

AMENDED IN SENATE APRIL 1, 2013

SENATE BILL

No. 302

Introduced by Senator Cannella
(Coauthors: Senators Gaines and Huff)

February 15, 2013

~~An act to amend Section 47605 of the Education Code, relating to charter schools.~~ *An act to amend Sections 14501, 14502.1, and 35400 of, to add Sections 38087, 38096, 38097, 38098, and 38104 to, and to repeal Sections 38092 and 38102 of, the Education Code, relating to school cafeterias.*

LEGISLATIVE COUNSEL'S DIGEST

SB 302, as amended, Cannella. ~~Charter schools.~~ *School cafeterias: cafeteria fund.*

(1) Existing law requires the Controller, in consultation with the Department of Finance and the State Department of Education, to develop a plan to review and report on financial and compliance audits, and with representatives of other entities, to recommend the statements and other information to be included in the audit reports filed with the state by local educational agencies, and to propose the content of an audit guide.

This bill would additionally require compliance audits and the audit guide to include cafeteria fund expenditures.

(2) Existing law, until January 1, 2015, authorizes the Los Angeles Unified School District Board of Education to appoint an inspector general and authorizes the inspector general to conduct audits and investigations, as specified, including administering oaths or affirmations. Existing law makes it a misdemeanor, punishable as specified, for a person, after the administration of an oath or affirmation,

to state or affirm as true any material matter that he or she knows to be false.

This bill would extend that authority of the inspector general of the Los Angeles Unified School District Board of Education until January 1, 2025. By extending the operation of a crime, the bill would impose a state-mandated local program.

(3) Existing law authorizes the governing board of any school district to establish cafeterias in the schools under its jurisdiction and authorizes the moneys received for the sale of food or for any services performed by the cafeterias to be paid into the county treasury to the credit of the cafeteria fund of the particular school district. Existing law requires the cafeteria fund to be used only for those expenditures authorized by the governing board of the school district that are defined in the California School Accounting Manual.

This bill would require the State Department of Education to assess its food services workload and staffing needs for purposes of carrying out the state's oversight responsibilities of cafeteria funds and to request sufficient federal funding to hire the appropriate number of staff based on that assessment. The bill would require the department to prepare simplified guidelines that address most of the common acceptable and unacceptable charges to cafeteria funds. The bill would require the department to post on its Internet Web site all enforcement actions for the misappropriation of cafeteria funds. The bill would require a school district to maintain all financial records related to its cafeteria fund for 5 years, thereby imposing a state-mandated local program. The bill would prohibit a school district from withholding from its food service director any financial records involving school nutrition programs.

(4) Existing law authorizes the governing board of any school district with an average daily attendance of over 100,000 to allow as an expenditure from its cafeteria fund a share of money agreed upon pursuant to a contract that is generated from the joint sale of items between the cafeteria and an associated student body student store.

This bill would repeal that provision.

(5) Existing law authorizes the governing board of any school district operating school cafeterias to establish and maintain a cafeteria fund reserve for the purchase, lease, maintenance, or replacement of cafeteria equipment, as specified.

This bill would repeal that provision.

(6) 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 with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

~~The Charter Schools Act of 1992 permits teachers and parents to petition the governing board of a school district to approve a charter school to operate independently from the existing school district structure as a method of accomplishing, among other things, improved pupil learning. Existing law establishes the procedures for the submission of a charter school petition to the governing board of a school district.~~

~~This bill would make various nonsubstantive changes to those provisions:~~

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

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

1 SECTION 1. Section 14501 of the Education Code is amended
2 to read:

3 14501. (a) As used in this chapter, “financial and compliance
4 audit” shall be consistent with the definition provided in the
5 “Standards for Audits of Governmental Organizations, Programs,
6 Activities, and Functions” promulgated by the Comptroller General
7 of the United States. Financial and compliance audits conducted
8 under this chapter shall fulfill federal single audit requirements.

9 (b) As used in this chapter, “compliance audit” means an audit
10 that ascertains and verifies whether or not funds provided through
11 apportionment, contract, or grant, either federal or state, have been
12 properly disbursed and expended as required by law or ~~regulation~~
13 ~~regulation~~, or ~~both~~ both, and includes the verification of each of
14 the following:

15 (1) The reporting requirements for the sufficiency of textbooks
16 or instructional materials, or both, as defined in Section 60119.

