

AMENDED IN SENATE JUNE 12, 1996

AMENDED IN ASSEMBLY MAY 6, 1996

CALIFORNIA LEGISLATURE—1995–96 REGULAR SESSION

ASSEMBLY BILL

No. 2834

Introduced by Assembly Member Friedman

February 22, 1996

An act to amend Sections 48661, 48664, and 48916.1 of the Education Code, and to amend Section 9 of Chapter 974 of the Statutes of 1995, relating to pupils, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2834, as amended, Friedman. Pupils: expulsion: alternative placement.

(1) Existing law prohibits community day schools from being situated on a comprehensive schoolsite unless the county superintendent of schools certifies that no alternative program of study is available at a site away from a comprehensive schoolsite.

This bill would repeal the authority of the county superintendent of schools to waive the prohibition on having a community day school on a comprehensive schoolsite except for certain school districts, as specified.

(2) Existing law requires the State Department of Education, on or before October 1, 1998, and for 2 years thereafter, to evaluate and report to the Legislature on

specified programmatic and fiscal issues relating to community day schools.

~~This bill would require the Superintendent of Public Instruction to respond within 30 days to a request from the chair of a legislative committee for information about the community day school. The bill would also require, for each occurrence of not meeting the 30-day requirement, the~~ Controller to withhold \$1,000 from funds appropriated to the State Department of Education for its general operations *if the State Department of Education fails to provide the report, as specified.*

(3) Existing law requires the governing board of a school district to maintain outcome data on those pupils who are expelled for any reason and who are enrolled in education programs operated by the school district, the county superintendent of schools, or as otherwise authorized, and to report the date, upon request, to the State Department of Education.

This bill would prohibit the Superintendent of Public Instruction from apportioning specified funds to a district that does not maintain or report the outcome data, until the district complies with the above-referenced requirements. The bill would require the Superintendent of Public Instruction to provide written notice, as specified, before withholding the apportionment of funds.

(4) Existing law requires the governing board of a school district, at the time a pupil is expelled, to ensure an education program is provided to the expelled pupil, and provided that the program may include independent study. Existing law limits the governing board's duty to the extent funds are appropriated for this purpose in the annual Budget Act or other legislation, or both.

This bill would repeal the authority to offer independent study in the above-referenced circumstances, and would require, irrespective of the extent of funding, that the governing board of a school district for specified pupils at the time of their expulsion ensure an education program is provided for them. To the extent the bill would thereby impose new duties upon local education entities, this bill would impose a state-mandated local program.



(5) Existing law, which is uncodified, delays the implementation of the provisions of Chapter 974 of the Statutes of 1995, except for specified expelled pupils, to the extent funds are appropriated for its purpose in the annual Budget Act, or other legislation, or both. Existing law also specifies a similar condition in specific codified sections of law relating to community day schools and other programs for expelled students.

This bill would repeal the uncodified 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, 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.

(7) 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: yes.

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

1 SECTION 1. Section 48661 of the Education Code is
2 amended to read:
3 48661. If pupils are expelled pursuant to subdivision
4 (b) or (d) of Section 48915 and are served in a community
5 day school, that program shall not be situated on a
6 comprehensive schoolsite, except that if a school district
7 with 2,500 or fewer units of average daily attendance
8 reported for the second principal apportionment
9 demonstrates to the county superintendent of schools
10 that no alternative program of study is available at a site
11 away from a comprehensive middle, junior high, or senior
12 high school, or at an elementary schoolsite, the county



1 superintendent of schools may authorize the school
2 district to place a pupil in a community day school that is
3 provided at a comprehensive middle, junior high, or
4 senior high school, or at an elementary schoolsite.

5 SEC. 2. Section 48664 of the Education Code is
6 amended to read:

7 48664. (a) In addition to funds from all other sources,
8 the Superintendent of Public Instruction shall apportion
9 to each school district that operates a community day
10 school one thousand five hundred dollars (\$1,500) per
11 year, for each unit of average daily attendance reported
12 at the annual apportionment for pupil attendance at
13 community day schools. Average daily attendance
14 reported for this program shall not exceed 0.375 percent
15 of a district's prior year P2 average daily attendance in an
16 elementary school district, 0.5 percent of a district's prior
17 year P2 average daily attendance in a unified school
18 district, or 0.625 percent of a district's prior year P2
19 average daily attendance in a high school district. The
20 Superintendent of Public Instruction may reallocate to
21 any school district any unexpended balance of the
22 appropriations made for the purposes of this subdivision
23 for actual pupil attendance in excess of the percentage
24 specified in this subdivision for the school district in an
25 amount not to exceed one-half of that percentage.
26 However, the average daily attendance generated by
27 pupils expelled pursuant to subdivision (d) of Section
28 48915, shall not be subject to these percentage caps on
29 average daily attendance.

