

AMENDED IN SENATE AUGUST 27, 1998

AMENDED IN SENATE JULY 1, 1998

AMENDED IN SENATE JUNE 16, 1998

AMENDED IN ASSEMBLY MAY 22, 1998

AMENDED IN ASSEMBLY APRIL 28, 1998

AMENDED IN ASSEMBLY APRIL 16, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1639**

**Introduced by Assembly Members Sweeney, Baldwin, Granlund, Honda, Keeley, Knox, Lempert, Machado, Pacheco, Perata, Scott, Shelley, Strom-Martin, Thomson, and Wayne Villaraigosa, and Wayne and Senator Polanco**  
*(Coauthors: Assembly Members Kuykendall, Miller, Morrissey, Prenter, and Runner)*

January 5, 1998

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An act to add ~~Chapter 2.3 (commencing with Section 37270) to Part 22 of the Education Code, relating to schools~~ *Section 37252.5 to the Education Code, relating to summer school, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

AB 1639, as amended, Sweeney. Schools: mandatory summer school: required intensive instructional programs.



(1) Existing law requires the governing board of each school district maintaining any or all of grades 7 to 12, inclusive, to offer summer school instructional programs for pupils enrolled in grades 7 to 12, inclusive, who were assessed as not meeting the school district's adopted standards of proficiency in basic skills.

~~This bill, in addition, would require the governing board of each school district maintaining any or all of kindergarten and grades 1 to 12, inclusive, and receiving assistance under the bill, to offer academically intensive instructional programs, with prescribed components, for any pupil enrolled in kindergarten or grades 1 to 12, inclusive, in the prior school year who did not meet district academic content and performance standards in English, language arts, or mathematics. The bill would also require the governing board of each school district to offer a supplemental, intensive instructional program, with prescribed components, for pupils in grades 2 and 3. By imposing additional requirements on school districts, this bill would impose a state-mandated local program.~~

~~The bill would express the intent of the Legislature that both of the following occur, upon the appropriation of funds therefor in the annual Budget Act: that the Superintendent of Public Instruction allocate \$3.50 per pupil per hour, not to exceed 80 hours, of intensive instruction pursuant to the bill and that an unspecified sum be appropriated from the General Fund to the Superintendent of Public Instruction for the purpose of evaluating the intensive instructional program established by the bill.~~

*This bill would require the governing board of each school district maintaining any or all of grades 2 to 6, inclusive, to offer programs of direct, systematic, and intensive supplemental instruction to pupils enrolled in grades 2 to 6, inclusive, who have been retained pursuant to specified provisions of law. The bill would authorize a school district to require a pupil who has been retained to participate in that supplemental instructional program. The bill would require the school district to provide a mechanism whereby a parent or guardian may decline to enroll his or her child in the program. The bill would also authorize the governing board*



*of each school district maintaining any or all of grades 2 to 6, inclusive, to offer programs of direct, systematic, and intensive supplemental instruction to pupils with low mathematics, reading, or written expression scores to allow those pupils to achieve proficiency in standards adopted by the State Board of Education. The bill would prescribe the priority for offering those instructional services to pupils and would prescribe criteria for funding these programs. By imposing new duties on school districts regarding the provision of supplemental instruction programs, the bill would impose a state-mandated local program.*

(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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

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

Vote: ~~majority~~ <sup>2/3</sup>. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

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

1 ~~SECTION 1.—The Legislature finds and declares all of~~  
2 *SECTION 1. Section 37252.5 is added to the*  
3 *Education Code, to read:*  
4 *37252.5. (a) The governing board of each district*  
5 *maintaining any or all of grades 2 to 9, inclusive, shall offer*  
6 *programs of direct, systematic, and intensive*  
7 *supplemental instruction to pupils enrolled in grades 2 to*  
8 *9, inclusive, who have been retained pursuant to Section*  
9 *48070.5, as added by Assembly Bill 1626 of the 1997–98*  
10 *Regular Session. A school district may require a pupil who*



1 has been retained to participate in supplemental  
2 instructional programs. Notwithstanding the  
3 requirements of this section, the school district shall  
4 provide a mechanism for a parent or guardian to decline  
5 to enroll his or her child in the program. Attendance in  
6 supplemental instructional programs shall not be  
7 compulsory within the meaning of Section 48200.

