

Introduced by Senator Hancock

February 27, 2009

An act to amend Sections 32500 and 84810.5 of, and to add Sections 32501, 32502, and 32503 to, the Education Code, and to amend Section 2053.4 of the Penal Code, relating to inmate education.

LEGISLATIVE COUNSEL'S DIGEST

SB 738, as introduced, Hancock. Prison inmate education.

(1) Existing law requires the Secretary of the Department of Corrections and Rehabilitation, the Chancellor of the California State University, the Chancellor of the California Community Colleges, and the Superintendent of Public Instruction to enter into interagency agreements in order to encourage greater involvement of educational institutions in planning and developing prison-based educational programs, and to appoint an advisory committee to accomplish various purposes. Existing law requires the Secretary of the Department of Corrections and Rehabilitation to appoint a Superintendent of Correctional Education to oversee all prison education programs.

This bill, the Prison Education Reform Act, would instead require those officers to appoint members to the Robert E. Burton Correctional Education Committee. The bill would rename the position of the Superintendent of Correctional Education as the Deputy Director of Correctional Education, who would be required to perform specified duties in consultation with the committee, including the adoption and enforcement of all necessary rules and regulations for the management and operation of education programs within the Department of Corrections and Rehabilitation, approval of education programs in correctional institutions, and the adoption of rules and regulations for the admission of inmate students to those education programs.

(2) The bill would establish the Robert E. Burton Correctional Education Committee in the Department of Corrections and Rehabilitation, which would be composed of 15 members, as specified. The committee would be required to advise the Deputy Director of Correctional Education regarding various goals and objectives, including the development of a 5-year comprehensive plan for a unified correctional school system by June 1, 2012, and to submit a report to the Legislature on or before January 1, 2012, on specified matters relating to correctional education in this state.

(3) Existing law provides that, notwithstanding open course provisions in statute or regulations of the Board of Governors of the California Community Colleges, the governing board of a community college district that provides classes for inmates of certain facilities, including a federal correctional facility, may include the units of full-time equivalent students generated in those classes for purposes of state apportionments.

This bill would instead require the open course provisions in statute or regulations of the board of governors to be waived for any governing board of a community college district that provides those classes for inmates, including inmates of state correctional facilities, and would authorize the board of governors to include the units of full-time equivalent students generated in those classes for purposes of state apportionments.

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

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

- 1 SECTION 1. This act shall be known, and may be cited, as the
- 2 Prison Education Reform Act.
- 3 SEC. 2. The Legislature finds and declares all of the following:
- 4 (a) The Budget Act of 2008 recognizes fiscal savings derived
- 5 from the effective implementation of prison education and
- 6 vocational programs.
- 7 (b) More than 20 states have established independent
- 8 correctional educational districts and have found that this change
- 9 in the structure of educational and vocational services reduces
- 10 recidivism significantly.
- 11 (c) A correctional system that reduces prison education programs
- 12 to an insignificant level and focuses solely on the custodial

functions creates an unbalanced situation for the long-term stability of the criminal justice system. With this emphasis, prison growth is inevitable. The current structure of California's prison education system undervalues education and is hostile to rehabilitation. As a consequence, inmates will leave prison worse off than when they were first incarcerated.

(d) The undermining of correctional education is often falsely justified on the grounds of security, but it is an artificial security. A majority of those in prison will eventually be released and therefore the state has an obligation to prepare them to be contributing members of society. Current correctional education policies endanger public safety by failing to provide inmates with a means to take positive control of their environment, both within prison and after release.

(e) As the prison education system fails, parole crime increases, recidivism increases, and prison populations swell. Commensurately, the need for additional correctional resources increases. During economic downturns, when the state faces enormous fiscal pressures, increased correctional costs come at the expense of other critically needed programs.

(f) A comprehensive correctional educational program is an efficient use of state funds as it will allow tens of thousands of former inmates to become productive citizens.

