

AMENDED IN SENATE JUNE 16, 2004
AMENDED IN SENATE JULY 2, 2003
AMENDED IN SENATE JUNE 16, 2003
AMENDED IN ASSEMBLY JUNE 2, 2003
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CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 816

Introduced by Assembly Member Reyes
(~~Principal coauthors: Assembly Members Canciamilla and~~
~~Richman~~)

February 20, 2003

~~An act to amend Section 80110 of the Water Code, relating to electric power.~~ *An act to amend Sections 64000 and 64001 of the Education Code, relating to categorical education programs.*

LEGISLATIVE COUNSEL'S DIGEST

AB 816, as amended, Reyes. ~~Local publicly owned electric utilities: Public Utilities Commission: direct transactions.~~ *Consolidated application for categorical programs.*

Existing law establishes a consolidated application process for funds provided under specified state and federal categorical programs and requires the Superintendent of Public Instruction to establish the

content, process, and frequency for conducting reviews of district achievement related to those categorical programs. Existing law requires that school districts ensure that each school in a district operating those categorical programs consolidate any plans that are required by those programs into a single plan, to be known as the Single Plan for Pupil Achievement. Existing law requires that this plan be aligned with school goals for improving pupil achievement, and prescribes related matters.

This bill would expand the list of categorical programs covered by those provisions to include, at the discretion of the Superintendent and with the approval of the state board, other state and federal categorical programs that provide for the state monitoring of compliance with program requirements. The bill would also require the Superintendent to conduct a review of a categorical program covered by those provisions, and to determine whether the program is in compliance with state and federal law. The bill would require the Superintendent, if appropriate, to assist a school district to develop and complete a corrective action plan.

~~(1) Existing law authorizes the Department of Water Resources to administer existing contracts for the purchase of electric power, and to sell power to retail end-use customers and, with specified exceptions, local publicly owned electric utilities, at not more than the department's acquisition costs. Existing law imposes on retail end-use customers of electrical corporations and community choice aggregators nonbypassable charges to repay certain costs of the department and electrical corporations.~~

~~Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations, and authorizes the commission to fix just and reasonable rates and charges. Existing law requires the commission to authorize direct transactions between electricity suppliers and end-use customers, also known as direct access. Existing law suspends, after a period of time to be determined by the commission, the right of a retail end-use customer to acquire electricity from other electric service providers pursuant to direct transactions, until the department no longer supplies electricity under those provisions. Pursuant to these provisions, the commission has instituted a rulemaking proceeding to implement the suspension of direct access to result in a decision and order adopting cost responsibility surcharge mechanisms for municipal departing load.~~



~~This bill would require the commission to reinstate the right of retail end-use customers with a load requirement of 500 kilowatts or more to acquire electricity from other electric service providers subject to specified conditions. Retail end-use customers under single ownership would be authorized to aggregate load served by multiple meters, to meet the 500 kilowatt load requirement. The bill would require the commission, in considering the procurement plan of an electrical corporation, to set the amount of direct access permitted to minimize the potential that the electrical corporation will enter into commitments that the subsequent exercise of direct access will render unnecessary or excessive. The bill would require the commission to adopt rules it determines to be necessary to implement the reinstatement of direct access, including any notice requirements imposed as a condition of direct access, and provisions to ensure the prompt recovery by an electrical corporation of costs it incurs to reinstate and administer direct access. Because a violation of a rule or order of the commission is a crime under existing law, the bill would impose a state-mandated local program by creating a new crime.~~

~~This bill would declare the intent of the Legislature to enact legislation that will conform to the decision and order of the commission adopting cost responsibility surcharge mechanisms for municipal departing load, provided that the decision and order will not result in cost shifting to bundled service customers of electrical corporations for recoverable costs reasonably incurred on behalf of departing municipal load.~~

~~(2) 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 no reimbursement is required by this act for a specified reason.~~

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.—It is the intent of the Legislature to enact~~
- 2 ~~SECTION 1. Section 64000 of the Education Code is~~
- 3 ~~amended to read:~~



