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AB 3632 Mental Health Services

LEGISLATIVE ANALYST'S OFFICE

Presented to:

Senate Budget and Fiscal Review Subcommittee No. 1
On Education

Hon. Mark Leno, Chair

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AB 3632 Background

☑ ***Longstanding Federal Requirement to Provide Free Appropriate Public Education, Including Necessary Mental Health Care.*** In 1976, Congress guaranteed disabled children the right to a free appropriate public education, including necessary related services for a child to benefit from his or her education.

☑ ***In California, Responsibility for Students' Mental Health Services Shifted From Schools to Counties in 1984.***

- Between 1976 and 1984, schools provided mental health services to special education pupils who needed the services to benefit from their Individualized Education Plans (IEP).
- In 1984, the Legislature assigned county mental health departments the responsibility for providing these services to special education students, except for students placed out of state. See Chapter 1747, Statutes of 1984 (AB 3632, W. Brown). This was determined to be a state reimbursable mandate to counties.
- In 1996, the Legislature expanded mandated county responsibilities to include services for students placed in out-of-state schools. See Chapter 654, Statutes of 1995 (AB 2726, Woods).

☑ ***Counties Provide a Range of Services.*** Approximately 20,000 special education pupils receive mental health services under the AB 3632 program. About half of the students are enrolled in the Medi-Cal Program.

- Common mental health disorders in this population include attention deficit hyperactivity and disruptive behavior disorders, as well as depression and bipolar disorders.
- Services provided include mental health assessments, case management, individual and group therapy, rehabilitative counseling, day treatment, and medication support.

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AB 3632 Funding: Annual Costs Now Exceed $250 Million

Year	Department of Mental Health Categorical	Department of Social Services (Residential Care)	Federal Special Education	Mandate Claims	Total
1998-99	$12	$23	—	$50	$85
1999-00	12	24	—	68	104
2000-01	12	25	—	78	115
2001-02	12	31	—	119	162
2002-03	—	38	—	146	184
2003-04	—	39	—	57	96
2004-05	—	37	$69	68	174
2005-06	—	38	69	72	179
2006-07	52	43	69	61	225
2007-08	52	48	69	83	252
2008-09	104	51	69	36[a]	260
2009-10	—	59	69	Not yet available	128

[a] Additional mandate claims being submitted for 2008-09 year.

☑ ***AB 3632 Mental Health Services Funded Through Two Mechanisms:***

- ***Direct Support to Counties.*** Counties receive General Fund resources from the Departments of Mental Health and Social Services as well as federal special education funds. Counties also receive funding from Medi-Cal (not shown in table).
- ***Mandate Reimbursements.*** Any residual county program costs are a state reimbursable mandate. (The Constitution requires the state to pay mandate bills or suspend or repeal the mandate.) For a mandate to remain active, the annual budget act must include funding for all outstanding prior-year claims that have been submitted to the State Controller. Typically, local governments submit mandate claims two years after they have carried out the activity.

☑ ***Large Mandate Claims Accumulating From Recent Years.*** Because the state provided less ongoing funding to support AB 3632 services in 2009-10, we anticipate the state will receive a large sum of mandate claims in spring 2011.

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Veto of Mandate Funding Creates Uncertainty in Current Year

- ***Legislative Budget Provided Minimum Amount Necessary to Keep Mandate Active in 2010-11.*** Budget did not fund ongoing program costs but did provide $133 million for counties' prior-year mandate claims.

- ***Mandate Funds Vetoed, Mandate Declared Suspended.*** Although a Governor does not have authority to suspend a mandate—only the Legislature does—the lack of mandate funding leaves issue unclear.

- ***Multiple Lawsuits Pending.*** Courts will ultimately determine status of mandate, but, in the meantime, children require services.

- ***Uncertainty Over Which Entity Currently Is Responsible for Providing Services.*** Federal mandate still in place for schools but unclear whether state mandate is still in place for counties. Current arrangements for maintaining services differ across counties.

- ***Uncertainty Over How Current-Year Services Will Be Funded.*** The state provided $76 million in federal special education funds to counties, but this amount falls far short of covering current full-year costs. Unclear whether counties will ultimately be able to claim mandate reimbursements for services they provide in the current year. No additional funding has been provided to schools.

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Governor's Proposals

☑ ***2010-11: Continues to Assume Suspension.*** New administration continues to declare mandate suspended in current year and does not propose any additional current-year funding.

☑ ***2011-12 and Beyond: Realigns Funding to Counties.*** Would provide up-front funding to counties, maintain same responsibility for providing services but without option to claim mandate reimbursements.

Governor's Revised AB 3632 Proposal Would Realign Funding to Counties Beginning in 2011-12

(In Millions)

	2011-12	2012-13 and Beyond
Proposition 63 funds	$99	—
Proposed realignment funds[a]	72	$176
Federal special education funds	69	69
Totals	**$240**	**$245**

[a] Contains $72 million for residential placements included in proposed child welfare realignment.

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LAO Has Both Programmatic and Fiscal Concerns With Governor's Proposal

☑ ***Continues Problematic Program Structure, Misaligned Responsibility.*** We know of no other state that shifts responsibility for students' mental health services to noneducation entity.

- ***Weak Linkages to Education.*** Current structure can result in inappropriate separation between county mental health and K-12 schools, whereby program services may lack sufficient input from educators or connection to students' educational outcomes.
- ***Lack of Accountability for Program Results.*** Existing program structure lacks element to measure how well counties achieve the program's goals.

☑ ***Unclear Whether Redirection of Proposition 63 Funds is Permissible.*** Proposed redirection could require voter approval.

☑ ***If County Realignment Funding Is Insufficient, Schools Will Bear Ultimate Responsibility.*** Counties will face fiscal incentives to reduce services, but federal law requires that schools ensure students receive necessary services.

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LAO Recommendation: Realign to Schools

☑ ***Recommend Repealing AB 3632 Mandate, Realigning Responsibility to Schools.*** Consistent with federal law, require schools to provide mental health services included in a student's IEP. Clarify that state law does not require any additional requirements beyond federal law.

☑ ***Refocus Emphasis on Students' Educational Needs and Strengthen Program Accountability.*** Consistent with federal law, reorient the program towards what students need to be successful in school. Existing school accountability system could be used to assess student outcomes and program effectiveness.

☑ ***Provide Additional Special Education Funding to Schools.*** Possible sources include federal special education funding, Proposition 98 funding, local property taxes (including funds redirected from redevelopment projects), and/or Proposition 63 funds.

☑ ***Convene Work Group to Address Transitional Issues.*** Invite stakeholders to work on transition, including issues related to Medi-Cal billing options, county mental health's role, and continuity of care for students.