SEC. 3. Section 32500 of the Education Code is amended to read:

32500. (a) In order to encourage greater involvement of educational institutions in planning and developing prison-based educational programs, the ~~Director of Corrections~~ *Secretary of the Department of Corrections and Rehabilitation*, the Chancellor of the California State ~~University and Colleges~~, *University*, the Chancellor of the California Community Colleges, and the Superintendent of Public Instruction, with the advice of the California Postsecondary Education Commission, shall enter into interagency agreements. ~~Such~~ *These* agreements shall provide for, but not be limited to, ~~all~~ *both* of the following:

(1) A determination of the roles of the Department of Corrections *and Rehabilitation*, the office of the Chancellor of the California State ~~University and Colleges~~, *University*, the office of the Chancellor of the California Community Colleges, and the

1 State Department of Education, in developing policy for
2 prison-based educational programs.

3 (2) Joint policy and program planning.

4 (b) ~~The Director of Corrections~~ *Secretary of the Department of*
5 *Corrections and Rehabilitation*, the Chancellor of the California
6 ~~State University and Colleges~~, *University*, the Chancellor of the
7 California Community Colleges, and the Superintendent of Public
8 Instruction shall appoint ~~an advisory committee to do, but not be~~
9 ~~limited to doing, all of the following:~~ *members to the Robert E.*
10 *Burton Correctional Education Committee as specified in Section*
11 *32501.*

12 (c) *The Deputy Director of Correctional Education, in*
13 *consultation with the committee, shall perform all of the following*
14 *duties:*

15 (1) ~~Making~~ *Make* recommendations on the use of instructional
16 television in these programs.

17 (2) ~~Reviewing~~ *Review and making* make recommendations
18 relating to any proposed budgets for these programs.

19 (3) ~~Reviewing~~ *Review and making* make recommendations
20 relating to the implementation of the interagency agreement.

21 (4) *Adopt and enforce all necessary rules and regulations for*
22 *the management and operation of education programs within the*
23 *Department of Corrections and Rehabilitation, including operating*
24 *procedures and the goals of correctional education, in compliance*
25 *with the rulemaking provisions of the Administrative Procedure*
26 *Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of*
27 *Division 3 of Title 2 of the Government Code). All rules or*
28 *regulations adopted by the committee shall be in accordance with*
29 *the rules and regulations of the Department of Corrections and*
30 *Rehabilitation relating to security and any applicable rules or*
31 *regulations adopted by the Superintendent of Public Instruction.*

32 (5) *Approve education programs of appropriate levels and types*
33 *in correctional institutions and adopt rules and regulations for*
34 *the admission of inmate students to these education programs.*

35 (6) *Enter into agreements with public or private school districts,*
36 *community colleges, colleges, or universities, and other entities,*
37 *as appropriate, for the purpose of carrying out the duties and*
38 *responsibilities of the Deputy Director of Correctional Education.*
39 *All agreements and contracts for instructional services shall*
40 *expressly prescribe the qualifications and expectations for*

1 *instructors and the educational objectives to be met. In the*
2 *identification and provision of special education services, the*
3 *Deputy Director of Correctional Education, in consultation with*
4 *the committee, shall establish all appropriate interagency*
5 *agreements with service providers. All hiring decisions and other*
6 *personnel matters with respect to correctional education programs*
7 *shall be made by the Deputy Director of Correctional Education*
8 *or his or her designee, in consultation with the committee,*
9 *consistent with civil service regulations. Work performed by state*
10 *employees as of January 1, 2010, shall not be assigned to contract*
11 *employees.*

12 *(7) Visit and inspect the correctional schools, as the committee*
13 *deems necessary, and name each correctional school if necessary.*

14 *(d) The Deputy Director of Correctional Education, in*
15 *consultation with the committee and in conjunction with parole*
16 *and other aftercare programs and consistent with the policies*
17 *adopted by the Deputy Director of Correctional Education, in*
18 *consultation with the committee, shall develop and implement a*
19 *plan for providing transitional educational services for inmates,*
20 *including, but not limited to, counseling and placement services.*

21 *(e) The Deputy Director of Correctional Education, in*
22 *consultation with the committee, shall develop a plan and make*
23 *every reasonable effort to accomplish all of the following:*

24 *(1) Conduct annual reviews of program cost-effectiveness and*
25 *make recommendations, including, but not limited to, improvement*
26 *of programs to lower recidivism, consolidation of administrative*
27 *functions to lower costs, and ways to reduce operational costs.*

28 *(2) Provide each of the educational opportunities set forth in*
29 *paragraphs (3) to (6), inclusive, to inmates while in prison and in*
30 *state-operated transitional facilities and programs.*