8 (b) The governing board of each district maintaining  
9 any or all of grades 2 to 6, inclusive, may offer programs  
10 of direct, systematic, and intensive supplemental  
11 instruction to pupils enrolled in grades 2 to 6, inclusive,  
12 with low mathematics, reading, or written expression  
13 scores to allow those pupils to achieve proficiency in  
14 standards adopted by the State Board of Education.  
15 Services offered pursuant to this subdivision shall be  
16 provided to pupils in the following priority order:

17 (1) Pupils who have been recommended for retention  
18 or who have been identified as being at risk of retention  
19 pursuant to Section 48070.5, as added by Assembly Bill  
20 1626 of the 1997–98 Regular Session, or school district  
21 policies.

22 (2) Pupils who have been identified as having a  
23 deficiency in mathematics, reading, or written expression  
24 based on the results of the tests administered under the  
25 Standardized Testing and Reporting Program  
26 established pursuant to Article 4 (commencing with  
27 Section 60640) of Chapter 5 of Part 33.

28 (c) Supplemental educational services pursuant to  
29 subdivisions (a) and (b) shall be offered during the  
30 summer, after school, on Saturdays, or during  
31 intersession, or in a combination of summer school, after  
32 school, Saturday, or intersession instruction. Services shall  
33 not be provided during the pupil's regular instructional  
34 day if it would result in the pupil being removed from  
35 classroom instruction in the core curriculum.

36 (d) For purposes of this section, a pupil shall be  
37 considered to be enrolled in a grade immediately upon  
38 completion of the preceding grade. Summer school  
39 instruction may also be offered to pupils who were  
40 enrolled in grade 6 during the prior fiscal year after the



1 completion of grade 6. For ninth grade pupils identified  
2 in subdivision (a), summer school instruction may also be  
3 offered to pupils who were enrolled in grade 9 during the  
4 prior fiscal year after the completion of grade 9.

5 (e) Each school district shall use results from tests  
6 administered under the Standardized Testing and  
7 Reporting Program, established pursuant to Article 4  
8 (commencing with Section 60640) of Chapter 5 of Part 33  
9 or other evaluative criteria to identify eligible pupils  
10 pursuant to subdivision (b).

11 (f) An intensive remedial program in reading or  
12 written expression offered pursuant to this section shall,  
13 as needed, include instruction in phoneme awareness,  
14 systematic explicit phonics and decoding, word attack  
15 skills, spelling and vocabulary, explicit instruction of  
16 reading comprehension, writing, and study skills.

17 (g) Each school district shall seek the active  
18 involvement of parents and classroom teachers in the  
19 development and implementation of supplemental  
20 instructional programs provided pursuant to this section.

21 (h) It is the intent of the Legislature that pupils who  
22 are at risk of failing to meet state adopted standards, or  
23 who are at risk of retention, be identified as early in the  
24 school year, and as early in their school careers as possible  
25 and be provided the opportunity for supplemental  
26 instruction sufficient to assist them in attaining expected  
27 levels of academic achievement.

28 (i) (1) The maximum amount of funding for the  
29 purposes of programs offered pursuant to this section to  
30 serve pupils in grades 2 to 6, inclusive, shall not exceed 10  
31 percent of the statewide total enrollment in grades 2 to  
32 6, inclusive, for the prior fiscal year multiplied by 120  
33 hours, multiplied by the hourly rate for the current fiscal  
34 year determined pursuant to subdivision (c) of Section  
35 42239, as added by Senate Bill 1370 of the 1997–98 Regular  
36 Session (hereafter Section 42239). Any funding provided  
37 for the purposes of this section shall first be used by the  
38 district to provide services required pursuant to  
39 subdivision (a), and shall be allocated in the following  
40 manner:



1 (A) Notwithstanding subdivision (e) of Section 42239,  
 2 a school district that offers instruction pursuant to  
 3 subdivisions (a) and (b) to serve pupils in grades 2 to 6,  
 4 inclusive, shall be entitled to receive an additional  
 5 reimbursement in an amount up to 5 percent of the  
 6 district's total enrollment in grades 2 to 6, inclusive, for  
 7 the prior fiscal year multiplied by 120 hours, multiplied by  
 8 the hourly rate for the current fiscal year determined  
 9 pursuant to subdivision (c) of Section 42239.

