Date of Hearing: April 22, 2026

ASSEMBLY COMMITTEE ON EDUCATION
Darshana R. Patel, Chair
AB 2440 (Muratsuchi) – As Amended March 19, 2026

SUBJECT: Arts and Music in Schools—Funding Guarantee and Accountability Act: pooled funding: funding certifications

SUMMARY: Clarifies that funds provided by the Proposition 28 Arts and Music in Schools Act (AMS Act) may be pooled between local education agencies (LEAs) under specified conditions. Clarifies the requirement that funds provided by the AMS Act must be used to supplement and not supplant existing arts education funding. Specifically, **this bill**:

1) Clarifies that LEAs may pool funds allocated by the AMS Act, provided the following requirements are met:

   a) LEAs are in compliance with all other provisions of the AMS Act;

   b) Funds are allocated to individual school sites according to the existing formula specified by the Act; and

   c) Each school site remains in compliance with the expenditure developed by the principal or program director, in compliance with the AMS Act.

2) Requires LEAs to annually certify that funds received from the AMS Act were used to supplement arts education, by calculating the following:

   a) Existing arts education funds: total expenditures for arts education in the prior fiscal year, excluding funds from the AMS Act or funds that are no longer available in the current year.

   b) Current year expenditures, excluding funds from the AMS Act.

   c) If current expenditures are equal to or greater than existing funds, an LEA is in compliance with the supplement not supplant requirement.

EXISTING LAW:

1) Establishes the AMS – Funding Guarantee and Accountability Act for the purpose of providing a minimum source of annual funding for K-12 public schools to supplement arts education programs for pupils attending those schools. Specifies the AMS Act:

   a) Annually appropriates from the General Fund an amount equal to 1% of the total state and local revenues received by LEAs via Proposition 98 in the preceding fiscal year;

   b) Requires the California Department of Education (CDE) to annually appropriate funding from the Act to each LEA, which shall then distribute funds to school sites according to a formula that accounts for the LEA's total enrollment and enrollment of economically disadvantaged pupils;

c) Requires the principal or program director of each participating schoolsite to develop an expenditure program;

d) Authorizes appropriated funds to be available for use by an LEA for up to three fiscal years, after which unexpended funds shall be reverted to the CDE for reallocation to LEAs the following fiscal year;

e) Requires participating LEAs to annually do the following:

   i) Certify that all funds received are used to provide arts education programs;

   ii) Certify that at least 80% of funds are used to employ certificated or classified employees to provide arts education, and the remaining funds used for training, supplies and materials, and arts educational partnership programs. Excludes LEAs with fewer than 500 enrolled students from this provision;

      (A) Authorizes the CDE to provide a waiver for this requirement for good cause shown;

   iii) Certify that funds received are used to supplement funding for arts education programs;

   iv) Certify that no more than 1% of funds received are used for an LEA's administrative expenses to implement these provisions;

   v) Submit an annual board- or body-approved report, in a manner determined by the State Superintendent of Public Instruction (SPI), that details the following:

      (A) The type of arts education programs funded;

      (B) The number of full time equivalent teachers, classified personnel, and teaching aides employed;

      (C) The number of students served;

      (D) The number of schoolsites providing arts education programs with those funds. (Education Code (EC) 8820)

2) Requires annual audits conducted to include all funds received and distributed by the LEA pursuant to the AMS Act, and include a determination of whether the funds were expended as required. (EC 8820, 41020)

3) Requires LEAs to provide instruction in visual and performing arts in grades 1-6, and to offer such courses in grades 7-12 (EC 51210, 51220)

4) Requires students in grades 9-12 to complete one year of either visual or performing arts, a foreign language, or career technical education (CTE). Authorizes local governing boards to add additional requirements for high school graduation. (EC 51225.3)

5) Requires the Superintendent of Public Instruction to recommend, and the State Board of Education to adopt, content standards in visual and performing arts that may then provide a framework for programs offered by LEAs. (EC 60605.1)

FISCAL EFFECT: Unknown

COMMENTS:

Need for the bill: According to the author, “For too long, access to arts education has been inequitable, leaving many students without the benefits of a well-rounded curriculum. Proposition 28 marked a significant step forward by establishing a dedicated funding stream for arts and music education in schools. However, as local educational agencies (LEAs) have begun implementing the measure, key areas of the law have proven unclear.