- 1 64000. (a) ~~The provisions of this~~ *This part shall apply applies*
2 to applications for funds under the following categorical
3 programs:
- 4 (1) School library programs established pursuant to Chapter 2
5 (commencing with Section 18100) of Part 11.
 - 6 (2) Staff development centers and programs established
7 pursuant to Chapter 3.1 (commencing with Section 44670) of Part
8 25.
 - 9 (3) School improvement programs established pursuant to
10 Chapter 6 (commencing with Section 52000) of Part 28.
 - 11 (4) Bilingual education programs pursuant to Article 3
12 (commencing with Section 52160) of Chapter 7 of Part 28.
 - 13 (5) School-based coordinated categorical programs
14 established pursuant to Chapter 12 (commencing with Section
15 52800) of Part 28.
 - 16 (6) Economic Impact Aid programs established pursuant to
17 Chapter 1 (commencing with Section 54000) of Part 29.
 - 18 (7) The Miller-Unruh Basic Reading Act of 1965 pursuant to
19 Chapter 2 (commencing with Section 54100) of Part 29.
 - 20 (8) Compensatory education programs established pursuant to
21 Chapter 4 (commencing with Section 54400) of Part 29, except for
22 programs for migrant children pursuant to Article 3 (commencing
23 with Section 54440) of Chapter 4 of Part 29.
 - 24 (9) Programs providing assistance to disadvantaged pupils
25 under Section 6312 of Title 20 of the United States Code, and
26 programs providing assistance for neglected or delinquent pupils
27 who are at risk of dropping out of school, as funded by Section
28 6421 of Title 20 of the United States Code.
 - 29 (10) Capital expense funding, as provided by Title I of the
30 Improving America’s Schools Act of 1994 (20 U.S.C. Sec. 1001
31 et seq.).
 - 32 (11) Tenth grade counseling programs established pursuant to
33 Section 48431.6.
 - 34 (12) California Peer Assistance and Review Programs for
35 Teachers established pursuant to Article 4.5 (commencing with
36 Section 44500) of Chapter 3 of Part 25.
 - 37 (13) Professional development programs established pursuant
38 to Section 6601 of Title 20 of the United States Code.
 - 39 (14) Innovative Program Strategies Programs established
40 pursuant to Section 7303 of Title 20 of the United States Code.



1 (15) Programs established under the federal Class Size
2 Reduction Initiative (P.L. 106-554).

3 (16) Programs for tobacco use prevention funded by Section
4 7115 of Title 20 of the United States Code.

5 (17) School safety and violence prevention programs,
6 established pursuant to Article 3.6 (commencing with Section
7 32228) of Chapter 2 of Part 19.

8 (18) Safe and Drug Free Schools and Communities programs
9 established pursuant to Section 7113 of Title 20 of the United
10 States Code.

11 *(19) At the discretion of the Superintendent and with the*
12 *approval of the State Board of Education, this part shall also apply*
13 *to other state and federal categorical programs that provide for*
14 *state monitoring of compliance with program requirements.*

15 (b) Each school district that elects to apply for any of these state
16 funds shall submit to the ~~State Department of Education~~
17 *department*, for approval by the State Board of Education, a single
18 consolidated application for approval or continuance of those state
19 categorical programs subject to this part.

20 (c) Each school district that elects to apply for any of these
21 federal funds may submit to the ~~State Department of Education~~
22 *department* for approval, by the State Board of Education, a single
23 consolidated application for approval or continuance of those
24 federal categorical programs subject to this part.