10 (B) The balance of the appropriation made for the  
 11 purposes of funding programs offered pursuant to this  
 12 section to serve pupils in grades 2 to 6, inclusive, shall be  
 13 allocated for reimbursement for pupil attendance in  
 14 instruction pursuant to subdivisions (a) and (b) that is in  
 15 excess of 5 percent of the district's enrollment for the  
 16 prior year in grades 2 to 6, inclusive, multiplied by 120  
 17 hours, multiplied by the hourly rate for the current fiscal  
 18 year determined pursuant to subdivision (c) of Section  
 19 42239.

20 (2) If the funds claimed by school districts pursuant to  
 21 subparagraph (B) of paragraph (1) of this subdivision  
 22 exceed the available balance of the appropriation made  
 23 for the purposes of funding programs offered pursuant to  
 24 this section in paragraph (1) of this subdivision after the  
 25 minimum allocation to eligible districts has been made  
 26 pursuant to subparagraph (A) of paragraph (1) of this  
 27 subdivision, the allocation of the balance shall be prorated  
 28 based on each district's share of the total additional hours  
 29 of instruction offered pursuant to subparagraph (B) of  
 30 paragraph (1) of this subdivision.

31 ~~the following:~~

32 ~~(a) In order to better serve pupils whose academic~~  
 33 ~~performance is below district-adopted standards, school~~  
 34 ~~districts shall develop a comprehensive plan for~~  
 35 ~~implementing an effective required intensive~~  
 36 ~~instructional program.~~

37 ~~(b) Pupils who attend required intensive instruction~~  
 38 ~~should have access to services and educational~~  
 39 ~~opportunities that are needed in order to achieve and~~



1 meet academically rigorous content and performance  
2 standards.

3 (e) Pupils who are proficient in English or language  
4 arts and who can reason mathematically by the end of  
5 grade 3 are likely to be future successful pupils.

6 (d) An effective instructional program includes  
7 appropriate interventions, such as required intensive  
8 instruction, for pupils who have not met district-adopted  
9 standards and for pupils who have failed a required  
10 course. Appropriate intervention programs are essential  
11 in order for all pupils to attain high levels of academic  
12 achievement.

13 (e) Parents or guardians are recognized as integral  
14 active partners in the success of a required intensive  
15 instructional program.

16 (f) School districts will involve and inform parents or  
17 guardians and pupils about expected levels of academic  
18 achievement and whether or not their children are  
19 meeting them.

20 (g) Under the provisions of the act adding this section,  
21 the expectation is that intensive instruction will assist  
22 pupils to attain proficient levels of academic  
23 achievement.

24 SEC. 2. Chapter 2.3 (commencing with Section  
25 37270) is added to Part 22 of the Education Code, to read:

26

27 CHAPTER 2.3. REQUIRED INTENSIVE INSTRUCTIONAL  
28 PROGRAMS

29

30 37270. (a) The Superintendent of Public Instruction  
31 is authorized to reimburse schoolsites for the purposes of  
32 a competitive grant program for academically intensive  
33 programs, open to all students in California. Grant  
34 applications shall originate at the school district level.  
35 Grant funds may be used in conjunction with other  
36 program resources. Reimbursement under this section  
37 shall be used to accomplish both of the following:

38 (1) Carry out the findings and declarations set forth in  
39 Section 1 of the act that adds this section.



1 ~~(2) Authorize schoolsites to implement a required~~  
2 ~~intensive instructional program as described in the school~~  
3 ~~action plan. Whenever possible funds should be spent on~~  
4 ~~programs during the school year, such as for programs~~  
5 ~~including, but not limited to, after-school programs,~~  
6 ~~Saturday school, and intersession programs. Resources~~  
7 ~~may also be used to fund academically intensive summer~~  
8 ~~school programs.~~

9 ~~(b) The governing board of each school district~~  
10 ~~maintaining any or all of kindergarten and grades 1 to 12,~~  
11 ~~inclusive, and receiving assistance under this section,~~  
12 ~~shall offer, and require as a requisite for promotion and~~  
13 ~~graduation, summer school instructional programs for~~  
14 ~~any pupil enrolled in kindergarten or grades 1 to 12,~~  
15 ~~inclusive, in the prior school year. In its school action plan,~~  
16 ~~each school district shall include a required intensive~~  
17 ~~instructional program that shall address, but not~~  
18 ~~necessarily be limited to, all of the following:~~