30 (b) In calculating the average daily attendance for a
31 community day school, the school district shall use a
32 divisor of 180 even if the community day school has a
33 school year in excess of 180 days.

34 (c) The Superintendent of Public Instruction shall
35 apportion to each school district that operates a
36 community day school a sum equal to one dollar and forty
37 cents (\$1.40) multiplied by the total of the number of
38 hours each schoolday, up to a maximum of two hours
39 daily, that each community day school pupil remains at
40 the community day school under the supervision of a



1 school district employee following completion of the full
2 six-hour instructional day.

3 (d) It is the intent of the Legislature that districts
4 enter into consortia, as feasible, for the purpose of
5 providing community day school programs. Any school
6 district with fewer than 2,501 units of average daily
7 attendance may request a waiver for any fiscal year of the
8 funding limitations defined in this section. The
9 Superintendent of Public Instruction shall approve a
10 waiver if he or she deems it necessary in order to permit
11 the operation of a community day school of reasonably
12 comparable quality to those offered in school district with
13 2,501 or more units of average daily attendance. In no
14 event shall the amount allocated pursuant to a waiver
15 exceed the amount provided for one teacher pursuant to
16 Section 42284, for pupils enrolled in kindergarten and
17 grades 1 to 6, inclusive, or the amount provided for one
18 teacher pursuant to Section 42284, for pupils enrolled in
19 grades 7 to 12, inclusive. The provisions of this act shall not
20 apply to any school district that applied for a waiver
21 within the funding limits established by this subdivision
22 but was denied funding or not fully funded.

23 (e) The State Department of Education shall evaluate
24 and report to the appropriate legislative policy
25 committees and budget committees on or before October
26 1, 1998, and for two years thereafter following
27 programmatic and fiscal issues:

28 (1) The number of expulsions statewide.

29 (2) The number of school districts operating
30 community day schools.

31 (3) Status of the countywide plans as defined in
32 Section 48926.

33 (4) An evaluation of the community day school
34 average daily attendance funding percentage cap.

35 (5) Number of small school districts requesting and
36 the number receiving a waiver under this section.

37 (6) The effect of hourly accounting under Section
38 48663 for purposes of receiving the additional funding
39 under Section 48664.

1 (7) The number of pupils and average daily
2 attendance served in community day programs, further
3 identified as the number expelled pursuant to subdivision
4 (d) of Section 48915, subdivision (b) of Section 48915,
5 other expulsion criteria, or referred through a formal
6 district process.

7 (8) Pupil outcome data and other data as required
8 under Section 48916.1.

9 (9) Other programmatic or fiscal matters as
10 determined by the State Department of Education.

11 (f) If the State Department of Education ~~does not~~ *fails*
12 *to provide a report required by subdivision (e) within 30*
13 *days following the reporting date set forth in subdivision*
14 *(e), the Controller shall* respond within 30 days to a
15 request by the chair of a legislative committee for
16 information about the community day school program,
17 and the Controller receives from the legislative
18 chairperson certification that the information was
19 requested and was not received within 30 days of the
20 request, the Controller shall withhold one thousand
21 dollars (\$1,000) per occurrence from the funds that
22 otherwise would be transferred to the State Department
23 of Education for its general operations. A school district
24 shall have 30 days to respond to a request from the State
25 Department of Education for information about the
26 district's community day school program.

27 (g) The additional funds provided in subdivisions (a)
28 (c), and (d) shall only be allocated to the extent that
29 funds are appropriated for this purpose in the annual
30 Budget Act or other legislation, or both, except for pupils
31 expelled pursuant to subdivision (d) of Section 48915. For
32 pupils expelled pursuant to subdivision (d) of Section
33 48915, the funds apportioned under subdivision (a) are
34 continuously appropriated from the General Fund to
35 Section A of the State School Fund.