31 *(3) Provide each inmate who has a reasonable expectation of*
32 *release from custody with the opportunity to achieve functional*
33 *literacy, specifically the ability to read and write the English*
34 *language and to perform routine mathematical functions at a 9th*
35 *grade level before his or her release or expiration of sentence. If*
36 *the inmate demonstrates the intellectual capacity to benefit from*
37 *those opportunities, the committee shall provide that inmate with*
38 *the opportunity to obtain the equivalent of a high school diploma.*

39 *(4) Provide every inmate who has a reasonable expectation of*
40 *release from custody with the opportunity to achieve entry-level*

1 vocational skills in occupational fields in which there is a
2 demonstrable demand within the economy of this state.

3 (5) Provide every inmate to be released from custody with life
4 management skills and social adaptation skills to allow the inmate
5 to function successfully in society.

6 (6) Provide inmates who demonstrate college-level academic
7 capacity with the opportunity to engage in college-level academic
8 programs within correctional facilities. The associated costs of
9 these programs shall be borne by the inmate or generated by
10 private or foundation funding, subject to evaluations for
11 cost-effectiveness and recommendations as provided in paragraph
12 (1).

13 (e)

14 (f) Notwithstanding the other provisions of this section, the
15 ~~Director of Corrections~~ Secretary of the Department of Corrections
16 and Rehabilitation shall administer all prison-based education
17 programs.

18 SEC. 4. Section 32501 is added to the Education Code, to read:

19 32501. (a) There is hereby established in the Department of
20 Corrections and Rehabilitation the Robert E. Burton Correctional
21 Education Committee. As used in this Part, “committee” means
22 the Robert E. Burton Correctional Education Committee.

23 (b) The committee shall be composed of 15 members selected
24 as follows:

25 (1) The Superintendent of Public Instruction or his or her
26 designee. Any designee selected by the Superintendent shall have
27 an interest and expertise in the area of adult education or
28 correctional education.

29 (2) An institutional supervisor of correctional education
30 programs from the Department of Corrections and Rehabilitation
31 appointed by the Secretary of the Department of Corrections and
32 Rehabilitation.

33 (3) A representative of the Prison Industry Authority appointed
34 by the Secretary of the Department of Corrections and
35 Rehabilitation.

36 (4) A warden of a state prison appointed by the Secretary of the
37 Department of Corrections and Rehabilitation.

38 (5) A vocational instructor from the Department of Corrections
39 and Rehabilitation appointed by the Secretary of the Department
40 of Corrections and Rehabilitation.

1 (6) An academic teacher from the Department of Corrections
2 and Rehabilitation appointed by the Senate Committee on Rules.

3 (7) One public member not employed by a state agency
4 appointed by the Senate Committee on Rules.

5 (8) A prison rights advocate appointed by the Speaker of the
6 Assembly.

7 (9) One public member not employed by a state agency
8 appointed by the Speaker of the Assembly.

9 (10) A representative of the University of California appointed
10 by the President of the University of California.

11 (11) A representative of the California State University
12 appointed by the Chancellor of the California State University.

13 (12) A representative of the California Community Colleges
14 appointed by the Chancellor of the California Community Colleges.

15 (13) A special education teacher from the Department of
16 Corrections and Rehabilitation appointed by the Secretary for
17 Education.

18 (14) One public member not employed by a state agency
19 appointed by the Governor.

20 (15) A representative of the Division of Apprenticeship
21 Standards of the Department of Industrial Relations appointed by
22 the Director of Industrial Relations.

23 (c) (1) Except for the terms of initial members, members shall
24 be appointed for terms of four years. If a vacancy occurs, the
25 appointing authority, as specified in subdivision (a), shall appoint
26 a member for the remainder of that term. The terms of the initial
27 members of the committee shall expire as follows:

28 (A) The members selected under paragraphs (1), (2), (5), and
29 (15) of subdivision (a) shall expire on March 15, 2012.

30 (B) The members selected under paragraphs (4), (6), and (8) of
31 subdivision (a) shall expire on March 15, 2013.

32 (C) The members selected under paragraphs (3), (10), (11), and
33 (12) of subdivision (a) shall expire on March 15, 2014.

