

AMENDED IN ASSEMBLY APRIL 23, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

ASSEMBLY BILL

No. 45

Introduced by Assembly Member Swanson

(Coauthors: Assembly Members Bass, Beall, Carter, DeSaulnier, Dymally, Hancock, Hayashi, Parra, Price, and Richardson)

December 4, 2006

An act to add Section 41329.4 to the Education Code, relating to the Oakland Unified School District.

LEGISLATIVE COUNSEL'S DIGEST

AB 45, as amended, Swanson. Oakland Unified School District: governance.

(1) Existing law requires the Superintendent of Public Instruction to assume all the rights, duties, and powers of the governing board of the Oakland Unified School District and to appoint an administrator to act on behalf of the Superintendent in exercising the authority of the Superintendent over the school district. Existing law continues the authority of the Superintendent and the administrator over the school district until certain enumerated conditions are met, including the completion of an improvement plan for the district. Existing law requires the County Office Fiscal Crisis and Management Assistance Team (FCMAT) to prepare the improvement plan for the school district, as provided, by July 1, 2003, and requires the FCMAT to report on the implementation of the plan, as specified.

~~This bill would require the Superintendent to immediately return the rights, duties, and powers regarding the operational areas of community relations and governance, facilities management, personnel management, and pupil achievement to the governing board of the Oakland Unified~~

School District. ~~The bill would require the Superintendent to continue through the state administrator to exercise all of the rights, powers, and duties of the governing board of the Oakland Unified School District with regard to the operational area of financial management. The bill would require the governing board of the school district to serve as an advisory body to collaborate with the state administrator concerning the operational area over which the Superintendent continues to exercise authority for the time period in which that authority is exercised.~~

This bill would require FCMAT, on or before March 1 of each year, commencing March 1, 2008, until authority for all operational areas has been returned to the governing board of the Oakland Unified School District, to prepare and submit to the Superintendent and the governing board of the school district a progress report on the district's assessment and recovery plan. On or before April 1 of each year, commencing on April 1, 2008, until authority for all operational areas has been returned to the governing board, the governing board and the state administrator appointed by the Superintendent would be required to agree on and execute a memorandum of understanding regarding the details of returning authority for one or more of the operational areas recommended for return to the school district in the most recent progress report submitted by FCMAT. The Superintendent would be required to return the authority for an operational area for which the annual FCMAT progress report recommends authority be returned to the governing board by July 1 of the year following the year in which the report is submitted. The state administrator would be required to retain authority over, or the Superintendent would be required to return to the State administrator authority over, any one or more operational areas that FCMAT recommends in its annual report be within the authority of the state administrator. The reversion of any authority to the state administrator would be required to occur by July 1 of the year following the year in which the report is submitted.

Existing

(2) Existing law requires the governing board of the Oakland Unified School District to serve without compensation as an advisory body during the period that the Superintendent is exercising authority over the district.

This bill would entitle the members of the governing board to receive ~~the same full compensation they would have received~~ *for services related to operational areas for which authority is returned to the governing*

board that they would have received prior to the transfer of authority to operate the district to the Superintendent.

(3) *By requiring FCMAT to perform additional duties, this bill would impose a state-mandated local program.*

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.

(2)

(4) This bill would declare that due to the unique circumstances regarding governance of the school district, a general statute cannot be made applicable.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: ~~no~~yes.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Providing a quality education that meets the unique needs
4 of Oakland public school pupils is a fundamental goal that should
5 not be jeopardized. On September 30, 2006, the County Office
6 Fiscal Crisis and Management Assistance Team (FCMAT)
7 recommended, in its fourth progress report on the ~~improvement~~
8 *assessment and recovery* plan of the Oakland Unified School
9 District, that the operational area of community relations and
10 governance be returned to the district, and reported that the district
11 has made continued progress in the operational areas of facilities
12 management and pupil achievement.

