

AMENDED IN SENATE JULY 3, 2001
AMENDED IN ASSEMBLY MAY 16, 2001
AMENDED IN ASSEMBLY MAY 7, 2001
AMENDED IN ASSEMBLY MAY 1, 2001

CALIFORNIA LEGISLATURE—2001-02 REGULAR SESSION

ASSEMBLY BILL

No. 139

Introduced by Assembly Members Florez and Aroner

January 24, 2001

An act to amend Sections 1240, 1241.5, and 42638 of the Education Code, relating to public school finance.

LEGISLATIVE COUNSEL'S DIGEST

AB 139, as amended, Florez. County Superintendent of Schools: fiscal duties.

Existing law requires the superintendent of schools of each county to perform prescribed duties, including, but not limited to, visiting and examining each school in his or her county.

This bill would, in addition, require that the superintendent of schools of each county annually present a report, as prescribed, regarding fiscal solvency of any district with a disapproved budget, qualified ~~intern~~ *interim* certification, or negative ~~intern~~ *interim* certification, *or that has been determined at any time to be in a position of fiscal uncertainty, as specified.*

Existing law authorizes the county superintendent to audit at any time and report, as prescribed, regarding the expenditures and internal controls of a school district.

This bill would, in addition, authorize ~~these audits~~ *a review or audit* to determine if expenditures are legally authorized and to report, as prescribed. The bill would ~~authorize school districts to appeal a determination by the county superintendent to conduct those audits and would make conforming changes.~~ **By**

By establishing these additional requirements, 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

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. Section 1240 of the Education Code is amended
- 2 to read:
- 3 1240. The superintendent of schools of each county shall do
- 4 all of the following:
- 5 (a) Superintend the schools of his or her county.
- 6 (b) *Maintain responsibility for the fiscal oversight of the school*
- 7 *district in his or her county pursuant to the authority granted by*
- 8 *this code.*
- 9 (c) Visit and examine each school in his or her county at
- 10 reasonable intervals to observe its operation and to learn of its
- 11 problems. He or she may annually present a report of the state of
- 12 the schools in his or her county, and of his or her office, including,
- 13 but not limited to, his or her observations while visiting the
- 14 schools, to the board of education and the board of supervisors of
- 15 his or her county.
- 16 ~~(e)~~



1 (d) Distribute all laws, reports, circulars, instructions, and
2 blanks that he or she may receive for the use of the school officers.

3 ~~(d)~~

4 (e) Annually present a report to the school district board and the
5 Superintendent of Public Instruction regarding the fiscal solvency
6 of any school district with a disapproved budget, qualified interim
7 certification, or a negative interim certification, *or that has been*
8 *determined at any time to be in a position of fiscal uncertainty*
9 *pursuant to Section 42127.6.*

10 ~~(e)~~

11 (f) Keep in his or her office the reports of the Superintendent
12 of Public Instruction.

13 ~~(f)~~

14 (g) Keep a record of his or her official acts, and of all the
15 proceedings of the county board of education, including a record
16 of the standing, in each study, of all applicants for certificates who
17 have been examined, which shall be open to the inspection of any
18 applicant or his or her authorized agent.

19 ~~(g)~~

20 (h) Enforce the course of study.

21 ~~(h)~~

22 (i) Enforce the use of state textbooks and of high school
23 textbooks regularly adopted by the proper authority.

24 ~~(i)~~

25 (j) Preserve carefully all reports of school officers and teachers.

26 ~~(j)~~

27 (k) Deliver to his or her successor, at the close of his or her
28 official term, all records, books, documents, and papers belonging
29 to the office, taking a receipt for them, which shall be filed with
30 the State Department of Education.

31 ~~(k)~~

32 (l) (1) Submit two reports during the fiscal year to the county
33 board of education in accordance with the following:

34 (A) The first report shall cover the financial and budgetary
35 status of the county office of education for the period ending
36 October 31. The second report shall cover the period ending
37 January 31. Both reports shall be reviewed by the county board of
38 education and approved by the county superintendent of schools
39 no later than 45 days after the close of the period being reported.



1 (B) As part of each report, the superintendent shall certify in
2 writing whether or not the county office of education is able to
3 meet its financial obligations for the remainder of the fiscal year
4 and, based on current forecasts, for two subsequent fiscal years.
5 The certifications shall be classified as positive, qualified, or
6 negative, pursuant to standards prescribed by the Superintendent
7 of Public Instruction, for the purposes of determining subsequent
8 state agency actions pursuant to Section 1240.1. For purposes of
9 this subdivision, a negative certification shall be assigned to any
10 county office of education that, based upon current projections,
11 will be unable to meet its financial obligations for the remainder
12 of the fiscal year or for the subsequent fiscal year. A qualified
13 certification shall be assigned to any county office of education
14 that may not meet its financial obligations for the current fiscal
15 year or two subsequent fiscal years. A positive certification shall
16 be assigned to any county office of education that will meet its
17 financial obligations for the current fiscal year and subsequent two
18 fiscal years. In accordance with those standards, the
19 Superintendent of Public Instruction may reclassify any
20 certification. If a county office of education receives a negative
21 certification, the Superintendent of Public Instruction, or his or her
22 designee, may exercise the authority set forth in subdivision (c) of
23 Section 1630. Copies of each certification, and of the report
24 containing that certification, shall be sent to the Superintendent of
25 Public Instruction at the time the certification is submitted to the
26 county board of education. Copies of each qualified or negative
27 certification, and of the report containing that certification, shall
28 be sent to the Controller at the time the certification is submitted
29 to the county board of education.