34 (D) The members selected under paragraphs (7), (9), (13), and
35 (14) of subdivision (a) shall expire on March 15, 2015.

36 (2) Successor members shall hold office for terms to commence
37 on the expiration date of the term of the predecessor.

38 (d) Members of the committee shall serve without compensation
39 but shall be reimbursed for per diem and travel expenses incurred
40 in the performance of their duties. Members employed by state

1 agencies shall receive their normal state salaries while serving on
2 the committee. Costs incurred by the committee shall be offset by
3 a reduction in the current prison education program administrative
4 staff, either Education and Inmate Program Unit administrative
5 staff at the Central Office or site principals.

6 (e) The members of the committee shall elect a chairperson
7 annually. The chairperson shall meet regularly with the Secretary
8 of the Department of Corrections and Rehabilitation to ensure that
9 all actions taken by the committee are in accordance with
10 Department of Corrections and Rehabilitation's rules and
11 regulations relating to security.

12 (f) The committee shall meet at least six times each year. The
13 meetings may be called by the chairperson of the committee.

14 SEC. 5. Section 32502 is added to the Education Code, to read:
15 32502. The committee shall advise the Deputy Director of
16 Correctional Education regarding all of the following goals and
17 objectives:

18 (a) Ensure that correctional education programs meet minimum
19 performance standards and provide 9th grade literacy skills and
20 marketable vocational skills.

21 (b) Develop by January 1, 2012, in cooperation with the State
22 Department of Education, a procedure to evaluate the effectiveness
23 of correctional education programs, including criteria similar to
24 those utilized by the State Department of Education. An evaluation
25 shall be done on a biennial basis thereafter.

26 (c) (1) Ensure that all education staff are certified in accordance
27 with the State Department of Education's standards by January 1,
28 2012. Provision shall be made for the development of individual
29 plans, approved by the Deputy Director of Correctional Education,
30 if a current education staff member does not qualify for
31 certification. Instead of certification, correctional librarians shall
32 hold a master's degree in library science from a library program
33 accredited by the American Library Association.

34 (2) Ensure that in performing educational services, the members
35 of the education staff do not perform peace officer duties.

36 (3) Ensure that educational staff adhere to institutional security
37 standards and maintain safety status to continue the institutional
38 security and protection of the public safety.

1 (d) Develop a procedure for maintaining a list of substitute
2 teachers so that students are not displaced if a regular instructor
3 is absent for any reason.

4 (e) Develop a mechanism to test all offenders committed to the
5 custody of the Department of Corrections and Rehabilitation for
6 academic achievement unless the offenders are specifically
7 excluded from the testing requirement by the Department of
8 Corrections and Rehabilitation's policy. Standards shall be in
9 accordance with State Department of Education's testing standards
10 for academic achievement.

11 (f) Develop a five-year comprehensive plan for a unified
12 correctional school system by June 1, 2012. This unified
13 correctional school system shall not constitute a school district or
14 any other local educational agency. The plan shall have a three-year
15 phase-in schedule and shall do each of the following:

16 (1) Work with the Prison Industry Authority to develop training
17 programs for inmates.

18 (2) Develop measurable objectives for correctional education.

19 (3) Develop quality control mechanisms for correctional
20 education.

21 (4) Integrate academic education and vocational education with
22 participation in prison industry programs.

23 (g) Ensure that vocational education programs complement
24 existing Prison Industry Authority programs whenever possible.

25 (h) In conjunction with the Department of Corrections and
26 Rehabilitation, determine conditions under which an inmate may
27 be removed from an education program or the classroom. The
28 conditions developed for removal of an inmate from an education
29 program or the classroom shall be consistent with any regulations
30 or policies of the Department of Corrections and Rehabilitation as
31 well as any federal laws.

32 (i) Conduct a survey of all correctional institutions to identify
33 inmates with special education needs and develop a plan for
34 addressing those special needs.

35 (j) Develop and implement an ongoing teacher training program
36 in correctional education in conjunction with the Commission on
37 Teacher Credentialing.

38 SEC. 6. Section 32503 is added to the Education Code, to read:

39 32503. The committee shall submit a report to the Legislature
40 on or before January 1, 2012, with recommendations for further

1 restructuring of correctional education in this state. The report
2 shall focus on, but not be limited to, each of the following:

3 (a) Attaining parallel education programs between correctional
4 education and public education.

