

FINANCIAL ACCOUNTABILITY & OVERSIGHT PROVISIONS

*Assembly Bill 2756 (Daucher)
July 2004*

Fiscal
& Crisis
Management
Assistance
Team



Financial Accountability & Oversight Provisions

Assembly Bill 2756 (Daucher)

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SYNOPSIS

This synopsis provides an overview of the most significant changes to the fiscal oversight process relative to the various impacted agencies. In most references, the education code section is stated directly, but in some situations the education code is paraphrased. For a more complete and contextual understanding of the provisions of AB 2756 (Daucher), the reader is encouraged to read the specific legislation and Education Code Sections.

BILL SUMMARY

AB 2756, an urgency measure, took effect upon the signing of the bill by the Governor on June 21, 2004. The bill makes substantive changes to the financial accountability and oversight process of a school district's fiscal condition, and clarifies the process relative to the oversight and monitoring of districts which obtain emergency state loans.

STATE BOARD OF EDUCATION'S RESPONSIBILITIES

AB 2756 provides authority to the State Board of Education in the following:

- The State Board of Education shall adopt standards and criteria pursuant to Education Code Section 33127. *Reference Education Code § 33128 (a)*
- The State Board of Education shall adopt and may periodically update a comprehensive list of professional and legal standards that all districts are encouraged to use as a guide to conduct good educational programs and fiscal and management practices. These standards shall also be used as the basis of evaluating the improvement of emergency loan districts. These standards shall, at a minimum, address all of the following operational areas: *Reference Education Code § 41327.1 (a)*
 1. *Financial Management*
 2. *Pupil Achievement*
 3. *Personnel Management*
 4. *Facilities Management*
 5. *Community Relations and Governance*

SUPERINTENDENT OF PUBLIC INSTRUCTION'S RESPONSIBILITIES

AB 2756 adds significant authority and responsibility to the Superintendent of Public Instruction (SPI) in improving the fiscal oversight of, and intervention in, the state's public schools. Specifically, AB 2756 requires/authorizes the SPI to perform the following:

- The SPI, the Controller, and the Director of Finance, shall update by July 1, 2005, the standards and criteria used by local educational agencies in the development and management of the annual budgets. The new standards and criteria are applicable to the budgets commencing with the 2006-07 fiscal year. *Reference Education Code § 33127 (b)*

The bill specifies additional standards and criteria to be developed as part of the update. Unique to this Section 2, Education Code 33128 (b), is the inclusion of the two following elements:

1. *Clear definitions and guidelines for positive, qualified, and negative interim financial certifications pursuant to Sections 42130 and 42131*
2. *District financial health indicators to provide a comprehensive review and assessment of the financial condition of districts and to help identify districts that are developing financial problems before the problems become severe*

- The SPI shall review and certify any district budget approved by the county superintendent. *Reference Education Code § 42127 (d)*
- The SPI may appoint an employee of the state or of the office of the county superintendent of schools to act as administrator for up to the duration of the administratorship. *Reference Education Code § 41326 (b) (4)*
- The SPI in consultation with FCMAT shall review the fiscal oversight of the district by the county superintendent of schools.

Reference Education Code § 41326 (k) (1)

Superintendent of Public Instruction's Responsibilities *(continued)*

- The SPI shall monitor the efforts of a county office of education in exercising its fiscal oversight authority and may exercise any of that authority if the SPI finds that the actions of the county superintendent of schools are not effective in resolving the financial problems of the school district. *Reference Education Code § 42127.6 (k)*
- If the SPI assumes authority, the SPI shall take further actions to ensure the long-term fiscal stability of the district.
Reference Education Code § 42127.6 (k)
- If the SPI assumes the fiscal oversight authority of the county superintendent of schools, the SPI shall promptly notify the following:
Reference Education Code § 42127.6 (k)
 1. *The county superintendent of schools*
 2. *The county board*
 3. *The superintendent and governing board of the school district*
 4. *Appropriate policy and fiscal committees of each house of the Legislature*
 5. *The Department of Finance*
- Within three months of assuming control of an emergency loan district, the SPI shall report his findings to the Legislature and the Department of Finance relative to the fiscal oversight actions taken by the oversight agency. Recommendations may include appropriate legislative responses to improve fiscal oversight. *Reference Education Code § 41326 (k) (2)*
- If the SPI determines that the COE failed to provide the required fiscal oversight, the SPI may assume the fiscal oversight authority of the COE for the emergency loan district. The SPI shall further investigate the COE oversight responsibilities regarding districts with a negative or qualified certification. The SPI shall provide additional reports to the following: *Reference Education Code § 41326 (k) (3)*
 1. *The policy and fiscal committees of each house of the Legislature*
 2. *The Department of Finance*

Superintendent of Public Instruction's Responsibilities *(continued)*

- The SPI shall in consultation with FCMAT and the County Superintendent of Schools, determine the level of improvement needed in the standards adopted by the State Board of Education, before local authority will be returned to the emergency loan district.

