Office of Senate Floor Analyses
(916) 651-4171

THIRD READING

Bill No: AB 2440
Author: Muratsuchi (D), et al.
Amended: 8/21/26 in Senate
Vote: 27

SENATE EDUCATION COMMITTEE: 6-0, 6/17/26
AYES: Pérez, Ochoa Bogh, Choi, Cortese, Gonzalez, Reyes
NO VOTE RECORDED: Cabaldon

SENATE APPROPRIATIONS COMMITTEE: 7-0, 8/13/26
AYES: Cervantes, Seyarto, Cabaldon, Dahle, Grayson, Richardson, Wahab

ASSEMBLY FLOOR: 74-0, 5/21/26 - See last page for vote

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

SOURCE: Author

DIGEST: This bill makes various changes to the Arts and Music in Schools (AMS) Funding Guarantee and Accountability Act (Proposition 28) by authorizing local educational agencies (LEAs) to pool allocated funds across schoolsites, establishing a statutory methodology for demonstrating compliance with the supplement-not-supplant requirement, expanding reporting, certification, and transparency requirements, and revising the definition of arts education programs and allowable expenditures.

Senate Floor Amendments of 8/21/26 clarify that newly available resources are added to an LEA's existing funding calculation only to the extent those resources are spent on arts education programs. The amendments also require the annual governing board- or body-approved Proposition 28 report to be submitted and posted by September 30 in a manner determined by the California Department of Education (CDE) and, beginning in 2027-28, require LEAs to certify that all aspects of Proposition 28 have been properly implemented at each schoolsite.

ANALYSIS:

Existing law:

1) Establishes the AMS Funding Guarantee and Accountability Act (Proposition 28), which provides ongoing funding to supplement arts education programs in K-12 public schools. (Education Code (EC) § 8820)

2) Continuously appropriates an amount equal to 1% of the total state and local revenues received by LEAs in the preceding fiscal year that are included in the Proposition 98 minimum funding guarantee calculation for allocation pursuant to the AMS Act. (EC § 8820)

3) Requires AMS Act funds to be allocated by the CDE to LEAs and subsequently distributed to schoolsites based on a statutory formula. (EC § 8820)

4) Requires the principal or program director of each schoolsite to develop an expenditure plan for AMS Act funds. (EC § 8820)

5) Requires LEAs to annually certify that AMS Act funds are used to supplement, and not supplant, existing funding for arts education programs. (EC § 8820)

6) Requires LEAs with more than 500 pupils to expend at least 80% of AMS Act funds on certificated or classified employees providing arts education instruction, unless waived by CDE. (EC § 8820)

7) Requires annual audits to determine whether AMS Act funds were expended in accordance with statutory requirements. (EC § 8820; EC § 41020)

8) Requires the State Board of Education to adopt content standards in visual and performing arts. (EC § 60605.1)

This bill:

1) Authorizes LEAs to pool Proposition 28 funds across schoolsites, provided the LEA:

   a) Complies with all applicable requirements of the Act;

   b) Ensures expenditures for each schoolsite remain proportional to that school's allocation; and

   c) Complies with expenditure plans adopted for participating schoolsites.

2) Revises annual supplement-not-supplant certifications by requiring LEAs to calculate "existing funds available for arts education programs" and "current-year expenditures for arts education programs" using a specified methodology.

3) Requires LEAs, when calculating existing funds available for arts education programs, to:

    a) Begin with prior-year arts education expenditures;

    b) Exclude Proposition 28 expenditures;

    c) Exclude expenditures from resources that are no longer available in the current year;

    d) Include newly available resources that are spent on arts education programs, excluding Proposition 28 funds; and

    e) Account for specified personnel-related cost savings.

4) Specifies that resources no longer available in the current year may include expired, reduced, discontinued, exhausted, or one-time private contributions, parent fundraising revenues, and federal or state funding sources.

5) Deems an LEA to be in compliance with the supplement-not-supplant requirement if current-year arts education expenditures, excluding Proposition 28 funds, equal or exceed the calculated amount of existing funds available for arts education programs.

6) Expands the definition of an "arts education program" to include curriculum, instructional materials, and professional development.

7) Requires arts education programs funded pursuant to Proposition 28 to be consistent with specified state arts standards, frameworks, and preschool learning foundations, as applicable.

8) Requires the annual governing board- or body-approved Proposition 28 report to be submitted and posted on or before September 30, in a manner determined by CDE.

9) Requires each schoolsite or preschool to post its Proposition 28 expenditure plan and information regarding granted waivers on its internet website, and authorizes an LEA to instead require this information to be posted on the LEA's internet website.

10) Requires CDE to post approved waivers on its internet website.

11) Beginning with the 2027–28 fiscal year, requires an LEA to certify that all aspects of Proposition 28 have been properly implemented at each of its schoolsites.

12) Defines "existing funding" for purposes of the Act as revenue available in the current year.

