

AMENDED IN SENATE JULY 2, 2007  
AMENDED IN ASSEMBLY JUNE 1, 2007  
AMENDED IN ASSEMBLY MAY 2, 2007  
AMENDED IN ASSEMBLY APRIL 23, 2007

CALIFORNIA LEGISLATURE—2007—08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 45**

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**Introduced by Assembly Member Swanson**  
**(Coauthors: Assembly Members Bass, Beall, Carter, DeSaulnier,**  
**Dymally, Eng, Hancock, Hayashi, Parra, Price, and Richardson)**  
(Coauthor: Senator Perata)

December 4, 2006

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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~~ *The* authority of the Superintendent and the administrator over the school district *is required to continue* 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 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 Legislature, 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 in which the report is submitted. The state administrator would be required to retain authority over, or the Superintendent would be authorized, in his or her sole discretion, 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.

(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 full compensation for services ~~related to one or more operational areas~~, once authority for ~~that area~~ or *one or more operational* areas 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.

(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: 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 assessment and  
8 recovery plan of the Oakland Unified School District, that the  
9 operational area of community relations and governance be  
10 returned to the district, and reported that the district has made  
11 continued progress in the operational areas of facilities management  
12 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.

20 (d) The Oakland Unified School District has made notable  
21 academic improvements over the last few years, demonstrated by  
22 test score improvements, an increased number of fully credentialed  
23 teachers in Oakland classrooms, and increased parental and  
24 community involvement. In 2006, the Oakland Unified School  
25 District made the largest improvement in ~~API~~ *Academic*  
26 *Performance Index (API)* test scores among the 33 largest unified  
27 school districts in California.

1 (e) The governing board and the community of the Oakland  
 2 Unified School District have the will to continue the key  
 3 educational reforms that have benefited Oakland public school  
 4 pupils in the last three years and to support difficult decisions in  
 5 order to immediately eliminate all further overspending by the  
 6 district.

7 (f) The governing board of the Oakland Unified School District  
 8 is voluntarily undergoing training in the responsibilities and proper  
 9 conduct of a school district governing board. The training began  
 10 in January 2007 and will be completed in June 2007.

11 (g) In its Fourth Progress Report on the Assessment and  
 12 Recovery Plan of the Oakland Unified School District, FCMAT  
 13 stated as follows:

14 “In collaboration with the California Department of Education,  
 15 FCMAT established the following criteria to measure the district’s  
 16 progress. When the average score of the subset of standards in an  
 17 operational area reaches a level of six and it is considered to be  
 18 substantial and sustainable, and no individual standard in the subset  
 19 is below a four, FCMAT will recommend to the Superintendent  
 20 of Public Instruction (SPI) that this particular condition of SB 39  
 21 has been met and that this operational area could be returned to  
 22 the Governing Board.”

23 SEC. 2. It is the intent of the Legislature that the state  
 24 administrator appointed pursuant to subdivision (b) of Section 4  
 25 of Chapter 14 of the Statutes of 2003 and the governing board of  
 26 the Oakland Unified School District begin the process of a  
 27 structured and orderly return of authority over the operational areas  
 28 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~~ *County Office Fiscal Crisis and Management Assistance*  
 33 *Team* progress reports and recommendations on any operational  
 34 areas that should be returned to the control of the governing board.

35 SEC. 3. Section 41329.4 is added to the Education Code, to  
 36 read:

37 41329.4. (a) For purposes of this section, “operational areas”  
 38 means the operational areas of community relations and  
 39 governance, pupil achievement, personnel management, facilities  
 40 management, and fiscal control.

1 (b) On or before March 1 of each year, commencing on March  
2 1, 2008, until authority for all operational areas has been returned  
3 to the governing board of the Oakland Unified School District, the  
4 County Office Fiscal Crisis and Management *Assistance* Team  
5 (FCMAT) shall prepare and submit to the Legislature, the  
6 Superintendent, and the governing board of the school district a  
7 progress report on the district's assessment and recovery plan. In  
8 preparing progress reports pursuant to this subdivision, FCMAT  
9 shall use the same standards, scoring methodology, and evaluative  
10 threshold that it used in preparing its Fourth Progress Report on  
11 the Assessment and Recovery Plan of the Oakland Unified School  
12 District.

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

24 (d) If the governing board and the state administrator fail to  
25 reach an agreement by April 1 pursuant to subdivision (c), the  
26 ~~governing board~~ *Superintendent*, by May 1 of that year, shall  
27 produce a statement to be used in lieu of the MOU to govern the  
28 details of returning authority, and the resulting division of  
29 responsibilities, for operational areas to the governing board. *A*  
30 *copy of the statement shall be shared with the governing board on*  
31 *the date that the statement is produced.* The statement shall become  
32 operative for purposes of governing the details of returning  
33 authority for operational areas to the school district unless the  
34 ~~Superintendent governing board~~, by June 1, presents just cause to  
35 an administrative law judge of the Office of Administrative  
36 Hearings that the statement should be modified.

37 (e) Notwithstanding any provision of Chapter 14 of the Statutes  
38 of 2003, the Superintendent shall return authority for an operational  
39 area for which the annual progress report prepared and submitted

1 by FCMAT recommends the authority be returned to the governing  
2 board by July 1 of the year in which the report is submitted.

3 (f) Notwithstanding any provision of Chapter 14 of the Statutes  
4 of 2003, the state administrator shall retain authority over, or the  
5 Superintendent of ~~Public Instruction~~ may, in his or her sole  
6 discretion, return to the state administrator authority over, any one  
7 or more operational areas that FCMAT recommends in its annual  
8 report be within the authority of the state administrator. The return  
9 of any authority to the state administrator shall occur by July 1 of  
10 the year following the year in which the report is submitted.

11 (g) Notwithstanding any provision of Chapter 14 of the Statutes  
12 of 2003, the members of the governing board shall be entitled to  
13 receive the full compensation for services, once authority for one  
14 or more operational areas is returned to the governing board  
15 pursuant to this section, that they would have received prior to the  
16 Superintendent originally assuming authority for all of the  
17 operational areas.

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

23 SEC. 5. If the Commission on State Mandates determines that  
24 this act contains costs mandated by the state, reimbursement to  
25 local agencies and school districts for those costs shall be made  
26 pursuant to Part 7 (commencing with Section 17500) of Division  
27 4 of Title 2 of the Government Code.