Specifically, additional clarity is needed regarding whether smaller LEAs may pool funds and how to comply with the ‘supplement, not supplant’ requirement. AB 2440 makes commonsense clarifications to Proposition 28 by authorizing LEAs to pool resources and codifying clear rules for maintaining baseline funding levels. These changes build on existing guidance from the California Department of Education and help ensure that the promise of Proposition 28 is implemented consistently and reaches students across the state.”

Proposition 28: The Arts and Music in School Act. The AMS Act appeared as the Proposition 28 ballot measure in November 2022. According to the elections site Ballotpedia, it was approved after receiving 64.4% of the vote. The campaign received endorsements from Austin Beutner, who had formerly served as the Superintendent of Los Angeles Unified School District (LAUSD); Arne Duncan, who had formerly served as U.S. Secretary of Education; the California Teachers Association; and several celebrities and musicians. In a joint statement, Beutner and Duncan promoted the measure by saying:

> Only 1 in 5 public schools in California has a dedicated teacher for traditional arts programs like music, dance, theater and art, or newer forms of creative expression like computer graphics, animation, coding, costume design and filmmaking. ... This initiative is timely as our country seeks to create a more just and equitable future for all children. A boost in arts and music education will help ensure the future workforce in media and technology properly reflect the diversity of the children in our public schools.

AMS Act funding structure. Beginning in the 2023-24 school year, the AMS Act requires funds to be distributed to LEAs each year for the specified purpose of expanding arts education programming. The total amount of statewide funding provided each year is equal to 1% of the previous year’s Proposition 98 fund, but the money is drawn from the non-Proposition 98 General Fund.

The AMS Act requires 70% of funding to go to schools based on their share of statewide enrollment. The remaining 30% is distributed based on a school’s share students eligible for free and reduced-price meals.

Local governing boards may set aside up to 1% of their funding for administrative expenses. The remainder of the funding must be distributed to all school sites based on the amount of funding generated by their student enrollment. At a schoolsite, at least 80% of AMS Act funding must be spent on staff, unless a school has fewer than 500 students or has received an exemption from the CDE.

According to a report by the LAO, AMS Act funding increased from about $900 million in 2023-24 to nearly $1.1 billion in 2025-26.

Early implementation reveals need for further clarity. After passage, the AMS Act was widely regarded as a significant and positive step to ensuring California public school students receive arts education. However, early implementation data suggest there is a need to clarify the statute's requirements. The organization WestEd released a report based on interviews and surveys they conducted with school and arts organization staff (Herpin et al., 2025). They found that confusion about allowable expenses slowed down the initial implementation of the AMS Act:

> Even in the second year of fund availability, many schools and districts still had questions and hesitations about spending and allowability… Overall, arts organizations are seeing the confusion or lack of information that schools and districts have regarding the use of their Prop 28 AMS funds. This was the most common response to the question about the impact of Prop 28 AMS thus far.

Current lawsuit exemplifies the need for clarification on supplement vs supplant definitions. In February 2025, LAUSD students and Proposition 28 author Austin Beutner filed a lawsuit against the school district and the LAUSD Superintendent, alleging the misuse of $76.7 million in AMS Act funds.

According to reporting by the Los Angeles Times, a central concern of the lawsuit is whether LAUSD used AMS Act funds to supplement existing art education and expand on current programs, or whether it used the money to supplant existing funding for arts education.

In November 2025, the judge discarded an effort by the district to have the case dismissed and allowed the case to move forward.