36 SEC. 3. Section 48916.1 of the Education Code is
37 amended to read:

38 48916.1. (a) At the time an expulsion of a pupil is
39 ordered, the governing board of the school district shall
40 ensure that an education program is provided to the pupil



1 who is subject to the expulsion order for the period of the
2 expulsion. Except for pupils expelled pursuant to
3 subdivision (d) of Section 48915, the governing board of
4 a school district is required to implement the provisions
5 of this section only to the extent funds are appropriated
6 for this purpose in the annual Budget Act or other
7 legislation, or both.

8 (b) Notwithstanding any other provision of law, any
9 educational program provided pursuant to subdivision
10 (a) may be operated by the school district, the county
11 superintendent of schools, or a consortium of districts or
12 in joint agreement with the county superintendent of
13 schools.

14 (c) Any educational program provided pursuant to
15 subdivision (b) shall not be situated within or on the
16 grounds of the school from which the pupil was expelled.

17 (d) If the pupil who is subject to the expulsion order
18 was expelled from any of kindergarten or grades 1 to 6,
19 inclusive, the educational program provided pursuant to
20 subdivision (b) shall not be combined or merged with
21 educational programs offered to pupils in any of grades
22 7 to 12, inclusive. The district or county program is the
23 only program required to be provided to expelled pupils
24 as determined by the governing board of the school
25 district.

26 (e) (1) (A) The governing board of the school
27 district shall maintain outcome data and report them
28 upon request from the State Department of Education on
29 those pupils who are expelled for any reason and who are
30 enrolled in education programs operated by the school
31 district, the county superintendent of schools, or as
32 otherwise authorized pursuant to this section. Outcome
33 data shall include, but not be limited to, attendance,
34 graduation and dropout rates of expelled pupils enrolled
35 in alternative placement programs. Outcome data shall
36 also include attendance, graduation and dropout rates,
37 and comparable levels of academic progress, of pupils
38 participating in independent study offered by the school
39 district. When the governing board of a school district
40 does not either maintain outcome data or report them, or



1 both, as required by this subdivision, the Superintendent
 2 of Public Instruction shall not apportion money to the
 3 school district pursuant to Section 48664 until the
 4 governing board is in compliance with the provisions of
 5 this subdivision. Before withholding the apportionment
 6 of funds to a school district pursuant to this subdivision,
 7 the Superintendent of Public Instruction shall give
 8 written notice to the governing board of the school
 9 district that the school district has 30 calendar days from
 10 the date of the written notice to report the requested data
 11 and thereby avoid the withholding of the apportionment
 12 of funds.

13 (B) Districts shall also maintain data as further
 14 specified by the Superintendent of Public Instruction, on
 15 the number of pupils placed in community day school or
 16 participating in independent study whose immediate
 17 preceding placement was county community school,
 18 continuation school, or comprehensive school, or who was
 19 not enrolled in any school.

20 (C) Districts shall also maintain data on the number of
 21 pupils placed in community day school whose subsequent
 22 placement is county community school, continuation
 23 school, or comprehensive school, or who are not enrolled
 24 in any school.

25 (2) If the county superintendent of schools operates an
 26 educational program pursuant to this section, the county
 27 superintendent of schools shall provide to the governing
 28 board of the school district outcome data as specified in
 29 subparagraph (A) of paragraph (1) and outcome data on
 30 pupils participating in independent study programs
 31 offered by the county office of education.

32 (f) If the county superintendent of schools is unable
 33 for any reason to serve the expelled pupils of a school
 34 district within the county, the governing board of that
 35 school district may enter into an agreement with a county
 36 superintendent of schools in another county to provide
 37 education services for the district's expelled pupils.

38 SEC. 4. Section 9 of Chapter 974 of the Statutes of 1995
 39 is amended to read:



1 Sec. 9. This act shall not become operative until July
2 1, 1996.

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

13 Notwithstanding Section 17580 of the Government
14 Code, unless otherwise specified, the provisions of this act
15 shall become operative on the same date that the act
16 takes effect pursuant to the California Constitution.

17 SEC. 6. This act is an urgency statute necessary for the
18 immediate preservation of the public peace, health, or
19 safety within the meaning of Article IV of the
20 Constitution and shall go into immediate effect. The facts
21 constituting the necessity are:

22 In order to implement the changes proposed by this act
23 in time to implement the provisions of Chapter 974 of the
24 Statutes of 1995, it is necessary that this act take effect
25 immediately.