25 *SEC. 2. Section 64001 of the Education Code is amended to*
26 *read:*

27 64001. (a) Notwithstanding any other ~~provision~~ of law, a
28 ~~school districts~~ *district shall* is not be required to submit to the
29 ~~State Department of Education~~ *department*, as part of the
30 consolidated application, school plans for categorical programs
31 subject to this part. School districts shall assure, in the
32 consolidated application, that the Single Plan for Pupil
33 Achievement established pursuant to subdivision ~~(d)~~ (f) has been
34 prepared in accordance with law, that schoolsite councils have
35 developed and approved a plan, to be known as the Single Plan for
36 Pupil Achievement for schools participating in programs funded
37 through the consolidated application process, and any other school
38 program they choose to include, and that school plans were
39 developed with the review, certification, and advice of any
40 applicable school advisory committees. The Single Plan for Pupil



1 Achievement may also be referred to as the Single Plan for Student
 2 Achievement. The consolidated application shall also include
 3 certifications by appropriate district advisory committees that the
 4 application was developed with review and advice of those
 5 committees.

6 ~~For~~

7 (b) For any consolidated application that does not include the
 8 necessary certifications or assurances, the ~~State Department of~~
 9 ~~Education~~ department shall initiate an investigation to determine
 10 whether the consolidated application and Single Plan for Pupil
 11 Achievement were developed in accordance with law and with the
 12 involvement of applicable advisory committees and schoolsite
 13 councils.

14 ~~(b)~~

15 (c) (1) Onsite school and district compliance reviews of
 16 categorical programs shall continue, and school plans shall be
 17 required and reviewed as part of these onsite visits and compliance
 18 reviews. The Superintendent of ~~Public Instruction~~ shall establish
 19 the process and frequency for conducting reviews of district
 20 achievement and compliance with state and federal categorical
 21 program requirements. ~~In addition, the Superintendent of Public~~
 22 ~~Instruction~~ The Superintendent shall establish the content of these
 23 instruments, including any criteria for differentiating these
 24 reviews based on the achievement of pupils, as demonstrated by
 25 the Academic Performance Index developed pursuant to Section
 26 52052, available data pertaining to the effectiveness of
 27 categorical programs, and evidence of district compliance with
 28 state and federal law. The State Board of Education shall review
 29 the content of these instruments for consistency with ~~State Board~~
 30 ~~of Education~~ state board policy.

31 (2) The Superintendent shall conduct a review of each
 32 categorical program, based upon an analysis of available data
 33 including pupil achievement data and test results. The
 34 Superintendent shall determine whether a program is in
 35 compliance with state and federal law. The Superintendent shall
 36 identify corrective action to be taken, if appropriate, and assist a
 37 school district to develop and complete a corrective action plan.

38 ~~(e)~~

39 (d) A school district shall submit school plans whenever the
 40 ~~State Department of Education~~ department requires the plans in



1 order to effectively administer any categorical program subject to
2 this part. The ~~State Department of Education~~ *department* may
3 require submission of the school plan for any school that is the
4 specific subject of a complaint involving any categorical program
5 or service subject to this part.

6 (e) The ~~State Department of Education~~ *department* may
7 require a school district to submit other data or information as may
8 be necessary for the department to effectively administer any
9 categorical program subject to this part.

10 ~~(d)~~

11 (f) Notwithstanding any other ~~provision of~~ law, as a condition
12 of receiving state funding for a categorical program pursuant to
13 Section 64000, ~~and in lieu of the information submission~~
14 ~~requirements that were previously required by this section prior to~~
15 ~~the amendments that added this subdivision and subdivisions (e)~~
16 ~~to (i), inclusive,~~ school districts shall ensure that each school in a
17 district that operates any categorical programs subject to this part
18 consolidates any plans that are required by those programs into a
19 single plan. Schools may consolidate any plans that are required
20 by federal programs subject to this part into this plan, unless
21 otherwise prohibited by federal law. That plan shall be known as
22 the Single Plan for Pupil Achievement or may be referred to as the
23 Single Plan for Student Achievement.

24 ~~(e)~~

25 (g) Plans developed pursuant to subdivision (d) of Section
26 52054, and Section 6314 and following of Title 20 of the United
27 States Code, ~~shall satisfy this~~ *the* requirement of subdivision (f).