Reference Education Code § 41327.1 (c)

- The SPI may request FCMAT to review the fiscal and administrative conditions of any: *Reference Education Code § 42127.8 (c)*

1. *County office of education*
2. *School district*
3. *Charter school*

- The SPI selects regional teams in consultation with FCMAT.

Reference Education Code § 42127.8 (i) (2)

- The SPI shall report to the Legislature and the Director of Finance by December 10 if any district, including a district that has received a waiver of the budget review committee process, does not have an adopted budget by November 30. This report shall include the following:

Reference Education Code § 42127 (g)

1. *The reasons why a budget has not been adopted by the deadline*
2. *The steps being taken to finalize budget adoption*
3. *The date the adopted budget is anticipated*
4. *Whether the SPI has or will exercise his authority to adopt a budget for the school district*

STATE ADMINISTRATOR'S RESPONSIBILITIES

An appointed State Administrator shall have recognized expertise in management and finance. The local governing board is advisory with no legal rights, powers or duties. The State Administrator has the following specific responsibilities under AB 2756. *Reference Education Code § 41326 (b) (2), 41326 (c) (1)*

- Within 30 days of being appointed by the SPI, the State Administrator shall discuss options for resolving the fiscal problems of the district with all of the following groups and shall consider, on a monthly basis, information from one or more of the following groups:

Reference Education Code § 41326.1 (a)

- 1. The governing board*
 - 2. Any district advisory council*
 - 3. Any district parent-teacher organization*
 - 4. District community members*
 - 5. The district administrative team*
 - 6. The Fiscal Crisis and Management Assistance Team*
 - 7. Representatives of employee bargaining units*
 - 8. The county superintendent of schools*
- The State appointed administrator shall prepare or obtain the following reports and plans: *Reference Education Code § 41327 (a)*
 - 1. A management review and recovery plan*
 - 2. A multiyear financial recovery plan submitted annually*

LEGISLATIVE BUDGET SUBCOMMITTEE'S RESPONSIBILITIES

AB 2756 provides authority to the Legislative Budget Subcommittee to annually conduct a review of each emergency loan district that includes the following:

Reference Education Code § 41326 (i)

- 1. An evaluation of the financial condition of the district*
- 2. The impact of the recovery plan upon the district's educational program*
- 3. The efforts made by the state-appointed administrator to obtain input from the community and the governing board*

FISCAL CRISIS AND MANAGEMENT ASSISTANCE TEAM'S RESPONSIBILITIES

AB 2756 provides specific responsibilities to FCMAT. They include the following:

- FCMAT shall conduct comprehensive assessments in the five major operational areas and complete a minimum of two reports identifying the district's progress on the improvement plans.

Reference Education Code § 41326 (e) (2), 41327.1

- FCMAT shall complete and file written status reports every six months indicating the progress that the district is making in meeting the recommendations of the improvement plans. The reports shall be submitted to the following: *Reference Education Code § 41327.1 (d)*

- 1. The appropriate fiscal and policy committees of the Legislature*
- 2. The members of the Legislature that represent the district*
- 3. Any advisory council of the school districts*
- 4. The Superintendent of Public Instruction*
- 5. The county superintendent*
- 6. The Director of Finance*
- 7. The Secretary for Education*

- FCMAT shall request and review applications to establish regional teams of education finance experts throughout the state.

Reference Education Code § 42127.8 (i) (1)

COUNTY SUPERINTENDENT OF SCHOOLS' RESPONSIBILITIES

AB 2756 provides specific authority and added fiscal oversight responsibilities to the county superintendent relative to emergency loan districts and their local school districts.

