

Date of Hearing: July 1, 2015

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

SB 460 (Allen) – As Amended June 2, 2015

SENATE VOTE: 40-0

SUBJECT: Pupils redesignated as fluent English proficient: local control funding formula: local control and accountability plans

SUMMARY: Adds pupils who have been redesignated as fluent English proficient (RFEP) to the Local Control Funding Formula (LCAP) and Local Control and Accountability Plans (LCAPs). Specifically, **this bill:**

- 1) Add RFEP pupils to the LCFF for purposes of supplemental grant and concentration factor funding for school districts, county offices of education (COEs), and charter schools.
- 2) Requires school district and COE LCAPs to identify any specialized programs or services provided to RFEP pupils in order for them to maintain proficiency in English and access the common core academic content standards and a broad course of study.
- 3) Repeals these provisions upon the adoption of statewide pupil redesignation standards by statute or regulation after January 1, 2016 or on July 1, 2019, whichever comes first.

EXISTING LAW:

- 1) Establishes the LCFF, which provides funding to local education agencies (LEAs) in three parts:
 - a) A base grant, which is the same amount per ADA for all districts and varies according to four grade spans;
 - b) A supplemental grant, which is equal to 20% of the base grant, and is provided for each pupil who is identified as either low income (LI), as determined by eligibility for free or reduced-price meals, an English learner (EL), or in foster care; and
 - c) A concentration factor, which provides an additional 50% of the base grant for each pupil who is eligible for the supplemental grant and who is in excess of 55% of the district's or charter school's enrollment (in other words, those pupils generate the 20% supplemental grant plus the 50% concentration factor, for an additional 70% of the base grant).
- 2) Uses, for purposes of the LCFF, an "unduplicated count," which means that pupils who fall into more than one category are counted only once.
- 3) Requires school districts and COEs to annually adopt an LCAP, and requires each LCAP to (among other things) provide a description of the annual achievement goals for all pupils and each of the following subgroups of pupils:
 - a) Ethnic subgroups;

- b) Socioeconomically disadvantaged pupils;
- c) English learners;
- d) Pupils with disabilities; and
- e) Foster youth.

FISCAL EFFECT: According to the Senate Appropriations Committee:

- 1) Cost pressure in the high tens of millions in Proposition 98 General Fund annually. This estimate would change depending on the number of students that are redesignated as fluent English proficient and whether they attend school in districts that qualify for concentration grant funding.
- 2) California Department of Education (CDE) estimates one-time costs of at least \$49,000 General Fund for staff to make necessary revisions to the LCAP template and to provide technical assistance. This estimate does not include costs for any travel or stakeholder input meetings needed.
- 3) This bill results in additional unknown, but potentially significant costs to LEAs to report reclassified student enrollment; for county offices of education to verify the data; and for LEAs to include additional information on redesignated pupils in their LCAPs. These activities could be deemed a reimbursable state mandate.

COMMENTS: This bill expands the number of unduplicated pupils used for calculating LCFF apportionments by adding ELs who have been redesignated as fluent English proficient for two years. It is not known at this time how many pupils this will add to the unduplicated count, but not all redesignated pupils will add to the count, because many of them will already be counted as low income. To the extent that this change increases the LCFF target level of funding for districts, it will increase the statewide cost of fully funding the formula. This, in turn, will increase the number of years it would otherwise take to fully fund the LCFF.

Reason for the bill. This bill is predicated on two assumptions: one, RFEP pupils need continued support after redesignation to ensure continued academic success; and, two, the loss of additional funding for EL pupils after they are redesignated provides a disincentive to redesignate and unnecessarily holds pupil back.

RFEP pupils out-perform other pupils. A 2014 report by the Public Policy Institute of California ("Redesignation of English Learner Students in California") states that "[redesignated] students achieve much better academic outcomes than EL students, even after controlling for some systematic differences in student and district characteristics." What's more, "[redesignated] students, regardless of when they were redesignated, are the most successful students in terms of on-time (or better) grade progression to 12th grade," and "[redesignated] students perform better than [English only] students in many cases." In addition, the most recent evaluation of the California High School Exit Exam (CAHSEE) by the Human Resources Research Organization (HumRRO) reports that RFEP pupils, at 99.7%, have the highest pass rate of all pupil subgroups. These facts may call into question the need for automatically providing

additional funding for all redesignated students, most of whom apparently don't need the additional support the funding provides.