The lawsuit appears to have had a chilling effect on AMS Act implementation, as schools weigh the legal risk of spending the money. The CDE maintains a list of 43 Frequently Asked Questions on the AMS Act, one of which asks, *Do any "supplement not supplant" requirements apply to Arts and Music in Schools (AMS)?* The CDE response reads, in part:

> Yes… the CDE recommends that each LEA seek guidance from their legal counsel for guidance relative to their annual usage of AMS funds and whether they can make this certification each year. The CDE is not approving or denying individual LEA requests for allowable expenditures. *(Updated 22-Apr-2024)*

The need for each school to consult a lawyer before spending the money suggests that further statewide guidance is needed.

Pooling funds may help LEAs, particularly small and medium sized, spend funds. The AMS Act requires schools to spend 80% of their funding on classified or credentialed staff that can provide arts education programming, unless they have fewer than 500 students enrolled or receive a waiver from the CDE. However, a shortage of arts educators in the state has made this requirement difficult to achieve. A report by the Stanford Research Initiative for Education estimated that California will need to hire 5,457 arts teachers to meet the increased demand, a nearly 50% increase from the 2022-23 baseline (Woodworth 2024). Further complicating the matter is that many schools do not receive enough funding from the AMS Act to fully cover the salary of an arts educator.

One solution to the staff shortages and funding challenges is for LEAs to pool their AMS Act funds and share an arts educators. For example, an educator may teach visual arts on Mondays, Wednesdays, and Fridays at a school site that pays 3/5ths of their salary, and at another site on Tuesdays and Thursdays at a school site that pays the remaining 2/5ths. However, the original language of the AMS Act does not discuss pooling, so some LEAs have been unsure if the practice is allowed. This bill would clarify that LEAs may pool funds, as long as each participating school site remains in full compliance with the rest of the AMS Act, which will likely allow more LEAs to fully utilize the funding to provide arts education programming.

Arguments in support. According to the Alameda County Office of Education, "In this budget year alone, nearly $987 million has been allocated to LEAs through Proposition 28 to supplement arts education programs. However, since the passage of Proposition 28 in 2022, many school sites find themselves struggling to recruit full-time faculty or navigating legal ambiguity regarding compliance, which has led some fund recipients to supplant rather than supplement their existing arts budgets.

AB 2440 aims to address these implementation issues by providing LEAs with greater operational flexibility and clearer compliance standards. It authorizes districts to pool funds across multiple school sites, which allows smaller schools to share specialized staff and resources and makes it easier for districts with 500 or more students to meet the mandate that at least 80% of funds be dedicated to personnel. Through this collaborative approach, districts can optimize their resources while ensuring expenditures remain proportional to each site's specific allocation.

The bill also addresses the challenges of the "supplement, not supplant" requirement by establishing a standardized calculation method. Districts are deemed in compliance if their current-year arts spending meets or exceeds a baseline of existing funds, accounting for any resources that are no longer available. By requiring LEAs to compare these figures in their annual certifications, AB 2440 reduces legal ambiguity and provides a clearer roadmap for districts to prove they are expanding their existing arts budgets."

Recommended Committee Amendments. Staff recommends the bill be amended as follows:

1) Clarify that in the formula for supplement vs supplant, funding that is no longer available (including private contributions, parent or local fundraising, or other local, state, or federal sources, that or have been formally reduced, discontinued, or were one-time in nature and are not available in the current year, as documented in the LEA's adopted budget, governing board records, or grant award documentation) is excluded from the calculation of prior year expenditures.

2) Reference existing arts standards, frameworks, and learning foundations in the definition of arts education program

3) Clarify that expenditures of funds pursuant to this section are authorized for arts education, in alignment with existing Standards, Frameworks, and Foundations.

Related legislation. SB 115 (Committee on Budget), Chapter 49, Statutes of 2023, provides for statutory changes necessary to enact the K-12 and childcare related statutory provisions of the Budget Act of 2023.

REGISTERED SUPPORT / OPPOSITION:

Support

Alameda County Office of Education

Opposition

None on file.

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