

AMENDED IN ASSEMBLY MAY 27, 1998
AMENDED IN ASSEMBLY MAY 22, 1998
AMENDED IN ASSEMBLY APRIL 14, 1998

CALIFORNIA LEGISLATURE—1997–98 REGULAR SESSION

ASSEMBLY BILL

No. 2041

**Introduced by Assembly Members Bustamante,
Villaraigosa, and Pacheco
(Coauthors: Assembly Members Baca, Cardenas, Havice,
Machado, Scott, and Wayne)**

February 18, 1998

An act to amend Sections 60119, 60246, and 60248 of, to add Sections 60240.7 and 60246.5 to, and to add the heading of Article 7 (commencing with Section 60119) to Chapter 1 of Part 33 of, to repeal Sections 60117, 60118, and 60247 of, and to repeal the heading of Article 7 (commencing with Section 60117) of Chapter 1 of Part 33 of, the Education Code, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2041, as amended, Bustamante. Education: textbooks: State Instructional Materials Fund.

(1) Existing law, known as the Pupil Textbook and Instructional Materials Incentive Program Act, requires that, commencing with the 1994–95 fiscal year, as a condition for eligibility for funding available for purposes of the program, the governing board of a school district hold a public hearing

or hearings regarding to the sufficiency of textbooks or instructional materials for each pupil and determine whether each school in the district has sufficient textbooks and instructional materials. The Pupil Textbook and Instructional Materials Incentive Program Act also requires that, if the governing board of a school district finds that there are insufficient textbooks or instructional materials, or both, the governing board take any action, except an action that would require reimbursement by the Commission on State Mandates, to alleviate these insufficiencies within 2 years from the date that the determination is made.

This bill would delete the entitling of these provisions as the Pupil Textbook and Instructional Materials Incentive Program Act. Commencing with the 1998–99 fiscal year, the bill would impose a state-mandated local program by reducing the period during which these insufficiencies are to be addressed by the governing board of a school district from 2 years to 60 days. The bill would authorize the Superintendent of Public Instruction to withhold ~~up to 10%~~ 1% of an amount ~~reasonably estimated by the superintendent to be~~ of revenue limit funds that would otherwise be apportioned to the school district for that school district's annual administrative funding that does not relate to instructional programs until the school district has complied with the requirements of the bill.

(2) Existing law requires each county superintendent of schools to provide for an annual audit of all funds under his or her jurisdiction and control and the governing board of each school district to either provide for an audit of the books and accounts of the school district or to make arrangements with the county superintendent of schools for that auditing.

This bill would impose a state-mandated local program by requiring this audit to include an audit of the extent of compliance with this bill. The bill would require the Superintendent of Public Instruction to review these audits to ascertain whether prescribed provisions of the bill have been complied with. *If the superintendent finds that the provisions has not been complied with, the superintendent would be required to withhold 1% of the amount of the revenue limit*



funds that otherwise would be apportioned to the school district until the school district has complied.

(3) Existing law establishes the State Instructional Materials Fund as a means of annually funding the acquisition of instructional materials as required by the California Constitution and continuously appropriates all money in that fund. Existing law also requires the Controller, during each fiscal year, commencing with the 1983–84 fiscal year, to transfer the amount of \$21.18 per pupil in the public elementary schools during the preceding fiscal year, and the amount of \$14.41 per pupil enrolled in grades 9 to 12, inclusive, in the prior fiscal year, from the General Fund to the State Instructional Materials Fund.

This bill would instead provide that the Controller, during each fiscal year, commencing with the 1999–2000 fiscal year, transfer from the General Fund to the State Instructional Materials Fund the amount of \$77.50 per pupil in the average daily attendance in the public elementary and secondary schools during the preceding fiscal year, thereby making an appropriation. The bill would require each school district and county office of education receiving funds under this provision to certify that prescribed requirements have been complied with relating to instructional materials obtained with these funds.

(4) 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.

(5) The bill would declare that it would become operative on July 1, 1998, or on the date that it is chaptered, whichever occurs last.



(6) The bill would declare that it is to take effect immediately as an urgency statute.

Vote: ²/₃. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. The heading of Article 7 (commencing
2 with Section 60117) of Chapter 1 of Part 33 of the
3 Education Code is repealed.