17 (2) Teacher misassignments pursuant to Section 44258.9.

1 (3) The accuracy of information reported on the School
 2 Accountability Report Card required by Section 33126. The
 3 requirements set forth in paragraphs ~~(1)~~ (1), (2), and ~~(2)~~ (4) and
 4 this paragraph shall be added to the audit guide requirements
 5 pursuant to subdivision (b) of Section 14502.1.

6 (4) *Cafeteria fund expenditures pursuant to Chapter 3*
 7 *(commencing with Section 38080) of Part 23 of Division 3 of Title*
 8 *2.*

9 *SEC. 2. Section 14502.1 of the Education Code is amended to*
 10 *read:*

11 14502.1. (a) The Controller, in consultation with the
 12 Department of Finance and the ~~State Department of Education,~~
 13 *department*, shall develop a plan to review and report on financial
 14 and compliance audits. The plan shall commence with the 2003–04
 15 fiscal year for audits of school districts, other local ~~education~~
 16 *educational* agencies, and the offices of county superintendents
 17 of schools. The Controller, in consultation with the Department
 18 of Finance, the ~~State Department of Education,~~ *department*, and
 19 representatives of the California School Boards Association, the
 20 California Association of School Business Officials, the California
 21 County Superintendents Educational Service Association, the
 22 California Teachers Association, *and* the California Society of
 23 Certified Public Accountants, shall recommend the statements and
 24 other information to be included in the audit reports filed with the
 25 state, and shall propose the content of an audit guide to carry out
 26 the purposes of this chapter. A supplement to the audit guide may
 27 be suggested in the audit year, following the above process, to
 28 address issues resulting from new legislation in that year that
 29 changes the conditions of apportionment. The proposed content
 30 of the audit guide and any supplement to the audit guide shall be
 31 submitted by the Controller to the Education ~~Audits Appeal~~ *Audit*
 32 *Appeals* Panel for review and possible amendment.

33 (b) The audit guide and any supplement shall be adopted by the
 34 Education ~~Audits Appeal~~ *Audit Appeals* Panel pursuant to the
 35 rulemaking procedures of the Administrative Procedure Act as set
 36 forth in Chapter 3.5 (commencing with Section 11340) of Part 1
 37 of Division 3 of Title 2 of the Government Code. It is the intent
 38 of the Legislature that, for the 2003–04 fiscal year, the audit guide
 39 be adopted by July 1 of the fiscal year to be audited. A
 40 supplemental audit guide may be adopted to address legislative

1 changes to the conditions of apportionment. It is the intent of the
2 Legislature that supplements be adopted before March 1 of the
3 audit year. Commencing with the 2004–05 fiscal year, and each
4 fiscal year thereafter, the audit guide shall be adopted by July 1 of
5 the fiscal year to be audited. A supplemental audit guide may be
6 adopted to address legislative changes to the conditions of
7 apportionment. The supplements shall be adopted before March
8 1 of the audit year. To meet these goals and to ensure the accuracy
9 of the audit guide, the process for adopting emergency regulations
10 set forth in Section 11346.1 of the Government Code may be
11 followed to adopt the guide and supplemental audit guide. It is the
12 intent of the Legislature that once the audit guide has been adopted
13 for a fiscal year, as well as any supplement for that year, thereafter
14 only suggested changes to the audit guide and any additional
15 supplements need be adopted pursuant to the rulemaking
16 procedures of the Administrative Procedure Act. The audit guide
17 and any supplement shall be issued in booklet form and may be
18 made available by any means deemed appropriate. The Controller
19 and consultants in the development of the suggested audit guide
20 and any supplement shall work cooperatively on a timeline that
21 will allow the ~~education audits appeal panel~~ *Education Audit*
22 *Appeals Panel* to meet the July 1 and March 1 issuance dates.
23 Consistent with current practices for development of the audit
24 guide before the 2003–04 fiscal year, the Controller shall provide
25 for the adoption of procedures and timetables for the development
26 of the suggested audit guide, any supplement, and the format for
27 additions, deletions, and revisions.

