

Assembly Bill No. 2197

CHAPTER 128

An act to amend Sections 17150 and 42133.5 of, and to add Section 17150.1 to, the Education Code, relating to school facilities.

[Approved by Governor July 16, 2008. Filed with
Secretary of State July 16, 2008.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2197, Mullin. School facilities.

(1) Existing law requires a school district to notify the county superintendent of schools and the county auditor when the governing board of the school district approves proceeding with the issuance of certificates of participation or revenue bonds or entering into specified agreements for financing school construction pursuant to the California School Finance Authority Act. The superintendent of the school district is required to provide specified information to the county auditor, the county superintendent of schools, the governing board, and the public regarding that debt.

Existing law requires the county superintendent of schools or superintendent of a school district for which the county board serves as governing board to notify the Superintendent of Public Instruction when the county board of education approves proceeding with the issuance of certificates of participation or revenue bonds or to entering into an agreement for financing pursuant the California School Finance Authority Act. The county superintendent of schools or the superintendent of a school district for which the county board serves as the governing board is required to provide specified information to the Superintendent of Public Instruction, the governing board, and the public.

This bill would require these notices to be made no later than 30 days before the approval of the debt in the case of certificates of participation and would impose this notice requirement on other debt instruments that are secured by real property and do not require the approval of the voters of the school district. The county superintendent of schools and the county auditor would be authorized to comment publicly to the governing board of the school district regarding the capability of the school district to repay the debt obligation. By requiring the county superintendent of schools and county auditor to receive the notice and information, the bill would impose a state-mandated local program.

(2) Existing law prohibits the proceeds obtained by a school district from the sale of a saleback or leaseback agreement, or interests in that agreement, or a debt instrument payable from payments under a saleback or leaseback agreement from being used for general operating purposes of a school district.

This bill would extend that prohibition to proceeds from the issuance of certificates of participation or other debt instruments that are secured by real property and do not require the approval of the voters of the district.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 17150 of the Education Code is amended to read:

17150. (a) Upon the approval by the governing board of the school district to proceed with the issuance of revenue bonds or to enter into an agreement for financing school construction pursuant to Chapter 18 (commencing with Section 17170), the school district shall notify the county superintendent of schools and the county auditor. The superintendent of the school district shall provide the repayment schedules for that debt obligation and evidence of the ability of the school district to repay that obligation to the county auditor, the county superintendent, the governing board, and the public. Within 15 days of the receipt of the information, the county superintendent of schools and the county auditor may comment publicly to the governing board of the school district regarding the capability of the school district to repay that debt obligation.

(b) Upon the approval by the county board of education to proceed with the issuance of revenue bonds or to enter into an agreement for financing pursuant to Chapter 18 (commencing with Section 17170), the county superintendent of schools or superintendent of a school district for which the county board serves as governing board shall notify the Superintendent. The county superintendent of schools or the superintendent of a school district for which the county board serves as the governing board shall provide the repayment schedules for that debt obligation and evidence of the ability of the county office of education or school district to repay that obligation, to the Superintendent, the governing board, and the public. Within 15 days of the receipt of the information the Superintendent may comment publicly to the county board of education regarding the capability of the county office of education or school district to repay that debt obligation.

(c) Prior to delivery of the notice required by subdivision (a) neither the county nor its officers shall have responsibility for the administration of the indebtedness of the school district. Failure to comply with the requirements of this section will not affect the validity of the indebtedness.

SEC. 2. Section 17150.1 is added to the Education Code, to read:

17150.1. (a) No later than 30 days before the approval by the governing board of the school district to proceed with the issuance of certificates of

participation and other debt instruments that are secured by real property and do not require approval of the voters of the school district, the school district shall notify the county superintendent of schools and the county auditor. The superintendent of the school district shall provide information necessary to assess the anticipated effect of the debt issuance, including the repayment schedules for that debt obligation, evidence of the ability of the school district to repay that obligation, and the issuance costs, to the county auditor, the county superintendent, the governing board, and the public. Within 15 days of the receipt of the information, the county superintendent of schools and the county auditor may comment publicly to the governing board of the school district regarding the capability of the school district to repay that debt obligation.

(b) No later than 30 days before the approval by the county board of education to proceed with the issuance of certificates of participation and other debt instruments that are secured by real property and do not require approval of the voters of the county, the county superintendent of schools or superintendent of a school district for which the county board serves as governing board shall notify the Superintendent. The county superintendent of schools or the superintendent of a school district for which the county board serves as the governing board shall provide information necessary to assess the anticipated effect of the debt issuance, including the repayment schedules for that debt obligation, the evidence of the ability of the county office of education or school district to repay that obligation, and issuance costs, to the Superintendent, the governing board, and the public. Within 15 days of the receipt of the information the Superintendent may comment publicly to the county board of education regarding the capability of the county office of education or school district to repay that debt obligation.

SEC. 3. Section 42133.5 of the Education Code is amended to read:

42133.5. Regardless of the certification of the budgetary status of a school district or county office of education under subdivision (l) of Section 1240 or Section 42131, the proceeds obtained by a school district from the sources listed in subdivisions (a) to (f), inclusive, shall not be used for general operating purposes of the school district.

(a) The sale of a saleback or leaseback agreement, or interests in the agreement.

(b) A debt instrument payable from payments under a saleback or leaseback agreement.

(c) Certificates of participation.

(d) Other debt instruments that meet both of the following criteria:

(A) They are secured by real property.

(B) They do not require the approval of the voters of the school district.

SEC. 4. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.