

June 30, 2011

The Honorable Edmund G. Brown
Governor, State of California
State Capitol, First Floor
Sacramento, CA 95814

AB 114 (Committee on Budget)



Dear Governor Brown:

The education budget trailer bill, AB 114, contains several provisions that would make it nearly impossible for school districts to manage mid-year budget cuts, if such cuts were to occur. These provisions—by themselves—could result in some districts becoming financially insolvent and entering into state receivership through no fault of their own.

Therefore, on behalf of the California School Boards Association (CSBA), which represents nearly 1,000 school districts and county boards of education statewide, I am writing to ask for your support and leadership in obtaining cleanup legislation that would repeal these provisions. I am also writing to express our serious concerns regarding the manipulation of Proposition 98.

AB 114 Severely Reduces the Ability of Districts to Manage Their Own Resources

AB 114 adds the following language to Education Code Section 42127(a)(1):

- (A) For the 2011-12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, each school district budget shall project the same level of revenue per unit of average daily attendance as it received in the 2010-11 fiscal year and shall maintain staffing and program levels commensurate with that level.
- (B) For the 2011-12 fiscal year, the school district shall not be required to demonstrate that it is able to meet its financial obligations for the two subsequent fiscal years.

In other words, districts are being told to pretend that there is no possibility of a mid-year budget cut, even though another bill in the budget package—AB 121—clearly specifies that schools would be cut by nearly \$1.8 billion if revenues come in below estimates. Parallel language applies to county office of education budgets.

AB 114 also adds this language to Section 42127(d):

For the 2011-12 fiscal year, notwithstanding any of the standards and criteria adopted by the state board pursuant to Section 33127, the county superintendent, as a condition on [sic] approval of a school district budget, shall not require a school district to project a lower level of revenue per unit of average daily attendance than it received in the 2010-11 fiscal year nor require the school district to demonstrate that it is able to meet its financial obligations for the two subsequent fiscal years.

This provision eliminates important fiscal oversight controls that are designed to ensure the long-term stability of school district budgets. It is a statutory invitation to fiscal recklessness.

The provisions added in sections (A) and (B) as noted above present problems with respect to staffing decisions made for the 2011-12 fiscal year. Does this mean that districts that laid off teachers in anticipation of a budget cut will now have to call them back? That seems to be the intent, but if they are forced to do so by law, and budget cuts occur, what then? Districts would be able to manage the cuts by reducing the number of days in the school year, but only if the teachers agree. Absent such agreement, options are very limited and decisions would be compelled that would result in even worse outcomes for students than if more teachers were laid off.

Yet another problematic provision of AB 114 is the one-year suspension of the August 15 teacher layoff window. Of course, given the other provisions of this bill, this may be moot. But it is another intrusion into the ability of school districts to manage their own resources.

For these reasons, we ask that you support and help lead our effort to get these provisions repealed. The already-painful need to cut programs and reduce services to students is made even more difficult when the state intrudes on the ability of school boards to manage their own resources. The state should not be substituting its judgment for that of those who live in the communities affected, have fiduciary responsibility for the districts, and are held accountable for student outcomes.

Proposition 98 Concerns

AB 114 contains two provisions that raise serious concerns regarding Proposition 98. First, it takes child care funding out of Proposition 98 and “rebenches” the guarantee. When Governor Schwarzenegger proposed to do this with home-to-school transportation funding, the education community objected on constitutional grounds, and his proposal was rejected by the Legislature. AB 114 attempts to justify the legality of this action by noting that some funding for child care was part of the K-12 budget in the Proposition 98 base year. But that is also the case with transportation funding.

Moreover, since the enactment of Proposition 98, child care has been one of the fastest—if not the fastest—growing program in the Proposition 98 budget. However, the growth of enrollment in child care programs never contributed to the growth of the minimum guarantee, which is based on K-12 average daily attendance under Tests 2 and 3. As result, over time, increased amounts of K-12 funding was diverted to child care. AB 114 ignores this reality and seems to regard the money at stake as “belonging” to child care, when in reality it is money driven by K-12 ADA growth and belongs in Proposition 98.

AB 114 also redirects a portion of the state sales tax to local government. The resulting reduction of General Fund revenue also reduces the minimum guarantee under Test 1 of Proposition 98. When General Fund revenue was reduced as a result of the “gas tax swap,” Proposition 98 was held harmless. AB 114 does not do this, and instead contains a statutory promise of backfilling this loss in the future. This may pass legal muster, but we remain skeptical of the state’s ability to

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keep this statutory promise when it remains more than \$1.5 billion short of fulfilling its constitutional obligation to reimburse school districts for the costs of administering mandated programs.

We will be considering all of our options in dealing with the constitutional issues raised by AB 114. Meanwhile, we hope to get your active support in addressing the other issues, in order to provide school districts with the maximum flexibility possible in dealing with a very difficult budget situation.

If you have any additional questions about our concerns or would like additional information, please contact Rick Pratt at (916) 325-4020.

Sincerely,

Martha Fluor, CSBA President
Board Member, Newport-Mesa Unified School District

cc: Assembly Speaker John Perez
Assembly Member Robert Blumenfield, Chair Assembly Budget Committee
Senate President pro Tempore Darrell Steinberg
Senator Mark Leno, Chair Senate Budget Committee
Ana Matosantos, Director, Department of Finance
Nick Schweizer, Program Budget Manager, Department of Finance
Sue Burr, Executive Director, State Board of Education