Emergency Loans

- The appointment of a State Administrator to an emergency loan district does not remove any statutory rights, duties, or obligations from the county superintendent of schools. The county superintendent of schools retains the responsibility to superintendent school districts under their jurisdiction. *Reference Education Code § 41327.2 (a)*
- Subsequent to COE review of the emergency loan district's budget and interim reports, the county superintendent of schools shall document the fiscal and administrative status of the emergency loan district, particularly in regard to the implementation of the fiscal and management recovery plans. *Reference Education Code § 41327.2 (b)*
- Each report shall include a determination of whether the revenue streams to the district appear to be consistent with its expenditure plan. These reports are required until six months after all rights, duties, and powers are returned to the school district and shall be submitted to the following: *Reference Education Code § 41327.2 (b)*
 1. *The Superintendent of Public Instruction*
 2. *Appropriate fiscal and policy committees of the legislature*
 3. *The Director of Finance*
 4. *The Secretary for Education*

County Superintendent of Schools' Responsibilities (Continued)

School Districts

- The county superintendent of schools shall review and consider studies, reports, evaluations, or audits of the school district that contain evidence of fiscal distress under the state standards and criteria and were commissioned by: *Reference Education Code § 42127 (c) (2)*

1. *The district*

2. *The county superintendent*

3. *The Superintendent of Public Instruction*

4. *State control agencies*

- The county superintendent of schools shall consider findings by an external reviewer that more than three of the 15 most common FCMAT predictors of a school district needing intervention are present.

Reference Education Code § 42127 (c) (2)

- If these findings are made, the county superintendent of schools shall investigate the financial condition of the school district and determine if the school district may be unable to meet its financial obligations for the current or two subsequent fiscal years, or should receive a qualified or negative certification. *Reference Education Code § 42127.6 (a) (1)*
- The county superintendent of schools shall either conditionally approve or disapprove a budget that does not provide adequate assurance that the district will meet its current and future obligations, and resolve any problems identified in the referenced studies, reports, evaluations, or audits. *Reference Education Code § 42127 (c) (2)*
- On or before August 15, the county superintendent of schools shall approve, conditionally approve, or disapprove the adopted budget for each school district. *Reference Education Code § 42127 (d)*
- On or before August 15, the county superintendent of schools shall transmit to the governing board of the school district, in writing, recommendations regarding revision of the budget and the reasons for those recommendations. These recommendations include budget adjustments needed before the budget could be approved.

Reference Education Code § 42127 (d)

County Superintendent of Schools' Responsibilities *(Continued)*

- The county superintendent of schools may assign a fiscal adviser to assist the district to develop a budget in compliance with the recommended revisions. *Reference Education Code § 42127 (d)*
- If a school district does not adopt all of the revisions needed to its budget in the current fiscal year to meet the costs of a collective bargaining agreement, the county superintendent of schools shall issue a qualified or negative certification for the district on the next interim report.
Reference Government Code § 3547.5 (c)
- If a school district does not submit a budget to the county superintendent of schools, the county superintendent of schools shall, at district expense, develop a budget for that school district by September 15 and transmit that budget to the governing board of the school district.
Reference Education Code § 42127 (d)
- For a qualified or negative certified district, the county superintendent of schools has 10 working days to review and comment on a district proposed collective bargaining agreement, to determine if the proposed agreement would endanger the fiscal well-being of the school district. The county superintendent of schools shall notify the following regarding that opinion within those 10 days:
Reference Government Code § 3540.2 (a) (c)
 1. *The school district*
 2. *The county board of education*
 3. *The district superintendent and governing board*
 4. *Each parent and teacher organization of the district*
- If the SPI assumes the fiscal oversight responsibilities of the county superintendent of schools, the COE shall reimburse the SPI for all costs in exercising this authority. *Reference Education Code § 42127.6 (k)*
- The County Superintendent of Schools may determine whether a school district's audit has been performed in substantial conformity with the provisions of the audit guide. *Reference Education Code § 41020.5 (a)*

SCHOOL DISTRICT'S RESPONSIBILITIES

- The emergency loan district shall bear 100 percent of all costs associated with implementing the provisions of an emergency loan, including the activities of the Fiscal Crisis and Management Assistance Team.

Reference Education Code § 41328

- A school district shall provide the county superintendent of schools with a copy of a study, report, evaluation, or audit that contain evidence of fiscal distress under the state's standards and criteria and that were commissioned by: *Reference Education Code § 42127.6 (a) (1)*

1. *The district*

2. *The county superintendent*

3. *The Superintendent of Public Instruction*

4. *State control agencies*

5. *Fiscal Crisis and Management Assistance Team*

6. *Regional Teams*

- A school district that has a qualified or negative certification shall allow the county office of education at least 10 working days to review and comment on any proposed agreement made between the exclusive employee representative and the public school employer, or designated representatives of the employer. *Reference Government Code § 3540.2 (a)*
- The district superintendent and chief business official shall certify in writing that the costs incurred by the school district under the agreement can be met by the district during the term of the agreement.

