

AMENDED IN SENATE JULY 1, 2015
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

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, 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, for an audit conducted by the Controller, or his or her designee, would require the Controller, the Superintendent, and the school district superintendent, or their respective designees, to meet before 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, as
2 amended by Section 34 of Chapter 19 of the Statutes of 2015, is
3 amended to read:
4 41320.1. Acceptance by the school district of the
5 apportionments made pursuant to Section 41320 constitutes the
6 agreement by the school district to all of the following conditions:
7 (a) The Superintendent shall appoint a trustee who has
8 recognized expertise in management and finance and may employ,
9 on a short-term basis, staff necessary to assist the trustee, including,
10 but not limited to, certified public accountants, as follows:
11 (1) The expenses incurred by the trustee and necessary staff
12 shall be borne by the school district.
13 (2) The Superintendent shall establish the terms and conditions
14 of the employment, including the remuneration of the trustee. The
15 trustee shall serve at the pleasure of, and report directly to, the
16 Superintendent.
17 (3) The trustee, and necessary staff, shall serve until the school
18 district has adequate fiscal systems and controls in place, the
19 Superintendent has determined that the school district's future
20 compliance with the fiscal plan approved for the school district
21 under Section 41320 is probable, and the Superintendent decides
22 to terminate the trustee's appointment, but in ~~no-event~~, *event* for
23 less than three years. The Superintendent shall notify the county
24 superintendent of schools, the Legislature, the Department of

1 Finance, and the Controller no less than 60 days before the time
2 that the Superintendent expects these conditions to be met.

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

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

12 (6) To facilitate the appointment of the trustee and the
13 employment of necessary staff, for purposes of this section, the
14 Superintendent is exempt from the requirements of Article 6
15 (commencing with Section 999) of Chapter 6 of Division 4 of the
16 Military and Veterans Code and Part 2 (commencing with Section
17 10100) of Division 2 of the Public Contract Code.

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

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

38 (2) After the trustee's period of service, and until the loan is
39 repaid, the county superintendent of schools that has jurisdiction
40 over the school district may stay or rescind an action of the

1 governing board of the school district that, in his or her judgment,
2 may affect the financial condition of the school district. The county
3 superintendent of schools shall notify the Superintendent, within
4 five business days, if he or she stays or rescinds an action of the
5 governing board of the school district. The notice shall include,
6 but not be limited to, both of the following:

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

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

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

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

32 (c) At the request of the Superintendent, the Controller shall
33 transfer to the department, from an apportionment to which the
34 school district would otherwise have been entitled pursuant to
35 Section 42238.02, as implemented by Section 42238.03, the amount
36 necessary to pay the expenses incurred by the trustee and associated
37 costs incurred by the county superintendent of schools.

38 (d) For the fiscal year in which the apportionments are disbursed
39 and every year thereafter, the Controller, or his or her designee,
40 shall cause an audit to be conducted of the books and accounts of

1 the school district, in lieu of the audit required by Section 41020.
2 At the Controller's discretion, the audit may be conducted by the
3 Controller, his or her designee, or an auditor selected by the school
4 district and approved by the Controller. The costs of these audits
5 shall be borne by the school district. These audits shall be required
6 until the Controller determines, in consultation with the
7 Superintendent, that the school district is financially solvent, but
8 in no event earlier than one year following the implementation of
9 the plan or later than the time the apportionment made is repaid,
10 including interest. *For an audit conducted by the Controller, or*
11 *his or her designee, the Controller, the Superintendent, and the*
12 *school district superintendent, or their respective designees, shall*
13 *meet before the audit to discuss the terms of the audit and the*
14 *timeline under which it will proceed.* In addition, the Controller
15 shall conduct quality control reviews pursuant to subdivision (c)
16 of Section 14504.2.

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

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

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2 educational agency to which he or she is assigned, except that a
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4 10100) of Division 2 of the Public Contract Code.

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7 the duration of the trusteeship. The salary and benefits of that
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19 (e) At the request of the Superintendent, the Controller shall
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22 Section 42238, the amount necessary to pay the expenses incurred
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