

ASSEMBLY THIRD READING
AB 2440 (Muratsuchi)
As Amended April 27, 2026
2/3 vote

SUMMARY

Clarifies provisions of the Proposition 28 Arts and Music in Schools Act (AMS Act), including the requirements local education agencies (LEAs) must meet in order to pool funds, the definitions of allowable costs under the supplement not supplant requirements, and the definition of arts education programming.

Major Provisions

- 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.
- 3) Clarifies 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.
- 4) Clarify the definition of arts education program to include, but not be limited to, instruction and training, supplies, materials, curriculum, instructional materials, professional development, and arts educational partnership programs, consistent with the California Arts Standards for Public Schools, the California Arts Education Framework, the California Preschool/Transitional Kindergarten Learning Foundations, and the Career Technical Education Arts, Entertainment, and Design Model Curriculum Standards, as applicable.

- 5) Clarify that expenditures of AMS Act funds are authorized for arts education programming only.

COMMENTS

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.

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. 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 of 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 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 California Department of Education (CDE).

According to a report by the Legislative Analyst's Office (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: "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.

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.

Arguments in Support

According to the Alameda County Office of Education, "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."

Arguments in Opposition

None on file.

FISCAL COMMENTS

According to the Assembly Appropriations Committee, "Minor and absorbable costs to California Department of Education (CDE). No new Proposition 98 General Fund costs to LEAs. The bill appropriates no new funding under the AMS program but revises various compliance and accounting requirements under the program, possibly reducing LEA workload associated with implementation."

VOTES

ASM EDUCATION: 8-0-1

YES: Patel, Hoover, Bonta, Castillo, Garcia, Lowenthal, Pellerin, Zbur

ABS, ABST OR NV: Alvarez

ASM APPROPRIATIONS: 15-0-0

YES: Wicks, Hoover, Bauer-Kahan, Calderon, Caloza, Ellis, Fong, Mark González, Krell, Pacheco, Pellerin, Sharp-Collins, Solache, Ta, Tangipa

UPDATED

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