Reference Government Code § 3547.5 (b)

- The certification shall be prepared in a format similar to the Interim Reports required in Education Code Sections 42130 and 42131.

Reference Government Code § 3547.5 (b)

- The certification shall itemize any budget revision necessary to meet the costs of the agreement in each year of its term.

Reference Government Code § 3547.5 (b)

REGIONAL TEAMS OF EDUCATION FINANCE EXPERTS

AB 2756 provides for the development of regional teams to provide training and technical expertise to school districts and county offices of education facing fiscal difficulties. *Reference Education Code § 42127.8 (i)*

- FCMAT will request and review applications from the 11 service regions of the state.
- FCMAT will submit its analysis to the SPI for consultation and selection.
- The regional teams shall follow the standards and guidelines of and remain under the general supervision of the FCMAT governing board.
- It is the intent of the Legislature that the regional teams provide timely, cost-effective expertise to school districts and county offices of education throughout the state.

FCMAT PREDICTORS OF SCHOOL AGENCIES NEEDING INTERVENTION

The following 11 conditions represent those school agency problems most commonly encountered by the Fiscal Crisis and Management Assistance Team (FCMAT). The presence of any one condition is not necessarily an indication of a school agency in trouble. Unavoidable short-term situations such as key administrative vacancies can result in brief and acceptable periods of exposure to one or more of the following conditions. Exceeding acceptable limits of exposure in one or more of the following conditions is often the blueprint for districts nearing or presently in a crisis situation.

- 1. Leadership Breakdown***
 - a. Governance crisis**
 - b. Ineffective staff recruitment
 - c. Board micromanagement and special interest groups influencing boards
 - d. Ineffective or no supervision
 - e. Litigation against district
- 2. Ineffective Communication***
 - a. Staff unrest and morale issues
 - b. Absence of communication to educational community**
 - c. Lack of interagency cooperation**
 - d. Breakdown of internal systems (payroll, position control)
- 3. Collapse of Infrastructure**
 - a. Unhealthful and unsafe facilities and sites
 - b. Deferred maintenance neglected
 - c. Low Budget Priority
 - d. Local and state citations ignored
 - e. No long-range plan for facility maintenance
- 4. Inadequate Budget Development***
 - a. Failure to recognize year-to-year trends**
 - b. Flawed ADA projections**
 - c. Failure to maintain reserves**
 - d. Salary and benefits in unrealistic proportions
 - e. Insufficient consideration of long-term bargaining agreement effects**
 - f. Flawed multi-year projections**
 - g. Inaccurate revenue and expenditure estimations**
- 5. Limited Budget Monitoring***
 - a. Failure to reconcile ledgers
 - b. Poor cash flow analysis and reconciliation**
 - c. Inadequate business systems and controls
 - d. Inattention to COE data
 - e. Failure to review management control reports
 - f. Bargaining agreements beyond state COLA**
 - g. Lawsuit settlements

FCMAT Predictors of School Agencies Needing Intervention *(Continued)*

6. *Poor Position Control**

- a. Identification of each position missing
- b. Unauthorized hiring
- c. Budget development process affected
- d. No integration of position control with payroll**

7. *Ineffective Management Information Systems**

- a. Limited access to timely personnel, payroll, and budget control data and reports**
- b. Inadequate attention to system life cycles
- c. Inadequate communication systems

8. *Inattention to Categorical Programs**

- a. Escalating general fund encroachment**
- b. Lack of regular monitoring**
- c. Illegal expenditures
- d. Failure to file claims

9. *Substantial Long-Term Debt Commitments*

- a. Increased costs of employee health benefits

- b. Certificates of participation
- c. Retiree health benefits for employees and spouse
- d. Expiring parcel taxes dedicated to ongoing costs

10. *Human Resource Crisis*

- a. Shortage of staff (administrators, teachers, support, and board)
- b. Teachers and support staff working out of assignment
- c. Students/classrooms without teachers
- d. Administrators coping with daily crisis intervention
- e. Inadequate staff development

11. *Related Issues of Concern*

- a. Local and state audit exceptions
- b. Disproportionate number of under performing schools
- c. Staff, parent, and student exodus from the school district
- d. Public support for public schools decreasing
- e. Inadequate community participation and communication

* Highlights the seven conditions consistently found in each district requesting an emergency loan or dealing with a "fiscal crisis."

** Represents the 15 conditions that have been found most frequently to indicate fiscal distress and are those referenced in Assembly Bill 2756 (Daucher) and recently amended Education Code Sections 42127 and 42127.6.