19 ~~(1) Eligibility: a pupil who does not meet district~~  
20 ~~academic and performance standards in English,~~  
21 ~~language arts, or mathematics shall be eligible for a~~  
22 ~~required intensive instructional program.~~

23 ~~(2) Eligibility criteria direction: when determining~~  
24 ~~that a pupil has not met district standards, the schoolsite~~  
25 ~~shall utilize, but not necessarily be limited to, both of the~~  
26 ~~following information sources:~~

27 ~~(A) Teacher and parent or guardian~~  
28 ~~recommendations, which may be expressed in the form~~  
29 ~~of a parent teacher compact.~~

30 ~~(B) Multiple measures of pupil performance.~~

31 ~~(3) Program description:~~

32 ~~(A) A required intensive instructional program may~~  
33 ~~include, but not necessarily be limited to, any of the~~  
34 ~~following:~~

35 ~~(i) Individual and small group instruction.~~

36 ~~(ii) Before and after school programs.~~

37 ~~(iii) Intersessions, Saturday school, or summer school.~~

38 ~~(B) Content shall be aligned with the core curriculum,~~  
39 ~~and pupils shall have access to appropriate instructional~~



1 materials. Class size shall not exceed regular program  
2 guidelines.

3 (4) Instruction: each required intensive instructional  
4 program shall include components that accomplish all of  
5 the following:

6 (A) Include specific intervention strategies,  
7 assessment, and diagnosis specific to the appropriate  
8 grade level and course of instruction.

9 (B) Are closely aligned to district curriculum and the  
10 adopted standards of the district.

11 (C) Focus on pupils reaching proficient levels of  
12 academic achievement according to adopted standards.

13 (D) Apply to English language learners and are closely  
14 aligned with the district's curriculum. These programs  
15 shall be staffed by credentialed teachers with the  
16 assistance of paraprofessionals and college work-study  
17 students.

18 (5) Assessment: each pupil receiving required  
19 intensive instruction shall be assessed at the beginning  
20 and the end of the program. An end-of-course evaluation  
21 shall provide the parent or guardian, pupil, and schoolsite  
22 with information about the pupil's level of proficiency in  
23 the targeted area of instruction. End-of-course evaluation  
24 results shall be used to plan instruction for the subsequent  
25 school year.

26 (6) Maximization of resources: state and federal  
27 programs that provide current summer programs shall  
28 work in partnership with districts to provide intensive  
29 instructional programs that ensure high achievement for  
30 all pupils.

31 (7) Parent involvement: any parent or guardian may  
32 request the local governing board to waive the  
33 requirements of required intensive instruction for his or  
34 her child. Parents and guardians shall be informed that  
35 their children may be eligible for required intensive  
36 instruction at least 90 days prior to the beginning of the  
37 session.

38 37270.5. (a) (1) The governing board of each school  
39 district shall offer a supplemental, intensive instructional  
40 program for any pupil in grade 2 or 3 who meets the



1 ~~criteria set forth in subdivision (b) of Section 37270. The~~  
2 ~~intensive instructional program may include, but shall~~  
3 ~~not necessarily be limited to, all of the following:~~

4 ~~(A) Individual and small group instruction.~~

5 ~~(B) Before and after school programs.~~

6 ~~(C) Intersessions, Saturday school, or summer school.~~

7 ~~(2) Content shall be aligned with the core curriculum,~~  
8 ~~and pupils shall have access to appropriate instructional~~  
9 ~~materials. Class size shall not exceed regular program~~  
10 ~~guidelines.~~

11 ~~(b) Each required intensive instructional program~~  
12 ~~shall include components that accomplish each of the~~  
13 ~~following:~~

14 ~~(1) Include specific intervention strategies,~~  
15 ~~assessment and diagnosis appropriate to the course of~~  
16 ~~instruction in grades 2 and 3.~~

17 ~~(2) Are closely aligned to district curriculum and the~~  
18 ~~district-adopted standards.~~

19 ~~(3) Focus on pupils reaching proficient levels of~~  
20 ~~academic achievement according to adopted standards.~~

