

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 24, 2011

SENATE BILL

No. 887

Introduced by Senator Emmerson

February 18, 2011

An act to add and repeal Article 1.5 (commencing with Section 42608) of Chapter 9 of Part 24 of Division 3 of Title 2 of the Education Code, relating to education finance, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 887, as amended, Emmerson. Education finance: Streamlined Temporary Mandate Process Act of 2011.

(1) Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on a local government, including school districts and other local educational agencies, the state is required to provide a subvention of funds to reimburse the local government for the costs of the program or increased level of service, with specified exceptions.

This bill would enact the Streamlined Temporary Mandate Process Act of 2011 to be a voluntary, temporary, streamlined alternative mandate reimbursement process for local educational agencies, as defined, to be in operation from the 2011–12 fiscal year to the 2014–15 fiscal year, inclusive. *If a governing board of a local educational agency chooses not to participate in this process, this bill would require the governing board to explain the reasons for its decision at a duly noticed public meeting, thereby imposing a state-mandated local program.*

The bill would list 38 mandates currently applicable to local educational agencies that would be suspended for the 2011–12 fiscal

year to the 2014–15 fiscal year, inclusive. The bill would further provide that a local educational agency choosing to participate in the streamlined temporary mandate process would annually self-certify that it has complied with *the underlying intentions of all statutes and regulations underlying governing* the operation of the mandates to which the bill applies, except for any requirements regarding compliance and claiming issues. The bill would require that a participating local educational agency be found by an auditor to be in *material* compliance with the requirements of the bill, *as specified*.

The bill would require that funding for the streamlined temporary mandate process be based upon an equal amount per unit of prior-year enrollment for each of the participating local educational agencies, with the funding level to be determined by an appropriation made in the annual Budget Act. The bill would require that there be an appropriation, of no less than an unspecified amount, in each annual Budget Act during the term of this bill that would be adequate to encourage participation by eligible local educational agencies in the streamlined temporary mandate process.

The bill would require the Superintendent of Public Instruction to establish and convene a task force, including specified membership, charged with developing a permanent state process for mandate reimbursement that is cost effective for local educational agencies and responsive to state policy goals.

These provisions would become inoperative on July 1, 2015, and would be repealed on January 1, 2016.

(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, 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.

~~(2)~~

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. (a) This act shall be known, and may be cited,
2 as the Streamlined Temporary Mandate Process Act of 2011.

3 (b) The Legislature hereby finds and declares all of the
4 following:

5 (1) Local educational agencies and state agencies in California
6 are facing unprecedented fiscal constraints, and therefore all
7 administrative and fiscal capabilities need to be focused during
8 this fiscal crisis upon only the most crucial priorities.

9 (2) The cost of complying with the state's current complex
10 mandate process diverts administrative and fiscal resources from
11 more important priorities, such as the direct support of pupil
12 learning.

13 (c) It is the intent of the Legislature in enacting the Streamlined
14 Temporary Mandate Process Act of 2011 to establish a voluntary,
15 temporary, streamlined alternative mandate reimbursement process
16 for local educational agencies eligible for mandate reimbursement
17 as of June 30, 2011, and to provide for the self-certification, with
18 independent oversight, of participant local educational agencies
19 in order to meet compliance standards.

20 SEC. 2. Article 1.5 (commencing with Section 42608) is added
21 to Chapter 9 of Part 24 of Division 3 of Title 2 of the Education
22 Code, to read:

23
24 Article 1.5. Streamlined Temporary Mandate Process Act of
25 2011

26
27 42608. (a) Notwithstanding any other provision of law,
28 commencing on July 1, 2011, and continuing until June 30, 2015,
29 all statutory and regulatory requirements for the following
30 mandates shall be suspended, which mandates are also listed and
31 described as State Mandated Cost Programs for school districts
32 on the Controller's Internet Web site:

33 (1) Agency Fee Mandates (Section 3546 of the Government
34 Code).

