s
2 intended action and its financial implications.

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

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

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

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

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

1 Superintendent, that the school district is financially solvent, but
2 in no event earlier than one year following the implementation of
3 the plan or later than the time the apportionment made is repaid,
4 including interest. ~~The Controller and Controller,~~ the
5 Superintendent, *and the head of the affected school district's*
6 *governing board*, or their respective designees, shall meet before
7 each audit, ~~develop an audit plan, and coordinate the audit.~~ *audit*
8 *to discuss the terms of the audit and the timeline under which it*
9 *will proceed.* In addition, the Controller shall conduct quality
10 control reviews pursuant to subdivision (c) 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.

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