5 (b) Correctional education governance system.

6 (c) Funding sources.

7 (d) Correctional education curriculum.

8 (e) Correctional library standards.

9 (f) Correctional education teacher training.

10 (g) Appropriate correctional education liaisons with the greater
11 educational community in this state.

12 SEC. 7. Section 84810.5 of the Education Code is amended to
13 read:

14 84810.5. (a) ~~Notwithstanding open~~ (1) *Open* course provisions
15 in statute or regulations of the board of governors, ~~the shall be~~
16 *waived for any governing board of a community college district*
17 *that provides classes for inmates of any city, county, or city and*
18 *county jail, road camp, farm for adults, or state or federal*
19 *correctional facility. This section does not authorize the waiver of*
20 *open course provisions in any context or situation other than those*
21 *that are specifically authorized by this section. Subject to*
22 *limitations set forth in subdivision (b), the board of governors may*
23 *include the units of full-time equivalent student students (FTES)*
24 *generated in those classes for purposes of state apportionment*
25 *apportionments. The*

26 (2) *The attendance hours generated by credit or noncredit shall*
27 *be added and counted for apportionment purposes as noncredit*
28 *attendance hours courses shall be funded at the marginal credit*
29 *rate determined pursuant to paragraph (2) of subdivision (d) of*
30 *Section 84750.5. The attendance hours generated by noncredit*
31 *courses shall be funded at the noncredit rate.*

32 (b) ~~Notwithstanding any other provision of law, no funds for~~
33 ~~inmate education programs provided pursuant to this section shall~~
34 ~~be considered as part of the base revenues for community college~~
35 ~~districts in computing apportionments as prescribed in regulations~~
36 ~~of the board of governors. When computing apportionments for~~
37 ~~districts that provided inmate education programs in the 1994-95~~
38 ~~fiscal year, the student workload measures generated and revenues~~
39 ~~received for that year shall be added to their noncredit base revenue~~
40 ~~and noncredit base workload measures for the following year.~~

1 (b) (1) A community college district shall not claim, for
2 purposes of state apportionments under this section, any class to
3 which either of the following applies:

4 (A) The district receives full compensation for its direct
5 education costs for the conduct of the class from any public or
6 private agency, individual, or group of individuals.

7 (B) The district has a contract or instructional agreement, or
8 both, for the conduct of the class with a public or private agency,
9 individual, or group of individuals that has received from another
10 source full compensation for the costs the district incurs under
11 that contract or instructional agreement.

12 (2) In reporting a claim for apportionment to the Chancellor
13 of the California Community Colleges under this section, the
14 district shall report any partial compensation it receives from the
15 sources described in subparagraphs (A) and (B) of paragraph (1)
16 during the period for which the claim is made. The chancellor
17 shall subtract the amount of any partial compensation received
18 from the total apportionment to be paid.

19 (c) This section does not provide a source of funds to shift,
20 supplant, or reduce the costs incurred by the Department of
21 Corrections and Rehabilitations in providing inmate education
22 programs.

23 SEC. 8. Section 2053.4 of the Penal Code is amended to read:

24 2053.4. The ~~Director~~ Secretary of the Department of
25 Corrections and Rehabilitation shall appoint a ~~Superintendent~~
26 Deputy Director of Correctional Education, who shall report
27 directly to him or her and shall oversee and administer all prison
28 education programs in conjunction with the Robert E. Burton
29 Correctional Education Committee. The ~~Superintendent of~~
30 ~~Correctional Education~~ Secretary of the Department of Corrections
31 and Rehabilitation shall make the appointment from a list of at
32 least three and no more than five recommended candidates that
33 the Robert E. Burton Correctional Education Committee shall
34 submit to the secretary for this purpose. The Deputy Director of
35 Correctional Education, in conjunction with the Robert E. Burton
36 Correctional Education Committee, shall set both short-term and
37 long-term goals for inmate literacy and testing, and shall establish
38 priorities for prison education programs.

39 SEC. 9. This act does not authorize the expansion or
40 enhancement of correctional education programs and shall be

- 1 implemented with existing funds that are allocated for prison
- 2 education. Funding for purposes of this act is subject to the annual
- 3 budget process.