13 (b) *The Oakland Unified School District has been in state*
14 *receivership since 2003. During that time new members,*
15 *constituting a majority of the board, were elected to the governing*
16 *board of the district.*

17 (c) *State receivership is intended to be a process for recovery,*
18 *and FCMAT's comprehensive review has demonstrated tangible*
19 *progress by the Oakland Unified School District.*

1 ~~(b)~~
 2 (d) The Oakland Unified School District has made ~~demonstrable~~
 3 *notable* academic improvements over the last few years,
 4 demonstrated by test score improvements, an increased number
 5 of fully credentialed teachers in Oakland classrooms, and increased
 6 parental and community involvement. In 2006, the Oakland Unified
 7 School District made the largest improvement in API test scores
 8 among the 33 largest unified school districts in California.

9 ~~(e)~~
 10 (e) The *governing board and the* community of the Oakland
 11 Unified School District ~~has~~ *have* the will to continue the key
 12 educational reforms that have benefited Oakland public school
 13 pupils in the last three years and to support difficult decisions in
 14 order to immediately eliminate all further overspending by the
 15 district.

16 (f) *The governing board of the Oakland Unified School District*
 17 *is voluntarily undergoing training in the responsibilities and proper*
 18 *conduct of a school district governing board. The training began*
 19 *in January 2007 and will be completed in June 2007.*

20 SEC. 2. ~~(a)~~—It is the intent of the Legislature that the state
 21 administrator appointed pursuant to subdivision (b) of Section 4
 22 of Chapter 14 of the Statutes of 2003 ~~should continue to work with~~
 23 ~~the present administrators and~~ *and the* governing board of the
 24 Oakland Unified School District ~~to identify the procedures and~~
 25 ~~programs currently implemented by the district that have proven~~
 26 ~~to do one or more of the following:~~ *begin the process of a*
 27 *structured and orderly return of authority over the operational*
 28 *areas of community relations and governance, pupil achievement,*
 29 *personnel management, facilities management, and fiscal control*
 30 *from the Superintendent of Public Instruction back to the governing*
 31 *board of the Oakland Unified School District, pursuant to annual*
 32 *FCMAT progress reviews and recommendations on any*
 33 *operational areas that should be returned to the control of the*
 34 *governing board.*

- 35 ~~(1) Significantly raise pupil achievement.~~
- 36 ~~(2) Improve pupil attendance.~~
- 37 ~~(3) Lower pupil dropout rate.~~
- 38 ~~(4) Increase parental involvement.~~
- 39 ~~(5) Attract, retain, and train a quality teaching staff.~~

1 ~~(b) It is the intent of the Legislature that the procedures and~~
2 ~~programs identified pursuant to subdivision (a) be protected,~~
3 ~~maintained, and expanded as the budget of the district allows.~~

4 ~~SEC. 3. The Legislature finds and declares both of the~~
5 ~~following:~~

6 ~~(a) Due to the continued improvement and progress made by~~
7 ~~the Oakland Unified School District in the operational areas of~~
8 ~~community relations and governance, facilities management, and~~
9 ~~pupil achievement, it is necessary that the rights, duties, and powers~~
10 ~~regarding those areas to be returned to the governing board of the~~
11 ~~district.~~

12 ~~(b) It is necessary that the Superintendent of Public Instruction~~
13 ~~continue to maintain control of the operational areas of personnel~~
14 ~~management and financial management in order to ensure the~~
15 ~~return of the district to fiscal solvency.~~

16 ~~SEC. 4. Section 41329.4 is added to the Education Code, to~~
17 ~~read:~~

18 ~~41329.4. (a) Notwithstanding any provision of Chapter 14 of~~
19 ~~the Statutes of 2003, the Superintendent shall immediately return~~
20 ~~the rights, duties, and powers regarding the operational areas of~~
21 ~~community relations and governance, facilities management,~~
22 ~~personnel management, and pupil achievement to the governing~~
23 ~~board of the Oakland Unified School District. The Superintendent~~
24 ~~shall continue, through the state administrator appointed pursuant~~
25 ~~to subdivision (b) of Section 4 of Chapter 14 of the Statutes of~~
26 ~~2003, to exercise all of the rights, powers, and duties of the~~
27 ~~governing board of the Oakland Unified School District with regard~~
28 ~~to the operational area of financial management.~~

