

DEPARTMENT OF FINANCE BILL ANALYSIS

AMENDMENT DATE: 05/30/2012
POSITION: Oppose
SPONSOR: American Civil Liberties Union

BILL NUMBER: AB 1575
AUTHOR: Lara, Ricardo
RELATED BILLS: AB 165

BILL SUMMARY: Pupil fees

This bill would: (1) define unlawful pupil fees, (2) create a process to ensure local educational agencies (LEA) do not charge student fees for educational activities by instituting a Uniform Complaint Process (UCP) that allows parents and students the opportunity to redress unauthorized fee charges, (3) require the Superintendent of Public Instruction (SPI) to review specified complaints of pupil fees and provide a written report to the State Board of Education and complainant with a recommended complaint remedy, (4) require LEAs to reimburse pupils if the SPI's report finds unlawful fees were charged, and (5) require the SPI, beginning in 2014-15 and every three years thereafter, to provide guidance to LEA governing bodies regarding pupil fees.

FISCAL SUMMARY

This bill would create a state mandated local program with unknown Proposition 98 General Fund costs by requiring LEAs to incorporate unauthorized student fees in their UCP, including revising UCP forms and notification documents. Some LEAs may lose fee revenue under this more stringent student fee prohibition and requirement to reimburse pupils that are unlawfully charged fees.

In addition, the State Department of Education (SDE) estimates that this bill would create General Fund cost pressures of \$400,000 General Fund and require three Education Program Consultant positions to provide LEAs with training, address additional phone calls regarding the new fee prohibition, update regulations and UCP procedures, review and provide recommendations on appeals, and to develop guidance regarding pupil fees.

SUMMARY OF CHANGES

Amendments to this bill since our analysis of the original version include the following amendments which do not change our position:

- Deleted the annual LEA internal review and public hearing requirement regarding unlawful pupil fees.
- Deleted audit requirements relating to pupil fees.
- Added a requirement for the SDE to review specified complaints of pupil fees and provide a written report to the state board and complainant with a recommended remedy.

COMMENTS

The Department of Finance is opposed to this bill because it would create a state reimbursable mandate that requires every LEA to post a detailed notice and follow specific complaint procedures, even where there have been no complaints, let alone evidence of any violation. The SDE also estimates ongoing annual General Fund costs of approximately \$400,000 based on workload associated with the pupil fee

Analyst/Principal (0342) C.Ferguson	Date	Program Budget Manager Nicolas Schweizer	Date
Department Deputy Director		Date	
Governor's Office:	By:	Date:	Position Approved _____ Position Disapproved _____
BILL ANALYSIS			Form DF-43 (Rev 03/95 Buff)

Lara, Ricardo

05/30/2012

AB 1575

COMMENTS (continued)

complaint process and appeal reviews. We note that the Governor vetoed similar legislation (AB 165 of 2011) for potential Proposition 98 General Fund costs.

In September 2010, the American Civil Liberties Union filed a lawsuit, that is currently ongoing, on behalf of students representing multiple LEAs in the State of California alleging these students were charged student fees that violated California's Constitutional guarantee of a free public education and that the charging of student fees discriminated against low income students by creating a "pay to learn" system. This lawsuit stems from an August 2010 investigation by the American Civil Liberties Union of Southern California that uncovered a widespread practice among LEAs of charging students mandatory fees to participate in educational activities. LEAs, for example, were requiring students to purchase textbooks, workbooks, and assigned novels in order to enroll in academic courses. The lawsuit was temporarily halted while AB 165 of 2011 was considered for enactment. The American Civil Liberties Union returned to court in early 2012 to proceed with the lawsuit. This bill attempts to address this issue.

ANALYSIS

1. Programmatic Analysis

Section 1: Amends the Uniform Complaint Process. By March 1, 2013, this section would authorize parents to utilize their LEAs UCP to report student fee complaints, and appeal any denied complaints to the SPI for review and recommendations. LEAs would be required to revise their UCP procedures, and related forms, to authorize parents to use the UCP to file complaints for the imposition of unauthorized student fees and ultimately would be required to reimburse students for fees that are found to be unlawful.

Fiscal Impact: This section could create a state reimbursable local mandate with unknown one-time Proposition 98 General Fund costs for LEAs to amend their UCP and revise associated forms and notification documents to include unauthorized student fees. The SDE estimates that they would require \$400,000 General Fund annually and three Education Program Consultants to provide LEAs with training and to update regulations and UCP procedures, and review and provide recommendations on appeals.

Section 2: Pupil Fees. This section would clarify and strengthen the constitutional guarantee of a free and appropriate education by requiring LEAs to not charge unauthorized student fees for participation in educational activities. Further, this section prohibits LEAs from establishing two-tier educational systems whereby LEAs charge student fees for optional educational benefits not provided as part of the constitutionally-guaranteed free and appropriate education to all students. This section would also prohibit LEAs from offering course credits or educational privileges in exchange for implicit public donations. The SPI would, beginning in 2014-15 and every three years thereafter, be required to develop and provide guidance to LEA governing bodies regarding pupil fees.

Fiscal Impact: This section would impose likely minor and absorbable General Fund costs for the Department of Education to develop and provide guidance to LEA governing bodies regarding pupil fees every three years beginning in 2014-15.

Section 3: Claims against local entities. This section would prohibit LEAs from filing claims with the California Victim Compensation and Government Claims Board for compensation resulting from the requirement that LEAs refund unauthorized student fees.

Lara, Ricardo

05/30/2012

AB 1575

ANALYSIS (continued)

Fiscal Impact: None. This section prohibits LEAs from seeking reimbursements from the California Victim Compensation and Government Claims Board for unauthorized student fee refunds.

Section 4: Mandated costs. This section indicates that if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for the costs shall be made.

Fiscal Impact: None. This section is informational and does not generate any costs.

Code/Department Agency or Revenue Type	SO	(Fiscal Impact by Fiscal Year)						Fund Code
	LA	(Dollars in Thousands)						
	CO	PROP						
	RV	98	FC	2012-2013	FC	2013-2014	FC	2014-2015
6110/Dept of Educ	SO	Yes	C	200	C	400	C	400 0001
6110/Dept of Educ	LA	Yes		----- See Fiscal Summary -----				0001