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 represented a major new state investment in arts education. Proposition 28, approved by voters in 2022, created an ongoing funding stream dedicated to expanding arts education opportunities in California public schools. The measure directs approximately 1% of annual Proposition 98 funding levels, roughly $1 billion per year, to support arts education programs at schoolsites throughout the state. In addition to creating a substantial new funding source, Proposition 28 included numerous accountability provisions intended to ensure that funds expand access to arts education rather than replace existing local investments.

Early implementation has revealed uncertainty regarding allowable expenditures and compliance requirements. As LEAs have begun implementing Proposition 28, questions have arisen regarding how certain provisions of the initiative should be interpreted and administered. In particular, uncertainty has existed regarding whether schoolsites may combine or pool allocations to support shared staffing arrangements and how LEAs should demonstrate compliance with the initiative's supplement-not-supplant requirements. Because Proposition 28 includes significant fiscal penalties for noncompliance, many LEAs have sought additional guidance before committing funds. This bill largely seeks to codify implementation practices, establish clearer compliance standards, and expand certain reporting and transparency requirements in order to provide greater certainty regarding how the initiative's requirements should be applied.

The supplement-not-supplant requirement has become a central implementation challenge. One of the most significant accountability provisions in Proposition 28 requires LEAs to use the funds to supplement, rather than supplant, existing arts education spending. While the initiative established that requirement, it did not specify how LEAs should determine whether they have met it. Questions may arise when prior-year arts programs were supported by one-time grants, private donations, local fundraising efforts, or other funding sources that are no longer available. This bill establishes a methodology for calculating an LEA's baseline arts education spending and specifies which funding sources should be excluded from that calculation. By establishing a statutory framework for compliance, including specifying how LEAs should treat expired grants, fundraising revenues, discontinued funding sources, and certain personnel-related savings, the bill seeks to provide greater consistency and predictability for LEAs administering Proposition 28 funds.

Recent litigation underscores the importance of clear statutory guidance. The proper interpretation of Proposition 28's supplement-not-supplant requirement is currently the subject of ongoing litigation involving Los Angeles Unified School District. Although the courts ultimately will determine the merits of those claims, the dispute illustrates the challenges LEAs face when attempting to interpret broadly worded accountability provisions that lack detailed statutory direction. This bill represents a legislative effort to establish clearer statutory standards for demonstrating compliance with the supplement-not-supplant requirement and may reduce uncertainty for LEAs seeking to expand arts education programs while remaining compliant with Proposition 28.

Pooling authority may improve the practical use of Proposition 28 funds. Many schoolsites receive Proposition 28 allocations that are insufficient on their own to support a full-time arts educator or specialized arts program. At the same time, schools continue to face staffing shortages in a number of instructional areas, including arts education. By expressly authorizing LEAs to pool funds across schoolsites while maintaining existing site allocation and accountability requirements, the bill may provide greater flexibility for LEAs to share personnel and resources among multiple schools. This approach may be particularly beneficial for smaller schools and districts seeking to maximize the impact of their Proposition 28 allocations.

FISCAL EFFECT: Appropriation: No Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee:

- The California Department of Education (CDE) estimates ongoing General Fund costs of $581,000 and 3.2 positions to implement the bill's requirements.

- The bill's changes to the AMS program would not result in additional costs and could possibly reduce workload for LEAs by revising various compliance requirements for the program.

SUPPORT: (Verified 8/21/26)

Alameda County Office of Education
California Arts Advocates
California County Superintendents
California Music Educators Association
California State PTA
California Teachers Association

OPPOSITION: (Verified 8/21/26)

None received

ASSEMBLY FLOOR: 74-0, 5/21/26
AYES: Addis, Aguiar-Curry, Ahrens, Alanis, Alvarez, Ávila Farías, Bains, Bauer-Kahan, Bennett, Berman, Boerner, Bonta, Bryan, Calderon, Caloza, Carrillo, Castillo, Connolly, Davies, DeMaio, Dixon, Elhawary, Ellis, Flora, Fong, Gabriel, Gallagher, Gipson, Jeff Gonzalez, Mark González, Hadwick, Haney, Harabedian, Hart, Hoover, Irwin, Jackson, Johnson, Kalra, Krell, Lee, Lowenthal, Macedo, McKinnor, Muratsuchi, Nguyen, Ortega, Pacheco, Papan, Patel, Patterson, Pellerin, Petrie-Norris, Quirk-Silva, Ransom, Michelle Rodriguez, Rogers, Blanca Rubio, Sanchez, Schiavo, Schultz, Sharp-Collins, Solache, Soria, Stefani, Ta, Tangipa, Valencia, Wallis, Ward, Wicks, Wilson, Zbur, Rivas
NO VOTE RECORDED: Arambula, Chen, Garcia, Lackey, Ramos, Celeste Rodriguez

Prepared by: Ian Johnson / ED. / (916) 651-4105

8/24/26 12:04:10

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