35 (2) AIDS Prevention I and II (Chapter 5.6 (commencing with
36 Section 51930) of Part 28 of Division 4).

37 (3) Annual Parent Notifications:

- 1 (A) Interdistrict Transfer Requests: Parent’s Employment
2 (subdivision (h) of Section 48980).
- 3 (B) Pupil Attendance Alternatives (subdivision (h) of Section
4 48980).
- 5 (C) Specific Education Code Requirements (subdivision (a) of
6 Section 48980).
- 7 (D) Schoolsite Discipline Rules (Section 35291).
- 8 (E) Alternative Schools (Section 58501).
- 9 (F) Staff Development (subdivision (c) of Section 48980).
- 10 (G) 1998–2000 Statutes (subdivisions (e), (j), and (k) of Section
11 48900 and subdivision (k) of Section 49063).
- 12 (4) California State Teachers’ Retirement System Service Credit
13 (subdivision (b) of Section 22455.5, Section 22460, subdivision
14 (a) of Section 22509, subparagraph (A) of paragraph (1) of
15 subdivision (a) of Section 22718, Section 22724, and subdivision
16 (e) of Section 22852).
- 17 (5) Caregiver Affidavits (subdivision (d) of Section 48204, as
18 operative on July 1, 2012, and Sections 6550 and 6552 of the
19 Family Code).
- 20 (6) Charter Schools I-III (subdivisions (a) and (b) of, former
21 paragraphs (1) to (3), inclusive, of subdivision (j) as they existed
22 on January 1, 1993, of, and paragraph (3) of subdivision (k) of,
23 Section 47605, Section 47605.5, subdivisions (a) and (b) of Section
24 47607, and Sections 47614 and 47635).
- 25 ~~(7) Collective Bargaining (Chapter 10.7 (commencing with
26 Section 3540) of Division 4 of the Government Code).~~
- 27 ~~(8)~~
- 28 (7) Comprehensive School Safety Plans (Sections 32282 to
29 32288, inclusive).
- 30 ~~(9)~~
- 31 (8) County Office of Education Fiscal Accountability Reporting
32 (Section 1240).
- 33 ~~(10)~~
- 34 (9) Criminal Background Checks I and II (Sections 44332.6,
35 44830.1, 44830.2, 45122.1, 45125, 45125.1, and 45125.2).
- 36 ~~(11)~~
- 37 (10) Differential Pay and Reemployment (Sections 44977 and
38 44978.1).
- 39 ~~(12)~~
- 40 (11) Expulsion Transcripts (Section 48921).

- 1 ~~(13)~~
- 2 (12) Financial and Compliance Audits (Sections 1040, 14504,
- 3 14505, subdivisions (i), (j), (k), (l), (n), and (o) of Section 41020,
- 4 and Sections 41020.2 and 41020.3, and the State Controller's
- 5 Office Standards and Procedures for Audits of California K-12
- 6 Local Educational Agencies).
- 7 ~~(14)~~
- 8 (13) Graduation Requirements (Section 51225.3).
- 9 ~~(15)~~
- 10 (14) Habitual Truants (Sections 48262 and 48264.5).
- 11 ~~(16)~~
- 12 (15) High School Exit Exam (Sections 60850, 60851, 60853,
- 13 and 60855 of this code, and Sections 1200 to 1225, inclusive, of
- 14 Title 5 of the California Code of Regulations).
- 15 ~~(17)~~
- 16 (16) Immunization Records (Chapter 1176 of the Statutes of
- 17 1977).
- 18 ~~(18)~~
- 19 (17) Immunization Records-Hepatitis B (Section 48216 of this
- 20 code, Sections 120325, 120335, 120340, and 120375 of the Health
- 21 and Safety Code).
- 22 ~~(19)~~
- 23 (18) Intradistrict Attendance (subdivision (b) of Section
- 24 35160.5).
- 25 ~~(20)~~
- 26 (19) Juvenile Court Notices II (Section 827 of the Welfare and
- 27 Institutions Code).
- 28 ~~(21)~~
- 29 (20) Law Enforcement Agency Notifications (subdivision (c)
- 30 of Section 48902).
- 31 ~~(22)~~
- 32 (21) Missing Children (Sections 38139 and 49370).
- 33 ~~(23)~~
- 34 (22) Notification to Teachers of Mandatory Expulsion (Sections
- 35 48900 (excluding subdivision (h)), 48900.2, 48900.3, 48900.4,
- 36 48900.7, and 49079).
- 37 ~~(24)~~
- 38 (23) Notification of Truancy (Section 48260.5).
- 39 ~~(25)~~
- 40 (24) Physical Education Reports (Section 51210.1).