21 ~~(4) Apply to English language learners and are closely~~  
22 ~~aligned with the district's curriculum.~~

23 ~~(e) Each pupil receiving required intensive~~  
24 ~~instruction shall be assessed at the beginning and at the~~  
25 ~~end of the program. An end-of-course evaluation shall~~  
26 ~~provide the pupil, his or her parent or guardian, and the~~  
27 ~~schoolsite with information about the pupil's level of~~  
28 ~~proficiency in the targeted area of instruction. End of~~  
29 ~~course evaluation results shall be used to plan instruction~~  
30 ~~for the following school year.~~

31 ~~(d) The Superintendent of Public Instruction shall~~  
32 ~~allocate, from funds appropriated for that purpose,~~  
33 ~~funding sufficient to provide the maximum~~  
34 ~~reimbursement for the attendance of pupils in required~~  
35 ~~intensive instruction in grades 2 and 3.~~

36 ~~SEC. 3. (a) It is the intent of the Legislature that~~  
37 ~~both of the following shall occur upon the appropriation~~  
38 ~~of funds therefor in the annual Budget Act:~~

39 ~~(1) That the Superintendent of Public Instruction~~  
40 ~~allocate funds, at the rate of three dollars and fifty cents~~



1 ~~(\$3.50) per pupil per hour, not to exceed 80 hours, of~~  
2 ~~intensive instruction, to school districts participating in~~  
3 ~~the required intensive instructional programs established~~  
4 ~~pursuant to Chapter 2.3 (commencing with Section~~  
5 ~~37270) of Part 22 of the Education Code.~~

6 ~~(2) That a sum be appropriated from the General~~  
7 ~~Fund to the Superintendent of Public Instruction for the~~  
8 ~~purpose of evaluating the operation of the required~~  
9 ~~intensive instructional programs established by Chapter~~  
10 ~~2.3 (commencing with Section 37270) of Part 22 of the~~  
11 ~~Education Code.~~

12 ~~(b) The Superintendent of Public Instruction is~~  
13 ~~authorized to adopt regulations, as needed, to implement~~  
14 ~~the provisions of this act.~~

15 ~~SEC. 4. The State Department of Education and local~~  
16 ~~school districts participating in the required intensive~~  
17 ~~instructional programs established by Chapter 2.3~~  
18 ~~(commencing with Section 37270) of Part 22 of the~~  
19 ~~Education Code, in conjunction with the voluntary~~  
20 ~~interventions program, shall evaluate the~~  
21 ~~implementation and measure the results of the required~~  
22 ~~intensive instructional program as an identifiable~~  
23 ~~component of the evaluation to be conducted.~~  
24 ~~Measurement of results shall include changes in the~~  
25 ~~academic performance of pupils as a result of~~  
26 ~~participating in the required intensive instructional~~  
27 ~~program. The independent statewide evaluation of the~~  
28 ~~voluntary interventions program shall include the~~  
29 ~~identification of effective required instructional~~  
30 ~~strategies for improving pupils' academic performance.~~

31 ~~SEC. 5.—~~

32 ~~SEC. 2. Notwithstanding Section 17610 of the~~  
33 ~~Government Code, if the Commission on State Mandates~~  
34 ~~determines that this act contains costs mandated by the~~  
35 ~~state, reimbursement to local agencies and school~~  
36 ~~districts for those costs shall be made pursuant to Part 7~~  
37 ~~(commencing with Section 17500) of Division 4 of Title~~  
38 ~~2 of the Government Code. If the statewide cost of the~~  
39 ~~claim for reimbursement does not exceed one million~~



1 dollars (\$1,000,000), reimbursement shall be made from  
2 the State Mandates Claims Fund.

3 Notwithstanding Section 17580 of the Government  
4 Code, unless otherwise specified, the provisions of this act  
5 shall become operative on the same date that the act  
6 takes effect pursuant to the California Constitution.

7 *SEC. 3. This act is an urgency statute necessary for the*  
8 *immediate preservation of the public peace, health, or*  
9 *safety within the meaning of Article IV of the*  
10 *Constitution and shall go into immediate effect. The facts*  
11 *constituting the necessity are:*

12 *In order to implement the intensive supplemental*  
13 *instruction programs established by this act as*  
14 *expeditiously as possible, it is necessary that this measure*  
15 *take effect immediately.*