29 ~~(b) For the period of time during which the Superintendent~~
30 ~~continues to exercise the authority described in subdivision (a)~~
31 ~~through the state administrator, the governing board of the Oakland~~
32 ~~Unified School District shall serve as an advisory body to~~
33 ~~collaborate with the administrator concerning that operational area.~~

34 ~~(c) Notwithstanding any provision of Chapter 14 of the Statutes~~
35 ~~of 2003, the members of the governing board shall be entitled to~~
36 ~~receive the full compensation that would have been payable prior~~
37 ~~to the transfer to the Superintendent of the rights, duties, and~~
38 ~~powers to operate the Oakland Unified School District.~~

39 ~~SEC. 3. Section 41329.4 is added to the Education Code, to~~
40 ~~read:~~

1 41329.4. (a) For purposes of this section, “operational areas”
2 means the operational areas of community relations and
3 governance, pupil achievement, personnel management, facilities
4 management, and fiscal control.

5 (b) On or before March 1 of each year, commencing on March
6 1, 2008, until authority for all operational areas has been returned
7 to the governing board of the Oakland Unified School District,
8 the County Office Fiscal Crisis and Management Team (FCMAT)
9 shall prepare and submit to the Superintendent and the governing
10 board of the school district a progress report on the district’s
11 assessment and recovery plan.

12 (c) On or before April 1 of each year, commencing on April 1,
13 2008, until authority for all operational areas has been returned
14 to the governing board, the governing board and the state
15 administrator appointed by the Superintendent pursuant to
16 subdivision (b) of Section 4 of Chapter 14 of the Statutes of 2003
17 shall agree on the details of returning authority for any of the
18 operational areas recommended for return to the school district
19 in the most recent progress report submitted by FCMAT. The
20 agreement shall be made in the form of a memorandum of
21 understanding (MOU) executed by both parties.

22 (d) If the governing board and the state administrator fail to
23 reach an agreement by April 1 pursuant to subdivision (c), the
24 governing board, by May 1 of that year, shall produce a statement
25 to be used in lieu of the MOU to govern the details of returning
26 authority for operational areas to the governing board. The
27 statement shall become operative for purposes of governing the
28 details of returning authority for operational areas to the school
29 district unless the Superintendent, by June 1, presents just cause
30 to an administrative law judge of the Office of Administrative
31 Hearings that the statement should be modified.

32 (e) Notwithstanding any provision of Chapter 14 of the Statutes
33 of 2003, the Superintendent shall return authority for an
34 operational area for which the annual progress report prepared
35 and submitted by FCMAT recommends the authority be returned
36 to the governing board by July 1 of the year following the year in
37 which the report is submitted.

38 (f) Notwithstanding any provision of Chapter 14 of the Statutes
39 of 2003, the state administrator shall retain authority over, or the
40 Superintendent of Public Instruction shall return to the state

1 *administrator authority over, any one or more operational areas*
2 *that FCMAT recommends in its annual report be within the*
3 *authority of the state administrator. The return of any authority*
4 *to the state administrator shall occur by July 1 of the year following*
5 *the year in which the report is submitted.*

6 *(g) Notwithstanding any provision of Chapter 14 of the Statutes*
7 *of 2003, the members of the governing board shall be entitled to*
8 *receive the full compensation for services related to operational*
9 *areas for which authority is returned to the governing board*
10 *pursuant to this section that they would have received prior to the*
11 *Superintendent originally assuming authority for all of the*
12 *operational areas.*

13 ~~SEC. 5.~~

14 *SEC. 4.* The Legislature finds and declares that due to the
15 unique circumstances regarding governance of the Oakland Unified
16 School District, a general statute cannot be made applicable within
17 the meaning of Section 16 of Article IV of the California
18 Constitution.

19 *SEC. 5.* *If the Commission on State Mandates determines that*
20 *this act contains costs mandated by the state, reimbursement to*
21 *local agencies and school districts for those costs shall be made*
22 *pursuant to Part 7 (commencing with Section 17500) of Division*
23 *4 of Title 2 of the Government Code.*