

AMENDED IN SENATE JUNE 17, 2015

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**

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**Introduced by Assembly Member Bonta**

February 24, 2015

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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, *or an auditor selected by the school district and approved by the Controller* 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~~ *bill, for an audit conducted by the Controller, or his or her designee, would require the Controller, the Superintendent, and the head of the affected school district’s governing board, school district superintendent, or their respective designees, to meet before each 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 for less than  
22 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.

1 (4) Before the school district repays the loan, including interest,  
2 the recipient of the loan shall select an auditor from a list  
3 established by the Superintendent and the Controller to conduct  
4 an audit of its fiscal systems. If the fiscal systems are deemed to  
5 be inadequate, the Superintendent may retain the trustee until the  
6 deficiencies are corrected. The cost of this audit and any additional  
7 cost of the trustee shall be borne by the school district.

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

10 (6) To facilitate the appointment of the trustee and the  
11 employment of necessary staff, for purposes of this section, the  
12 Superintendent is exempt from the requirements of Article 6  
13 (commencing with Section 999) of Chapter 6 of Division 4 of the  
14 Military and Veterans Code and Part 2 (commencing with Section  
15 10100) of Division 2 of the Public Contract Code.

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

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

36 (2) After the trustee's period of service, and until the loan is  
37 repaid, the county superintendent of schools that has jurisdiction  
38 over the school district may stay or rescind an action of the  
39 governing board of the school district that, in his or her judgment,  
40 may affect the financial condition of the school district. The county

1 superintendent of schools shall notify the Superintendent, within  
2 five business days, if he or she stays or rescinds an action of the  
3 governing board of the school district. The notice shall include,  
4 but not be limited to, both of the following:

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

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

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

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

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

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

1 Controller, his or her designee, or an auditor selected by the school  
2 district and approved by the Controller. The costs of these audits  
3 shall be borne by the school district. These audits shall be required  
4 until the Controller determines, in consultation with the  
5 Superintendent, that the school district is financially solvent, but  
6 in no event earlier than one year following the implementation of  
7 the plan or later than the time the apportionment made is repaid,  
8 including interest. ~~The~~ *For an audit conducted by the Controller,*  
9 *or his or her designee, the Controller, the Superintendent, and the*  
10 ~~head of the affected school district's governing board school~~  
11 *district superintendent, or their respective designees, shall meet*  
12 ~~before each~~ *the* audit to discuss the terms of the audit and the  
13 timeline under which it will proceed. In addition, the Controller  
14 shall conduct quality control reviews pursuant to subdivision (c)  
15 of Section 14504.2.

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

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

- 1 educational agency to which he or she is assigned, except that a
- 2 trustee who is appointed pursuant to paragraph (7) of subdivision
- 3 (a) is an employee of the department for those purposes.

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