

June 9, 2010

AB 3632 Mental Health Services

L E G I S L A T I V E A N A L Y S T ' S O F F I C E

Presented to:
The Conference Committee on the Budget



AB 3632 Background

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

- ☑ ***Legislature Shifted School and County Responsibilities for Mental Health Services.***
 - 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 students these services (Chapter 1747, Statutes of 1984 [AB 3632, W. Brown]), except students placed out of state.
 - In 1996, the Legislature expanded county responsibilities to include services to students placed in out-of-state schools. (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 bi-polar disorders. Services provided include mental health assessments, case management, individual and group therapy, rehabilitative counseling, day treatment, and medication support.

AB 3632 Program Funding: Annual Costs Exceed \$280 Million

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<i>(In Millions)</i>	2007-08	2008-09	2009-10	2010-11 (May Revision)
Funding Provided to Counties				
Federal special education (redirected from schools)	\$69	\$69	\$69	\$69
Department of Mental Health categorical ^a	52	104	52	—
Department of Social Services Foster Care	48	51	59	70
Mandate reimbursements ^b	82	36	na	—
Funding Provided to Schools				
Proposition 98 support for schools	\$31	\$31	\$31	\$31
Total Resources	\$282	\$291	\$211	\$170

^a Funding used to pay program costs across multiple years. The 2009-10 amount reflects Control Section 18.40.

^b Claims for mandated activities in year shown. Additional claims for 2008-09 and 2009-10 activities forthcoming.

- Direct Support to Counties.** Counties receive federal special education funds (\$69 million) and General Fund resources from the Departments of Mental Health (DMH) and Social Services (DSS). Counties also receive funding from Medi-Cal (not shown in table).
- Mandate Reimbursements.** The Commission on State Mandates determined that 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. (Bills from before 2004 and all education mandates are exempt from this requirement.) Typically, the state pays mandate bills two years *after* the local government carries out the activity.
- Schools Receive Funding for Assessment and Pre-Intervention Services (\$31 Million).**

LAO Assessment of Current Program Model

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- Weak State Mechanisms to Control Costs.*** Existing approach to delivery of AB 3632 services, by which the state reimburses counties for the provision of mental health services after-the-fact in response to claims, does not provide strong cost-control mechanisms or guarantee that state funds are well spent.

- 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.

Administration May Revision Proposal

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The administration proposes to “suspend” the county mandate to provide mental health services, thereby reverting responsibility for AB 3632 services to schools.

- State Law Allows the Legislature to Suspend Mandates in the Annual Budget.*** Under state law, suspending a mandate makes its provisions optional for one year. Suspending a mandate does not affect other provisions in the statute (those not determined to be a mandate).
- Constitution Appears to Allow Legislature to Defer Payments for Suspended Mandates.*** The state owes counties \$133 million for AB 3632 mandated activities between 2004 and 2008. The administration proposes to defer paying counties for these costs.
- LAO Assessment of Governor’s Proposal.*** We have a number of concerns with the Governor’s approach.
 - Suspending AB 3632 would be temporary, confusing, and disruptive.
 - Proposal does not address the significant transitional issues associated with the change.
 - Eliminating AB 3632 funding could violate federal special education spending maintenance-of-effort (MOE) requirements.

LAO Alternative: Continue AB 3632 Mandate for One More Year

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<i>(In Millions)</i>	Governor	Assembly	Senate	LAO
Funding Provided to Counties				
Federal special education	\$69	\$69	\$69	\$49 ^a
Department of Mental Health categorical	—	52	52	—
Department of Social Services Foster Care	70	70	70	—
Mandate reimbursements	—	132	79	133
Funding Provided to Schools				
Proposition 98 support for schools	\$31	\$31	\$31	\$31
Federal special education	—	—	—	20 ^a
Total Resources	\$170	\$354	\$301	\$233

^a Some federal funds would be shifted back to schools willing to resume mental health responsibilities on a pilot basis in 2010-11.

- Satisfy Constitutional Obligation to Pay Outstanding Mandate Bills (\$133 Million).** Redirect all AB 3632 funds under DSS (\$70 million) and DMH (\$52 million) and provide additional General Fund (\$11 million). Redirect \$20 million in federal funds for some schools to pilot transition.
- Repeal the AB 3632 Mandate (Effective July 1, 2011) and Clarify Schools' Responsibility Under Federal Law.** Reaffirm that federal Individuals with Disabilities Education Act requires schools to provide mental health services contained in a student's IEP. Clarify that state law does not require anything additional.
- Convene Work Group to Address Transitional Issues.** Invite stakeholders to work on transition, including issues related to: funding for schools, county mental health's role, and continuity of care for students.

Assessment of LAO Alternative

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Strengths

- ***Establishes Process and Timeline for Transition of Responsibilities and Services.*** Would help ensure continuity of care for students and enable agencies to prepare for change.
- ***Transparent and Permanent.*** Unlike suspension, no confusion over which entity is responsible for providing services or uncertainty over whether policy might change.
- ***Encourages More Cost-Effective Provision of Services.*** By eliminating automatic mandate reimbursement, creates incentives for schools to manage costs and use limited funds wisely. Does not preclude schools from contracting with county mental health agencies to continue providing services.
- ***Refocuses Emphasis on Students' Educational Needs.*** Consistent with federal law, reorients the program towards what students need to be successful in school.
- ***Strengthens Accountability.*** Existing school accountability system can be used to assess student outcomes and program effectiveness.



Limitations

- ***Near Term County Fiscal Pressure.*** Requires counties to continue program for one year without fully funding program costs. Counties will be reimbursed for these costs over time.
- ***Defers Some State Costs for Program to Future.*** Future costs include any unreimbursed 2010-11 county program costs and funds required to satisfy federal special education MOE.