

AMENDED IN SENATE SEPTEMBER 2, 2015

AMENDED IN SENATE JULY 2, 2015

AMENDED IN ASSEMBLY APRIL 30, 2015

AMENDED IN ASSEMBLY APRIL 20, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1391**

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**Introduced by Assembly Members Gomez and O'Donnell**

**(Coauthors: Assembly Members Bonta, Chávez, Chiu, Gipson,  
Maienschein, Olsen, Weber, and Williams)**

**(Coauthors: Senators ~~Runner~~ Block, Leno, Mendoza, Runner, and Vidak)**

February 27, 2015

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An act to amend Sections 51210 and 51223 of the Education Code, relating to pupil instruction, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1391, as amended, Gomez. Pupil instruction: adopted course of study: elementary school: physical education: complaints.

Existing law requires the adopted course of study for grades 1 to 6, inclusive, to include instruction in specified areas of study, including physical education, with emphasis upon the physical activities for the pupils that may be conducive to health and vigor of body and mind, for a total period of time of not less than 200 minutes each 10 schooldays, exclusive of recesses and the lunch period. Notwithstanding that provision, existing law provides that instruction in physical education in an elementary school maintaining any of grades 1 to 8, inclusive,

shall be for a total period of time of not less than 200 minutes each 10 schooldays, exclusive of recesses and the lunch period.

This bill would authorize a complaint that a school district or county superintendent of schools has not complied with the instructional minute requirements of the physical education adopted course of study for pupils in those grades to be filed with the school district or county superintendent of schools pursuant to the Uniform Complaint Procedures, as specified. To the extent this bill would impose additional duties on school district or county office of education officials, the bill would impose a state-mandated local program.

The bill also would state the Legislature’s finding and declaration that the provisions prescribing the requirements for the adopted course of study for grades 1 to 6, inclusive, and for instructional time for physical education in an elementary school maintaining any of grades 1 to 8, inclusive, were not intended to create a private right of action, but would provide that nothing in those provisions is to restrict or expand the existing right of any party to seek relief from noncompliance with them pursuant to a writ of mandate.

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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. Section 51210 of the Education Code is amended  
2 to read:

3 51210. (a) The adopted course of study for grades 1 to 6,  
4 inclusive, shall include instruction, beginning in grade 1 and  
5 continuing through grade 6, in the following areas of study:

6 (1) English, including knowledge of, and appreciation for  
7 literature and the language, as well as the skills of speaking,  
8 reading, listening, spelling, handwriting, and composition.

1 (2) Mathematics, including concepts, operational skills, and  
2 problem solving.

3 (3) Social sciences, drawing upon the disciplines of  
4 anthropology, economics, geography, history, political science,  
5 psychology, and sociology, designed to fit the maturity of the  
6 pupils. Instruction shall provide a foundation for understanding  
7 the history, resources, development, and government of California  
8 and the United States of America; the development of the American  
9 economic system, including the role of the entrepreneur and labor;  
10 the relations of persons to their human and natural environment;  
11 eastern and western cultures and civilizations; contemporary issues;  
12 and the wise use of natural resources.

13 (4) Science, including the biological and physical aspects, with  
14 emphasis on the processes of experimental inquiry and on the place  
15 of humans in ecological systems.

16 (5) Visual and performing arts, including instruction in the  
17 subjects of dance, music, theatre, and visual arts, aimed at the  
18 development of aesthetic appreciation and the skills of creative  
19 expression.

20 (6) Health, including instruction in the principles and practices  
21 of individual, family, and community health.

22 (7) Physical education, with emphasis upon the physical  
23 activities for the pupils that may be conducive to health and vigor  
24 of body and mind, for a total period of time of not less than 200  
25 minutes each 10 schooldays, exclusive of recesses and the lunch  
26 period.

27 (8) Other studies that may be prescribed by the governing board.

28 (b) (1) A complaint that a school district or county  
29 superintendent of schools has not complied with the instructional  
30 minute requirements of paragraph (7) of subdivision (a) may be  
31 filed with a school district or county superintendent of schools  
32 pursuant to the Uniform Complaint Procedures set forth in Chapter  
33 5.1 (commencing with Section 4600) of Division 1 of Title 5 of  
34 the California Code of Regulations.

35 (2) A complainant not satisfied with the decision of a school  
36 district or county superintendent of schools may appeal the decision  
37 to the department pursuant to Chapter 5.1 (commencing with  
38 Section 4600) of Division 1 of Title 5 of the California Code of  
39 Regulations and shall receive a written appeal decision within 60  
40 days of the department's receipt of the appeal.

1 (3) If a school district or county superintendent of schools finds  
2 merit in a complaint, or the Superintendent finds merit in an appeal,  
3 the school district or county superintendent of schools shall provide  
4 a remedy to all affected pupils, parents, and guardians.

5 (c) The Legislature finds and declares that neither the original  
6 provisions of this section, nor any subsequent amendments to it,  
7 were intended to create a private right of action. However, nothing  
8 in this subdivision shall restrict or expand the existing right of any  
9 party to seek relief from noncompliance with this section pursuant  
10 to a writ of mandate.

11 SEC. 2. Section 51223 of the Education Code is amended to  
12 read:

13 51223. (a) ~~Notwithstanding the provisions of Sections 51210~~  
14 ~~and 51222, instruction in physical education in an elementary~~  
15 ~~school maintaining any of grades 1 to 8, inclusive, shall be for a~~  
16 ~~total period of time of not less than 200 minutes each 10~~  
17  ~~schooldays, exclusive of recesses and the lunch period.~~

18 (b) (1) A complaint that a school district or county  
19 superintendent of schools has not complied with the instructional  
20 minute requirements of subdivision (a) may be filed with a school  
21 district or county superintendent of schools pursuant to the Uniform  
22 Complaint Procedures set forth in Chapter 5.1 (commencing with  
23 Section 4600) of Division 1 of Title 5 of the California Code of  
24 Regulations.

25 (2) A complainant not satisfied with the decision of a school  
26 district or county superintendent of schools may appeal the decision  
27 to the department pursuant to Chapter 5.1 (commencing with  
28 Section 4600) of Division 1 of Title 5 of the California Code of  
29 Regulations and shall receive a written appeal decision within 60  
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32 merit in a complaint, or the Superintendent finds merit in an appeal,  
33 the school district or county superintendent of schools shall provide  
34 a remedy to all affected pupils, parents, and guardians.

35 (c) The Legislature finds and declares that neither the original  
36 provisions of this section, nor any subsequent amendments to it,  
37 were intended to create a private right of action. However, nothing  
38 in this subdivision shall restrict or expand the existing right of any  
39 party to seek relief from noncompliance with this section pursuant  
40 to a writ of mandate.

1     SEC. 3. If the Commission on State Mandates determines that  
2 this act contains costs mandated by the state, reimbursement to  
3 local agencies and school districts for those costs shall be made  
4 pursuant to Part 7 (commencing with Section 17500) of Division  
5 4 of Title 2 of the Government Code.

6     SEC. 4. This act is an urgency statute necessary for the  
7 immediate preservation of the public peace, health, or safety within  
8 the meaning of Article IV of the Constitution and shall go into  
9 immediate effect. The facts constituting the necessity are:

10     In order to protect California public schools from unnecessary  
11 lawsuits that take funds away from our classrooms, it is necessary  
12 for this bill to take effect immediately.

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