28 ~~(f)~~

29 (h) Notwithstanding any other ~~provision of~~ law, the content of
30 a Single Plan for Pupil Achievement shall be aligned with school
31 goals for improving pupil achievement. School goals shall be
32 based upon an analysis of verifiable state data, including the
33 Academic Performance Index developed pursuant to Section
34 52052 and the English ~~Language Development~~ *language*
35 *development* test developed pursuant to Section 60810, and may
36 include any data voluntarily developed by districts to measure
37 pupil achievement. The Single Plan for Pupil Achievement shall,
38 at a minimum, address how funds provided to the school through
39 any of the sources identified in Section 64000 will be used to
40 improve the academic performance of all pupils to the level of the



1 performance goals, as established by the Academic Performance
 2 Index developed pursuant to Section 52052. The plan shall also
 3 identify the schools’ means of evaluating progress toward
 4 accomplishing those goals and ~~how~~ *the manner in which* state and
 5 federal law governing these programs will be implemented.

6 ~~(g)–~~

7 (i) The plan required by this section shall be reviewed annually
 8 and updated, including proposed expenditure of funds allocated to
 9 the school through the consolidated application, by the schoolsite
 10 council, or, if the school does not have a schoolsite council, by
 11 schoolwide advisory groups or school support groups that
 12 conform to the requirements of Section 52012. The plans shall be
 13 reviewed and approved by the governing board of the local
 14 education agency at a regularly scheduled meeting whenever there
 15 are material changes that affect the academic programs for
 16 ~~students~~ *pupils* covered by programs identified in Section 64000.

17 ~~(h)–~~

18 (j) The school plan and subsequent revisions shall be reviewed
 19 and approved by the governing board of the school district. School
 20 district governing boards shall certify that, to the extent allowable
 21 under federal law, plans developed for purposes of this section are
 22 consistent with district local improvement plans that are required
 23 as a condition of receiving federal funding.

24 ~~(i) Nothing in this act may be construed to prevent~~

25 (k) ~~This section does not prohibit~~ a school district, at its
 26 discretion, from conducting an independent review pursuant to
 27 subdivision (c) of Section 64001 as that section read on January 1,
 28 2001.

29 ~~subsequent legislation that will conform to the decision and order~~
 30 ~~of the Public Utilities Commission adopting cost responsibility~~
 31 ~~surecharge mechanisms for municipal departing load, provided that~~
 32 ~~the decision and order will not result in cost shifting to bundled~~
 33 ~~service customers of an electrical corporation for recoverable~~
 34 ~~costs reasonably incurred on behalf of departing municipal load.~~

35 ~~SEC. 2. Section 80110 of the Water Code is amended to read:~~

36 ~~80110. (a) The department shall retain title to all power sold~~
 37 ~~by it to the retail end-use customers. The department shall be~~
 38 ~~entitled to recover, as a revenue requirement, amounts and at the~~
 39 ~~times necessary to enable it to comply with Section 80134, and~~
 40 ~~shall advise the commission as the department determines to be~~



1 appropriate. Those revenue requirements may also include any
2 advances made to the department hereunder or hereafter for
3 purposes of this division, or from the Department of Water
4 Resources Electric Power Fund, and General Fund moneys
5 expended by the department pursuant to the Governor's State of
6 Emergency Proclamation, dated January 17, 2001. For purposes
7 of this division and except as otherwise provided in this section,
8 the commission's authority as set forth in Section 451 of the Public
9 Utilities Code shall apply, except any just and reasonable review
10 under Section 451 shall be conducted and determined by the
11 department. The commission may enter into an agreement with the
12 department with respect to charges under Section 451 for purposes
13 of this division, and that agreement shall have the force and effect
14 of a financing order adopted in accordance with Article 5.5
15 (commencing with Section 840) of Chapter 4 of Part 1 of Division
16 1 of the Public Utilities Code, as determined by the commission.
17 In no case shall the commission increase the electricity charges in
18 effect on February 1, 2001, for residential customers for existing
19 baseline quantities or usage by those customers of up to 130
20 percent of existing baseline quantities, until the department has
21 recovered the costs of power it has procured for the electrical
22 corporation's retail end-use customers as provided in this division.

