

Assembly Bill No. 45

Passed the Assembly September 10, 2007

Chief Clerk of the Assembly

Passed the Senate September 6, 2007

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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

LEGISLATIVE COUNSEL’S DIGEST

AB 45, 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. 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. However, the Superintendent would be

prohibited from returning authority over the operational area of fiscal control to the governing board until he or she concludes that the school district is a going concern and no longer poses a risk of reverting to policies and behavior that would require the state to provide the district with an emergency loan. 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, once authority for 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.

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

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

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

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

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

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

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

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

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

“In collaboration with the California Department of Education, FCMAT established the following criteria to measure the district's

progress. When the average score of the subset of standards in an operational area reaches a level of six and it is considered to be substantial and sustainable, and no individual standard in the subset is below a four, FCMAT will recommend to the Superintendent of Public Instruction (SPI) that this particular condition of SB 39 has been met and that this operational area could be returned to the Governing Board.”

SEC. 2. It is the intent of the Legislature that the state administrator appointed pursuant to subdivision (b) of Section 4 of Chapter 14 of the Statutes of 2003 and the governing board of the Oakland Unified School District begin the process of a structured and orderly return of authority over the operational areas of community relations and governance, pupil achievement, personnel management, facilities management, and fiscal control from the Superintendent of Public Instruction back to the governing board of the Oakland Unified School District, pursuant to annual County Office Fiscal Crisis and Management Assistance Team progress reports and recommendations on any operational areas that should be returned to the control of the governing board.

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

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

(b) On or before March 1 of each year, commencing on March 1, 2008, until authority for all operational areas has been returned to the governing board of the Oakland Unified School District, the County Office Fiscal Crisis and Management Assistance Team (FCMAT) shall 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. In preparing progress reports pursuant to this subdivision, FCMAT shall use the same standards, scoring methodology, and evaluative threshold that it used in preparing its Fourth Progress Report on the Assessment and Recovery Plan of the Oakland Unified School District.

(c) 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 pursuant to subdivision (b) of Section 4 of Chapter 14 of the Statutes of 2003 shall agree on the details of returning authority, and the resulting division of responsibilities, for any of the operational areas recommended for return to the school district in the most recent progress report submitted by FCMAT. The agreement shall be made in the form of a memorandum of understanding (MOU) executed by both parties.

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

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

(f) Notwithstanding subdivisions (c) to (e), inclusive, the Superintendent shall not return authority over the operational area of fiscal control to the governing board until he or she concludes that the school district is a going concern and no longer poses a risk of reverting to policies and behavior that would require the state to provide the district with an emergency loan.

(g) Notwithstanding any provision of Chapter 14 of the Statutes of 2003, the state administrator shall retain authority over, or the Superintendent may, in his or her sole discretion, 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 return of any authority to the state administrator shall occur by July 1 of the year following the year in which the report is submitted.

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

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

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

Approved _____, 2007

Governor