28 (c) For the audit of school districts or county offices of education
29 electing to take formal action pursuant to Sections ~~22714, 22714.5,~~
30 ~~44929, 22714~~ and ~~44929.1, 44929~~, the audit guide content proposed
31 by the Controller shall include, but not be limited to, the following:

- 32 (1) The number and type of positions vacated.
- 33 (2) The age and service credit of the retirees receiving the
34 additional service credit provided by Sections ~~22714, 22714.5,~~
35 ~~44929, 22714~~ and ~~44929.1, 44929~~.
- 36 (3) A comparison of the salary and benefits of each retiree
37 receiving the additional service credit with the salary and benefits
38 of the replacement employee, if any.
- 39 (4) The resulting retirement cost, including interest, if any, and
40 postretirement health care benefits costs, incurred by the employer.

1 (d) The Controller shall annually prepare a cost analysis, based
 2 on the information included in the audit reports for the prior fiscal
 3 year, to determine the net savings or costs resulting from formal
 4 actions taken by school districts and county offices of education
 5 pursuant to Sections ~~22714, 22714.5, 44929, 22714 and 44929.1,~~
 6 ~~44929~~ and shall report the results of the cost analysis to the
 7 Governor and the Legislature by April 1 of each year.

8 (e) All costs incurred by the Controller to implement subdivision
 9 (c) shall be absorbed by the Controller.

10 (f) *On or before July 1, 2014, the Education Audit Appeals Panel*
 11 *shall revise the audit guide to include clear and comprehensive*
 12 *guidance on what school districts may or may not do with moneys*
 13 *in a cafeteria fund pursuant to Chapter 3 (commencing with Section*
 14 *38080) of Part 23 of Division 3 of Title 2 and applicable federal*
 15 *law.*

16 ~~(f)~~

17 (g) This section shall become operative July 1, 2003 and shall
 18 apply to the preparation of the audit guide for school district audits
 19 commencing with the 2003–04 fiscal year.

20 *SEC. 3. Section 35400 of the Education Code is amended to*
 21 *read:*

22 35400. (a) The Los Angeles Unified School District’s Inspector
 23 General of the Office of the Inspector General is authorized to
 24 conduct audits and investigations. The inspector general may
 25 subpoena witnesses, administer oaths or affirmations, take
 26 testimony, and compel the production of all information,
 27 documents, reports, answers, records, accounts, papers, and other
 28 data and documentary evidence deemed material and relevant and
 29 that reasonably relate to the inquiry or investigation undertaken
 30 by the inspector general when he or she has a reasonable suspicion
 31 that a law, regulation, rule, or district policy has been violated or
 32 is being violated. For purposes of this section, “reasonable
 33 suspicion” means that the circumstances known or apparent to the
 34 inspector general include specific and articulable facts causing
 35 him or her to suspect that a material violation of law, regulation,
 36 rule, or district policy has occurred or is occurring, and that the
 37 facts would cause a reasonable officer in a like position to suspect
 38 that a material violation of a law, regulation, rule, or district bulletin
 39 has occurred or is occurring.

1 (b) Subpoenas shall be served in the manner provided by law
2 for service of summons. Any subpoena issued pursuant to this
3 section may be subject to challenge pursuant to Chapter 2
4 (commencing with Section 1985) of Title 3 of Part 4 of the Code
5 of Civil Procedure.

6 (c) For purposes of this section, Sections 11184, 11185, 11186,
7 11187, 11188, 11189, 11190, and 11191 of the Government Code
8 shall apply to the subpoenaing of witnesses and documents, reports,
9 answers, records, accounts, papers, and other data and documentary
10 evidence as if the investigation was being conducted by a state
11 department head, except that the applicable court for resolving
12 motions to compel or motions to quash shall be the Superior Court
13 for the County of Los Angeles.

14 (d) Notwithstanding any other ~~provision of the law~~, any person
15 who, after the administration of an oath or affirmation pursuant to
16 this section, states or affirms as true any material matter that he or
17 she knows to be false is guilty of a misdemeanor punishable by
18 imprisonment in a county jail not to exceed six months or by a
19 fine not to exceed five thousand dollars (\$5,000), or by both that
20 fine and imprisonment for the first offense. Any subsequent
21 violation shall be punishable by imprisonment in a county jail not
22 to exceed one year or by a fine not to exceed ten thousand dollars
23 (\$10,000), or by both that fine and imprisonment.