4 SEC. 2. Section 60117 of the Education Code is
5 repealed.

6 SEC. 3. Section 60118 of the Education Code is
7 repealed.

8 SEC. 4. The heading of Article 7 (commencing with
9 Section 60119) is added to Chapter 1 of Part 33 of the
10 Education Code, to read:

11

12 Article 7. Provision of Sufficient Pupil Textbooks and
13 Instructional Materials

14

15 SEC. 5. Section 60119 of the Education Code is
16 amended to read:

17 60119. (a) Commencing with the 1998–99 fiscal year,
18 and for each fiscal year thereafter, the governing board
19 of a school district shall take the following actions:

20 (1) The governing board shall hold a public hearing or
21 hearings at which the governing board shall encourage
22 participation by parents, teachers, members of the
23 community interested in the affairs of the school district,
24 and bargaining unit leaders, and shall make a
25 determination, through a resolution, as to whether each
26 pupil in each school in the district has, or will have, prior
27 to the end of that fiscal year, sufficient textbooks or other
28 instructional materials, or both, in each subject that are
29 consistent with the content and cycles of the curriculum
30 framework adopted by the state board.

31 (2) (A) If the governing board determines that there
32 are insufficient textbooks or other instructional materials,
33 or both, the governing board shall provide information to



1 classroom teachers and to the public setting forth the
2 reasons that each pupil does not have sufficient textbooks
3 or instructional materials, or both, and take any action,
4 except an action that would require reimbursement by
5 the Commission on State Mandates, to ensure that each
6 pupil has sufficient textbooks or other instructional
7 materials, or both, within a 60-day period from the date
8 of the determination.

9 (B) In carrying out subparagraph (A), the governing
10 board may use money in any of the following funds:

11 (i) Any funds available for textbooks or instructional
12 materials, or both, from categorical programs, including
13 any funds allocated to school districts that have been
14 appropriated in the annual Budget Act.

15 (ii) Any funds of the school district that are in excess
16 of the amount available for each pupil during the prior
17 fiscal year to purchase textbooks or instructional
18 materials, or both.

19 (b) The governing board shall provide 10 days' notice
20 of the public hearing or hearings held pursuant to
21 subdivision (a). The notice shall contain the time, place,
22 and purpose of the hearing, and shall be posted in at least
23 three public places in the school district.

24 (c) Except for purposes of Section 60252, governing
25 boards of school districts that receive funds for
26 instructional materials from any state source are subject
27 to the requirements of this section only in a fiscal year in
28 which the Superintendent of Public Instruction
29 determines that the base revenue limit for each school
30 district will increase by at least 1 percent per unit of
31 average daily attendance from the prior fiscal year.

32 (d) With respect to any school district found to be in
33 violation of this section, the Superintendent of Public
34 Instruction ~~may withhold up to 10 percent of an amount~~
35 ~~that the Superintendent of Public Instruction reasonably~~
36 ~~estimates to be~~ *shall withhold 1 percent of the amount of*
37 *revenue limit funds that otherwise would be apportioned*
38 *to the school district for that school district's annual*
39 administrative funding that does not relate to any



1 instructional programs until the school district has
2 complied with the requirements of this section.

3 (e) For the purposes of this article, the terms
4 “governing board of a school district” and “governing
5 board” are deemed to include county boards of
6 education.

7 SEC. 6. Section 60240.7 is added to the Education
8 Code, to read:

9 60240.7. The annual audit of school districts and
10 county offices of education conducted pursuant to
11 Section 41020 shall include an audit of the extent of
12 compliance with the requirements of Sections 60119,
13 60246, and 60246.5. The Superintendent of Public
14 Instruction shall review these audits to ascertain whether
15 the matters certified under Section 60246.5 by the school
16 district or county office of education have been
17 accomplished. If the Superintendent of Public
18 Instruction finds that a school district or county office of
19 education has not complied with Section 60119, 60246, or
20 60246.5, the superintendent ~~may withhold up to 10~~
21 ~~percent of an amount that the Superintendent of Public~~
22 ~~Instruction reasonably estimates to be that school~~
23 ~~district’s annual administrative funding that does not~~
24 ~~relate to any instructional programs shall withhold 1~~
25 ~~percent of the amount of revenue limit funds that~~
26 ~~otherwise would be apportioned to the school district~~
27 until the school district or county office of education has
28 complied with these sections.

