

AMENDED IN SENATE APRIL 22, 2009

SENATE BILL

No. 738

Introduced by Senator Hancock

February 27, 2009

An act to amend ~~Sections 32500 and 84810.5~~ *Section 32500* 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 amended, 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~~ *duties*. 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.

1 (c) A correctional system that reduces prison education programs
2 to an insignificant level and focuses solely on the custodial
3 functions creates an unbalanced situation for the long-term stability
4 of the criminal justice system. With this emphasis, prison growth
5 is inevitable. The current structure of California's prison education
6 system undervalues education and is hostile to rehabilitation. As
7 a consequence, inmates will leave prison worse off than when they
8 were first incarcerated.

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

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

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

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

28 32500. (a) In order to encourage greater involvement of
29 educational institutions in planning and developing prison-based
30 educational programs, the Secretary of the Department of
31 Corrections and Rehabilitation, the Chancellor of the California
32 State University, the Chancellor of the California Community
33 Colleges, and the Superintendent of Public Instruction, with the
34 advice of the California Postsecondary Education Commission,
35 shall enter into interagency agreements. These agreements shall
36 provide for, but not be limited to, both of the following:

37 (1) A determination of the roles of the Department of
38 Corrections and Rehabilitation, the office of the Chancellor of the
39 California State University, the office of the Chancellor of the
40 California Community Colleges, and the State Department of

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

3 (2) Joint policy and program planning.

4 (b) The Secretary of the Department of Corrections and
5 Rehabilitation, the Chancellor of the California State University,
6 the Chancellor of the California Community Colleges, and the
7 Superintendent of Public Instruction shall appoint members to the
8 Robert E. Burton Correctional Education Committee as specified
9 in Section 32501.

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

13 (1) Make recommendations on the use of instructional television
14 in these programs.

15 (2) Review and make recommendations relating to any proposed
16 budgets for these programs.

17 (3) Review and make recommendations relating to the
18 implementation of the interagency agreement.

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

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

33 (6) Enter into agreements with public or private school districts,
34 community colleges, colleges, or universities, and other entities,
35 as appropriate, for the purpose of carrying out the duties and
36 responsibilities of the Deputy Director of Correctional Education.
37 All agreements and contracts for instructional services shall
38 expressly prescribe the qualifications and expectations for
39 instructors and the educational objectives to be met. In the
40 identification and provision of special education services, the

Deputy Director of Correctional Education, in consultation with the committee, shall establish all appropriate interagency agreements with service providers. All hiring decisions and other personnel matters with respect to correctional education programs shall be made by the Deputy Director of Correctional Education or his or her designee, in consultation with the committee, consistent with civil service regulations. Work performed by state employees as of January 1, 2010, shall not be assigned to contract employees.

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

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

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

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

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

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

(4) Provide every inmate who has a reasonable expectation of release from custody with the opportunity to achieve entry-level vocational skills in occupational fields in which there is a demonstrable demand within the economy of this state.

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

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

10 (f) Notwithstanding the other provisions of this section, the
11 Secretary of the Department of Corrections and Rehabilitation
12 shall administer all prison-based education programs.

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

14 32501. (a) There is hereby established in the Department of
15 Corrections and Rehabilitation the Robert E. Burton Correctional
16 Education Committee. As used in this Part, “committee” means
17 the Robert E. Burton Correctional Education Committee.

18 (b) The committee shall be composed of 15 members selected
19 as follows:

20 (1) The Superintendent of Public Instruction or his or her
21 designee. Any designee selected by the Superintendent shall have
22 an interest and expertise in the area of adult education or
23 correctional education.

24 (2) An institutional supervisor of correctional education
25 programs from the Department of Corrections and Rehabilitation
26 appointed by the Secretary of the Department of Corrections and
27 Rehabilitation.

28 (3) A representative of the Prison Industry Authority appointed
29 by the Secretary of the Department of Corrections and
30 Rehabilitation.

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

33 (5) A vocational instructor from the Department of Corrections
34 and Rehabilitation appointed by the Secretary of the Department
35 of Corrections and Rehabilitation.

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

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

1 (8) A prison rights advocate appointed by the Speaker of the
2 Assembly.

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

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

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

9 (12) A representative of the California Community Colleges
10 appointed by the Chancellor of the California Community Colleges.

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

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

16 (15) A representative of the Division of Apprenticeship
17 Standards of the Department of Industrial Relations appointed by
18 the Director of Industrial Relations.

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

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

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

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

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

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

34 (d) Members of the committee shall serve without compensation
35 but shall be reimbursed for per diem and travel expenses incurred
36 in the performance of their duties. Members employed by state
37 agencies shall receive their normal state salaries while serving on
38 the committee. Costs incurred by the committee shall be offset by
39 a reduction in the current prison education program administrative
40 staff, ~~either Education and Inmate Program Unit Office of~~

1 *Correctional Education* administrative staff at the ~~Central Office~~
2 *central office* or site principals.

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

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

11 SEC. 5. Section 32502 is added to the Education Code, to read:
12 32502. The committee shall advise the Deputy Director of
13 Correctional Education regarding all of the following goals and
14 objectives:

15 (a) Ensure that correctional education programs meet minimum
16 performance standards and provide 9th grade literacy skills and
17 marketable vocational skills.