24 (e) The inspector general shall submit an interim report to the
25 Legislature by July 1, 2000, annual interim reports by July 1 of
26 each succeeding year, and a final cumulative report by December
27 1, 2014, on all of the following:

28 (1) The use and effectiveness of the subpoena power authorized
29 by this section in the successful completion of the inspector
30 general's duties.

31 (2) Any use of the subpoena power in which the issued subpoena
32 was quashed, including the basis for the court's order.

33 (3) Any referral to the local district attorney or the Attorney
34 General where the district attorney or Attorney General declined
35 to investigate the matter further or declined to prosecute.

36 (f) This article shall remain in effect only until January 1, ~~2015~~,
37 2025, and as of that date is repealed, unless a later enacted statute,
38 that is enacted before January 1, ~~2015~~, 2025, deletes or extends
39 that date.

40 *SEC. 4. Section 38087 is added to the Education Code, to read:*

1 38087. *The department shall assess its food services workload*
2 *and staffing needs for purposes of carrying out the state's oversight*
3 *responsibilities in accordance with federal law and regulations*
4 *adopted by the United States Department of Agriculture and shall*
5 *request sufficient federal funding to hire the appropriate number*
6 *of staff based on that assessment.*

7 *SEC. 5. Section 38092 of the Education Code is repealed.*

8 ~~38092. The governing board of any school district with an~~
9 ~~average daily attendance of over 100,000 may allow as an~~
10 ~~expenditure from the cafeteria fund or account a share of money~~
11 ~~agreed upon pursuant to a contract, which is generated from the~~
12 ~~joint sale of items between the cafeteria and an associated student~~
13 ~~body student store. The expenditure must result from an agreement~~
14 ~~entered into by the cafeteria and the associated student body in~~
15 ~~which pupils will participate in the operation of the store.~~

16 *SEC. 6. Section 38096 is added to the Education Code, to read:*

17 38096. (a) *The department shall prepare simplified guidelines*
18 *that address most of the common acceptable and unacceptable*
19 *charges to cafeteria funds.*

20 (b) *The department shall post on its Internet Web site all*
21 *enforcement actions for the misappropriation of cafeteria funds.*

22 *SEC. 7. Section 38097 is added to the Education Code, to read:*

23 38097. *A school district shall maintain all financial records*
24 *related to its cafeteria fund for five years.*

25 *SEC. 8. Section 38098 is added to the Education Code, to read:*

26 38098. *This chapter does not authorize a school district to*
27 *charge a food service program any charge prohibited by state or*
28 *federal law or regulation or guidance.*

29 *SEC. 9. Section 38102 of the Education Code is repealed.*

30 ~~38102. The governing board of any school district operating~~
31 ~~school cafeterias may establish and maintain a cafeteria fund~~
32 ~~reserve for the purchase, lease, maintenance, or replacement of~~
33 ~~cafeteria equipment, to be known as the cafeteria equipment~~
34 ~~reserve. The funds for this reserve are to be derived from the sales~~
35 ~~of food in the school cafeterias in an amount to be determined by~~
36 ~~the governing board and may be accumulated from year to year~~
37 ~~until expended for this purpose. Funds in the cafeteria equipment~~
38 ~~reserve shall only be used for the purchase, lease, maintenance, or~~
39 ~~replacement of cafeteria equipment.~~

1 ~~Nothing in this section shall prohibit any school district from~~
2 ~~replacing cafeteria equipment from district funds as provided in~~
3 ~~Section 38100.~~

4 *SEC. 10. Section 38104 is added to the Education Code, to*
5 *read:*

6 *38104. A school district shall not withhold from its food service*
7 *director any financial records involving school nutrition programs.*

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

17 *However, if the Commission on State Mandates determines that*
18 *this act contains other costs mandated by the state, reimbursement*
19 *to local agencies and school districts for those costs shall be made*
20 *pursuant to Part 7 (commencing with Section 17500) of Division*
21 *4 of Title 2 of the Government Code.*

22
23
24 **All matter omitted in this version of the bill**
25 **appears in the bill as introduced in the**
26 **Senate, February 15, 2013. (JR11)**
27