- 1 ~~(26)~~
2 (25) Physical Performance Tests (Section 60800).
3 ~~(27)~~
4 (26) Pupil Health Screening (Sections 124100 and 124105 of
5 the Health and Safety Code).
6 ~~(28)~~
7 (27) Pupil Promotion and Retention (Sections 37252, 37252.2,
8 48070, and 48070.5).
9 ~~(29)~~
10 (28) Pupil Residency Verification and Appeals (Sections
11 48204.5 and ~~48204.6~~) 48204.6).
12 ~~(30)~~
13 (29) Pupil Safety Notices (Sections 32242, 32243, 32245,
14 46010.1, 48904, 48904.3, and 48987 of this code, and Section
15 18285 of the Welfare and Institutions Code).
16 ~~(31)~~
17 (30) Pupil Suspensions, Expulsions, and Expulsion Appeals
18 (subdivisions (b) and (e) of Section 48911, subdivisions (a) and
19 (b) of Section 48915, and Sections 48915.1 48915.2, 48916, 48919,
20 and 48921 to 48924, inclusive).
21 ~~(32)~~
22 (31) Removal of Chemicals (Section 49411).
23 ~~(33)~~
24 (32) School Accountability Report Cards (Sections 33126 and
25 33126.1).
26 ~~(34)~~
27 (33) School District Fiscal Accountability Reporting (Sections
28 42100, 42127, 42127.5, 42127.6, 42128, and 42131 of this code,
29 and Section 3540.2 of the Government Code).
30 ~~(35)~~
31 (34) School District Reorganization (Sections 35704, 35705.5,
32 and 35707).
33 ~~(36)~~
34 (35) Scoliosis Screening (Section 49452.5).
35 ~~(37)~~
36 (36) Stull Act (Article 11 (commencing with Section 44660) of
37 Chapter 3 of Part 25).
38 ~~(38)~~
39 (37) Teacher Incentive Program (Article 13 (commencing with
40 Section 44395) of Chapter 2 of Part 25).

1 (b) Apart from the streamlined temporary mandate process
2 described in Section 42608.3, there shall be no appropriation in
3 the annual Budget Act for the 2011–12 fiscal year to the 2014–15
4 fiscal year, inclusive, for the programs listed in subdivision (a).

5 (c) For purposes of this article, a local educational agency is a
6 school district or a county office of education.

7 42608.3. (a) The streamlined temporary mandate process
8 established by this article shall serve participating local educational
9 agencies as a temporary and voluntary replacement for the standard
10 mandate reimbursement system in place on June 30, 2011. A local
11 educational agency that is eligible for the reimbursement of any
12 of the mandates listed in subdivision (a) of Section 42608 as of
13 June 30, 2011, may choose to participate in this ~~program~~ *process*,
14 and if it chooses to do so, it shall comply with this section. *The*
15 *governing board of a local educational agency that chooses not*
16 *to participate in this process shall, at a duly noticed public meeting,*
17 *explain the reasons for this decision and the rejection of the*
18 *revenue provided by this process.*

19 (b) A local educational agency that participates in the
20 streamlined temporary mandate process under this article shall
21 comply with *the underlying intentions of all statutes and regulations*
22 ~~underlying governing~~ the operation of the existing mandate
23 programs listed in subdivision (a) of Section 42608, as these
24 statutes ~~and regulations~~ existed on June 30, 2011, with the
25 exception of any requirements regarding compliance and claiming
26 issues, which shall be superseded by this article.