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

23 (c) (1) Ensure that all education staff are certified in accordance
24 with the State Department of Education's standards by January 1,
25 2012. Provision shall be made for the development of individual
26 plans, approved by the Deputy Director of Correctional Education,
27 if a current education staff member does not qualify for
28 certification. Instead of certification, correctional librarians shall
29 hold a master's degree in library science from a library program
30 accredited by the American Library Association.

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

33 (3) Ensure that educational staff adhere to institutional security
34 standards and maintain safety status to continue the institutional
35 security and protection of the public safety.

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

39 (e) Develop a mechanism to test all offenders committed to the
40 custody of the Department of Corrections and Rehabilitation for

1 academic achievement unless the offenders are specifically
2 excluded from the testing requirement by the Department of
3 Corrections and Rehabilitation's policy. Standards shall be in
4 accordance with State Department of Education's testing standards
5 for academic achievement.

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

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

13 (2) Develop measurable objectives for correctional education.

14 (3) Develop quality control mechanisms for correctional
15 education.

16 (4) Integrate academic education and vocational education with
17 participation in prison industry programs.

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

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

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

30 (j) Develop and implement an ongoing teacher training program
31 in correctional education in conjunction with the Commission on
32 Teacher Credentialing.

33 SEC. 6. Section 32503 is added to the Education Code, to read:
34 32503. The committee shall submit a report to the Legislature
35 on or before January 1, 2012, with recommendations for further
36 restructuring of correctional education in this state. The report
37 shall focus on, but not be limited to, each of the following:

38 (a) Attaining parallel education programs between correctional
39 education and public education.

40 (b) Correctional education governance system.

- 1 (c) Funding sources.
- 2 (d) Correctional education curriculum.
- 3 (e) Correctional library standards.
- 4 (f) Correctional education teacher training.
- 5 (g) Appropriate correctional education liaisons with the greater
- 6 educational community in this state.

7 SEC. 7. ~~Section 84810.5 of the Education Code is amended to~~
8 ~~read:~~

9 ~~84810.5. (a) (1) Open course provisions in statute or~~
10 ~~regulations of the board of governors shall be waived for any~~
11 ~~governing board of a community college district that provides~~
12 ~~classes for inmates of any city, county, or city and county jail, road~~
13 ~~camp, farm for adults, or state or federal correctional facility. This~~
14 ~~section does not authorize the waiver of open course provisions~~
15 ~~in any context or situation other than those that are specifically~~
16 ~~authorized by this section. Subject to limitations set forth in~~
17 ~~subdivision (b), the board of governors may include the units of~~
18 ~~full-time equivalent students (FTES) generated in those classes~~
19 ~~for purposes of state apportionments.~~

20 ~~(2) The attendance hours generated by credit courses shall be~~
21 ~~funded at the marginal credit rate determined pursuant to paragraph~~
22 ~~(2) of subdivision (d) of Section 84750.5. The attendance hours~~
23 ~~generated by noncredit courses shall be funded at the noncredit~~
24 ~~rate.~~

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

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

31 ~~(B) The district has a contract or instructional agreement, or~~
32 ~~both, for the conduct of the class with a public or private agency,~~
33 ~~individual, or group of individuals that has received from another~~
34 ~~source full compensation for the costs the district incurs under that~~
35 ~~contract or instructional agreement.~~

36 ~~(2) In reporting a claim for apportionment to the Chancellor of~~
37 ~~the California Community Colleges under this section, the district~~
38 ~~shall report any partial compensation it receives from the sources~~
39 ~~described in subparagraphs (A) and (B) of paragraph (1) during~~
40 ~~the period for which the claim is made. The chancellor shall~~

1 subtract the amount of any partial compensation received from the
2 total apportionment to be paid.

3 ~~(c) This section does not provide a source of funds to shift,~~
4 ~~supplant, or reduce the costs incurred by the Department of~~
5 ~~Corrections and Rehabilitations in providing inmate education~~
6 ~~programs.~~

7 ~~SEC. 8.~~

8 *SEC. 7.* Section 2053.4 of the Penal Code is amended to read:

9 2053.4. The Secretary of the Department of Corrections and
10 Rehabilitation shall appoint a Deputy Director of Correctional
11 Education, who shall report directly to him or her and shall oversee
12 and administer all prison education programs in conjunction with
13 the Robert E. Burton Correctional Education Committee. The
14 Secretary of the Department of Corrections and Rehabilitation
15 shall make the appointment from a list of at least three and no more
16 than five recommended candidates that the Robert E. Burton
17 Correctional Education Committee shall submit to the secretary
18 for this purpose. The Deputy Director of Correctional Education,
19 in conjunction with the Robert E. Burton Correctional Education
20 Committee, shall set both short-term and long-term goals for inmate
21 literacy and testing, and shall establish priorities for prison
22 education programs.

23 ~~SEC. 9.~~

24 *SEC. 8.* This act does not authorize the expansion or
25 enhancement of correctional education programs and shall be
26 implemented with existing funds that are allocated for prison
27 education. Funding for purposes of this act is subject to the annual
28 budget process.