23 (b) The commission shall reinstate the right of retail end-use
24 customers with a load requirement of 500 kilowatts or more to
25 acquire service from other electric service providers pursuant to
26 Article 6 (commencing with Section 360) of Chapter 2.3 of Part
27 1 of Division 1 of the Public Utilities Code, once each of the
28 following conditions are met:

29 (1) The commission has established a cost responsibility
30 surcharge for customers that opt for direct transactions. Each retail
31 end-use customer that has purchased power from an electrical
32 corporation on or after February 1, 2001, shall bear a fair share of
33 the department's electricity purchase costs that are recoverable
34 from electrical corporation customers in commission-approved
35 rates including costs described in subdivisions (d), (e), (f), and (g)
36 of Section 366.2.

37 (2) The State of California has issued revenue bonds pursuant
38 to Chapter 2.5 (commencing with Section 80130).



1 ~~(3) The electrical corporations are procuring electricity under~~
2 ~~procurement plans pursuant to Section 454.5 of the Public Utilities~~
3 ~~Code.~~

4 ~~(4) The commission has resolved all issues necessary to~~
5 ~~reinstate direct transactions in the direct access phase of~~
6 ~~commission Rulemaking 02-01-011. This subdivision does not~~
7 ~~require update proceedings on the direct access cost responsibility~~
8 ~~surcharge to be considered a condition of reinstating the right of~~
9 ~~retail end-use customers to acquire electricity from electric service~~
10 ~~providers.~~

11 ~~(5) The commission has adopted rules for the treatment of~~
12 ~~direct access customers who voluntarily or involuntarily return to~~
13 ~~electrical corporation bundled service. The rules adopted by the~~
14 ~~commission shall ensure that electric corporation customers~~
15 ~~receiving bundled service are indifferent to cost shifting caused by~~
16 ~~direct access customers returning to bundled service.~~

17 ~~(e) Customers receiving service from electric service providers~~
18 ~~on January 1, 2004, shall continue to have the right to obtain~~
19 ~~electricity from electric service providers, and any customer~~
20 ~~exempt from a direct access cost responsibility surcharge on that~~
21 ~~date, shall remain exempt, unless and until that time when, the~~
22 ~~customer returns to bundled utility service and thereafter obtains~~
23 ~~service from an electric service provider.~~

24 ~~(d) Retail end-use customers under single ownership may~~
25 ~~aggregate their load served by multiple meters, to meet the 500~~
26 ~~kilowatt load requirement of subdivision (b). The commission~~
27 ~~shall design a regulatory framework to implement permissible~~
28 ~~customer aggregation pursuant to this subdivision by June 23,~~
29 ~~2004.~~

30 ~~(e) The department shall have the same rights with respect to~~
31 ~~the payment by retail end-use customers for power sold by the~~
32 ~~department as do providers of power to those customers.~~

33 ~~(f) The commission, in considering the procurement plan of an~~
34 ~~electrical corporation, shall set the amount of direct access~~
35 ~~permitted to minimize the potential that the electrical corporation~~
36 ~~will enter into commitments that the subsequent exercise of direct~~
37 ~~access will render unnecessary or excessive.~~

38 ~~(g) The commission shall adopt rules it determines to be~~
39 ~~necessary to implement the reinstatement of direct access pursuant~~
40 ~~to this section, including any notice requirements imposed as a~~



1 ~~condition of direct access, and provisions to ensure the prompt~~
2 ~~recovery by an electrical corporation of costs it incurs to reinstate~~
3 ~~and administer direct access.~~

4 ~~SEC. 3.—No reimbursement is required by this act pursuant to~~
5 ~~Section 6 of Article XIII B of the California Constitution because~~
6 ~~the only costs that may be incurred by a local agency or school~~
7 ~~district because in that regard this act creates a new crime or~~
8 ~~infraction, eliminates a crime or infraction, or changes the penalty~~
9 ~~for a crime or infraction, within the meaning of Section 17556 of~~
10 ~~the Government Code, or changes the definition of a crime within~~
11 ~~the meaning of Section 6 of Article XIII B of the California~~
12 ~~Constitution.~~