27 (c) Participating local educational agencies shall annually
28 self-certify that they have met the requirements of this section at
29 a duly noticed meeting of the governing board.

30 (d) (1) As part of its annual audit, a participating local
31 educational agency shall request a *compliance* report from an
32 auditor specifying that the agency has either *materially* complied
33 or *materially* not complied with this article. ~~A~~

34 (2) *For the purposes of this article, a finding of material*
35 *noncompliance shall require evidence that the local educational*
36 *agency neglected to make a good faith effort in appropriate*
37 *performance of the activities listed in subdivision (a) of Section*
38 *42608, to the extent that the underlying statutory goals of those*
39 *activities were compromised.*

1 (3) A local educational agency that is found to be materially
2 noncompliant by its auditor twice during the term of the
3 streamlined temporary mandate process established by this article,
4 upon the occurrence of the second finding of noncompliance, shall
5 be excluded from further participation under this article, including
6 funding.

7 (4) *If a local educational agency is excluded pursuant to*
8 *paragraph (3), the agency may appeal to the Education Audit*
9 *Appeals Panel, which may overturn the finding of material*
10 *noncompliance. Auditors shall report findings of material*
11 *noncompliance to the Department of Finance, the department, and*
12 *the Legislative Analyst's Office.*

13 (e) Funding for each participating local educational agency in
14 each fiscal year from 2011–12 to 2014–15, inclusive, shall be
15 based upon an equal amount per unit of prior-year California Basic
16 Educational Data System (CBEDS) enrollment for each of the
17 participating local educational agencies, with the funding level to
18 be determined by the appropriation made in the annual Budget Act
19 as specified in subdivision (f). A local educational agency without
20 a prior-year CBEDS enrollment count shall utilize current-year
21 CBEDS enrollment for funding purposes under this article.

22 (f) There shall be an appropriation in each annual Budget Act
23 during the term of this article that will be adequate to encourage
24 participation by all eligible local educational agencies in the
25 program established by this article. In no case shall the
26 appropriation for this purpose be less than ____ dollars (\$____).
27 If the appropriation for purposes of this article in the annual Budget
28 Act is deferred, it is the intent of the Legislature that the funding
29 of this deferred amount from any amount available for Proposition
30 98 expenditures shall have first priority in any given fiscal year.

31 (g) The Superintendent shall establish and convene a task force
32 charged with developing a permanent state process for mandate
33 reimbursement that is cost effective for local educational agencies
34 and responsive to state policy goals. The task force shall include
35 representatives of the Department of Finance, the Legislative
36 Analyst's Office, and stakeholders in the public education
37 community.

38 42608.5. This article shall become inoperative on July 1, 2015,
39 and, as of January 1, 2016, is repealed, unless a later enacted
40 statute, that becomes operative on or before January 1, 2016,

1 deletes or extends the dates on which it becomes inoperative and
2 is repealed.

3 *SEC. 3. If the Commission on State Mandates determines that*
4 *this act contains costs mandated by the state, reimbursement to*
5 *local agencies and school districts for those costs shall be made*
6 *pursuant to Part 7 (commencing with Section 17500) of Division*
7 *4 of Title 2 of the Government Code.*

8 ~~SEC. 3.~~

9 *SEC. 4.* This act is an urgency statute necessary for the
10 immediate preservation of the public peace, health, or safety within
11 the meaning of Article IV of the Constitution and shall go into
12 immediate effect. The facts constituting the necessity are:

13 In order to establish a streamlined temporary mandate
14 reimbursement process that will relieve the fiscal distress of
15 seriously impacted local educational agencies commencing with
16 the 2011–12 fiscal year, it is necessary that this act take effect
17 immediately.