29 SEC. 7. Section 60246 of the Education Code is
30 amended to read:

31 60246. (a) The Controller shall, during each fiscal
32 year, commencing with the 1999–2000 fiscal year, transfer
33 from the General Fund of the state to the State
34 Instructional Materials Fund, the amount of
35 seventy-seven dollars and fifty cents (\$77.50) per pupil in
36 the average daily attendance in the public elementary
37 and secondary schools during the preceding fiscal year, as
38 certified by the Superintendent of Public Instruction,
39 except that this amount shall be adjusted annually by an



1 amount equal to the percentage change determined
2 pursuant to subdivision (b) of Section 42238.1.

3 (b) The amount transferred pursuant to subdivision
4 (a) includes the designated percentage of the cash
5 entitlements to be used to pay for unadopted state
6 materials, tests, and in-service training.

7 (c) Each school receiving funds under this section
8 shall have library materials reflective of the academic
9 needs of its pupils purchased at a rate that is no less than
10 10 percent of the per-pupil funding provided under
11 subdivision (a).

12 SEC. 8. Section 60246.5 is added to the Education
13 Code, to read:

14 60246.5. Commencing with the 1998–99 fiscal year,
15 and each fiscal year thereafter, each school district and
16 county office of education that receives funds pursuant to
17 Section 60246 in excess of the amount received for this
18 purpose in the 1997–98 fiscal year shall certify that it has
19 accomplished all of the following:

20 (a) Each of its pupils has, for each subject at each grade
21 level, basic instructional materials that are in accordance
22 with the schedule for elementary instructional materials
23 that has been most recently adopted by the State Board
24 of Education.

25 (b) In each of the core curriculum areas, which
26 include the English language, the arts, reading and
27 spelling, mathematics, science, and history and social
28 science, the basic instructional materials are aligned with
29 standards adopted by the State Board of Education and
30 have been purchased subsequent to the adoption of these
31 standards and criteria for adoption of elementary
32 instructional materials in these areas.

33 (c) Each pupil has the appropriate science materials
34 necessary to carry out a science curriculum consistent
35 with the standards adopted by the State Board of
36 Education.

37 SEC. 9. Section 60247 of the Education Code is
38 repealed.

39 SEC. 10. Section 60248 of the Education Code is
40 amended to read:



1 60248. School district governing boards shall use the
 2 funds apportioned pursuant to Section 60246 solely for the
 3 purchase of instructional materials, as defined in Section
 4 60010, for pupils in kindergarten and in grades 1 to 8,
 5 inclusive, in accordance with Sections 60200 and 60242.
 6 For pupils in grades 9 to 12, inclusive, textbooks and other
 7 instructional materials purchased with these funds shall
 8 be adopted in accordance with Section 60400.

9 SEC. 11. Notwithstanding Section 17610 of the
 10 Government Code, if the Commission on State Mandates
 11 determines that this act contains costs mandated by the
 12 state, reimbursement to local agencies and school
 13 districts for those costs shall be made pursuant to Part 7
 14 (commencing with Section 17500) of Division 4 of Title
 15 2 of the Government Code. If the statewide cost of the
 16 claim for reimbursement does not exceed one million
 17 dollars (\$1,000,000), reimbursement shall be made from
 18 the State Mandates Claims Fund.

19 Notwithstanding Section 17580 of the Government
 20 Code, unless otherwise specified, the provisions of this act
 21 shall become operative on the same date that the act
 22 takes effect pursuant to the California Constitution.

23 SEC. 12. This act shall become operative on July 1,
 24 1998, or on the date that it is chaptered, whichever occurs
 25 last.

26 SEC. 13. This act is an urgency statute necessary for
 27 the immediate preservation of the public peace, health,
 28 or safety within the meaning of Article IV of the
 29 Constitution and shall go into immediate effect. The facts
 30 constituting the necessity are:

31 In order for the important reforms in this act to take
 32 effect with the commencement of the 1998-99 fiscal year,
 33 it is necessary that this act take effect immediately.