30 (2) All reports and certifications required under this
31 subdivision shall be in a format or on forms prescribed by the
32 Superintendent of Public Instruction, and shall be based on
33 standards and criteria for fiscal stability adopted by the State Board
34 of Education pursuant to Section 33127. The reports and
35 supporting data shall be made available by the county
36 superintendent of schools to any interested party upon request.

37 (3) This subdivision does not preclude the submission of
38 additional budgetary or financial reports by the superintendent to
39 the county board of education or to the Superintendent of Public
40 Instruction.



1 (4) The county superintendent of schools is not responsible for
2 the fiscal oversight of the community colleges in the county,
3 however, he or she may perform financial services on behalf of
4 those community colleges.

5 ~~(5) Pursuant to the authority granted by this code, the county~~
6 ~~superintendent of schools is responsible for the fiscal oversight of~~
7 ~~the school districts in his or her county.~~

8 ~~(t)~~

9 (m) When so requested, act as agent for the purchase of supplies
10 for the city and high school districts of his or her county.

11 ~~(m)~~

12 (n) For purposes of Section 44421.5, report to the Commission
13 on Teacher Credentialing the identity of any certificated person
14 who knowingly and willingly reports false fiscal expenditure data
15 relative to the conduct of any educational program. This
16 requirement applies only if, in the course of his or her normal
17 duties, the county superintendent of schools discovers information
18 that gives him or her reasonable cause to believe that false fiscal
19 expenditure data relative to the conduct of any educational
20 program has been reported.

21 SEC. 2. Section 1241.5 of the Education Code is amended to
22 read:

23 1241.5. (a) At any time during a fiscal year, the county
24 superintendent may audit the expenditures and internal controls of
25 school districts he or she determines to be fiscally accountable, and
26 shall conduct this audit in a timely and efficient manner. The
27 county superintendent shall report the findings and
28 recommendation to the governing board of the district within 45
29 days of completing the audit. The governing board shall, no later
30 than 15 days after receipt of the report, notify the county
31 superintendent of schools of its proposed actions on the county
32 superintendent's recommendation. Upon review of the governing
33 board report, the county superintendent, at his or her discretion,
34 may revoke the authority for the district to be fiscally accountable
35 pursuant to Section 42650.

36 (b) At any time during a fiscal year, the county superintendent
37 may *review or* audit the expenditures and internal controls of any
38 school district in his or her county ~~and determine whether the~~
39 ~~expenditures are legally authorized~~ *if he or she has reason to*
40 *believe that fraud, misappropriation of funds, or other illegal*



1 *fiscal practices have occurred that merit examination.* The county
2 superintendent shall conduct this *review or* audit in a timely and
3 efficient manner. The county superintendent shall ~~audit~~ *examine*
4 the expenditures and internal controls of any school district with
5 a disapproved budget, ~~qualified interim certification,~~ or a negative
6 interim certification, ~~or at any time the county superintendent~~
7 ~~determines that a school district within his or her county may be~~
8 ~~unable to meet its financial obligations pursuant to Section~~
9 ~~42127.6. The county.~~ *The county* superintendent shall report the
10 findings and recommendations to the governing board of the
11 school district at a regularly scheduled school district board
12 meeting within 45 days of completing the ~~audit review, audit, or~~
13 *examination.* The governing board of the school district shall, no
14 later than 15 calendar days after receipt of the report, notify the
15 county superintendent of its proposed actions on the county
16 superintendent's recommendations. Upon review of the school
17 district governing board report, the county superintendent, at his
18 or her discretion, and consistent with law, may disapprove an order
19 for payment of funds consistent with Section 42638.

20 ~~(c) A school district shall have the right to appeal a~~
21 ~~determination by the county superintendent to conduct an audit~~
22 ~~pursuant to this section, prior to the time the county superintendent~~
23 ~~initiates the audit, by notifying the county superintendent that~~
24 ~~changed circumstances regarding expenditures and internal~~
25 ~~controls by the school district may have eliminated the need to~~
26 ~~conduct the audit. Upon receiving a request to appeal the county~~
27 ~~superintendent's determination to conduct an audit, the county~~
28 ~~superintendent shall have 15 days to respond to the school district~~
29 ~~regarding its request.~~

30 SEC. 3. Section 42638 of the Education Code is amended to
31 read:

32 42638. (a) If the order is disapproved by the county
33 superintendent of schools, it shall be returned to the governing
34 board of the school district, except as otherwise provided in this
35 code for the registration of warrants, with a statement of his or her
36 reasons for disapproving the order.

37 (b) If the county superintendent determines that ~~expenditures~~
38 ~~may have been illegal~~ *there is reason to believe that fraud or*
39 *misappropriation of funds has occurred,* the county
40 superintendent shall notify the governing board of the school



1 district, the State Controller, the Superintendent of Public
2 Instruction, *the Department of Finance*, and the local district
3 attorney.

4 SEC. 4. Notwithstanding Section 17610 of the Government
5 Code, if the Commission on State Mandates determines that this
6 act contains costs mandated by the state, reimbursement to local
7 agencies and school districts for those costs shall be made pursuant
8 to Part 7 (commencing with Section 17500) of Division 4 of Title
9 2 of the Government Code. If the statewide cost of the claim for
10 reimbursement does not exceed one million dollars (\$1,000,000),
11 reimbursement shall be made from the State Mandates Claims
12 Fund.

O