But the redesignation bar may be set too high. An alternative explanation for the apparent success of RFEP pupils may be that districts set the bar too high when determining whether to redesignate. There is some evidence that prior to the enactment of the LCFF, this may have been the case. A 2005 report by the California State Auditor, *Effects of the Implementation of Proposition 227 on the Education of English Learners, K-12*, found that some pupils who scored well on the California English Language Development Test (CELDT, one of the criteria used for determining when to redesignate) were denied redesignation on the basis of one or more of the other criteria used by a district. In fact, 112 of 180 EL pupils reviewed were not redesignated even after meeting *all* of the district's criteria.

It is important to note that, at the time of the State Auditor study, supplemental programs for English learners were funded through the Economic Impact Aid (EIA) program. EIA was a categorical program that funded services for low income pupils and English learners. A pupil who was both an English learner and low income was counted twice in the formula, which created a strong incentive to set the bar high and delay redesignation. By contrast, such a pupil is counted only once in the LCFF. Since most English learners are also low income, the financial penalty incentive to delay redesignation has been reduced considerably.

Redesignation criteria vary across districts. Districts are able to establish their own standards for redesignation because there is no statewide standard for redesignating EL pupils, and as a result districts apply different criteria. The State Board of Education (SBE) has adopted minimum guidelines for districts to use in the redesignation of English learners, consistent with the current requirement in law that the criteria be based on specified multiple criteria, but ultimately each district sets its own cut scores and redesignation requirements, including local criteria. The SBE guidelines for redesignation are as follows:

- 1) Pupil scores at the early advanced or higher level overall on the CELDT and scores at intermediate or higher in listening and speaking, reading, and writing.
- 2) Pupil scores in the range between the beginning of basic and midpoint of basic on the English language arts (ELA) California Standardized Test (CST), but it is up to each district to set an exact cut point.
- 3) Pupils meet the academic performance indicators set by the school district as determined by the teacher evaluation.
- 4) Parent is notified of his or her right and encouraged to participate in the redesignation process, including through a face-to-face meeting.

The 2005 report by the California State Auditor found wide inconsistencies among districts in how these minimum standards are applied, and some districts set the bar higher than others. The report recommended that the CDE seek legislation to achieve greater consistency among districts in determining when to redesignate English learners. The report notes that current state guidelines on criteria and cut-scores generate confusion and ambiguity about the meaning of redesignation. The report also notes that there are various perceptions in the field regarding the significance of redesignation. Some districts view it as ELs reaching "minimum competency" to

participate in mainstream classrooms with no further specialized services. For other districts, redesignation means that there is comparability between ELs and native English speakers' academic performance in the district. In other instances it is viewed as ELs having recouped the "academic deficits" that ELs incur while developing English language skills. Some believe that redesignation demonstrates English learners' ability to meet grade-level standards and to be academically successful. In consideration of these issues, the report points out, "Virtually all of our sample districts expressed support for establishing consistent cut scores statewide on California's two common criteria. At the same time, these educators also expressed concern that the state may set these criteria too low, or decide to eliminate the use of local assessments, which districts highly value as a source of 'multiple measures' to increase confidence in their decisions to redesignate."

The redesignation dilemma. In determining when the appropriate time is to redesignate ELs, two issues emerge. One is the potentially premature redesignation of ELs, which could result in the loss of instructional services and supports before they are ready, and this could eventually lead to greater risk of educational failure. The second issue is the possibility of holding ELs back from redesignation longer than necessary, which may result in ELs experiencing reduced access to courses needed for postsecondary education. Some have suggested that the LCFF may provide a disincentive to redesignate when appropriate and beneficial, because it would reduce the number of pupils who qualify the LEA for supplemental grant and concentration factor funding. One purpose of **this bill** is to reduce that disincentive.

Alternative solution. Districts that are inclined to delay redesignation for purely fiscal reasons are able to do so because—as discussed—there are no statewide standards for when redesignation must occur. An alternative—and one that would deal directly with the uneven application of redesignation criteria from district to district—would be to establish statewide criteria for redesignation. This is the approach taken by AB 491 (Gonzalez), which is pending in the Senate Education Committee. AB 491 requires the State Board of Education to Adopt best practices guidelines by July 1, 2022. The provisions of **this bill** sunset when statewide standards are adopted or on July 1, 2019, whichever comes first.

Related legislation. AB 1892 (Bocanegra) was virtually identical to this bill as it passed the Senate Education Committee last year. It was amended in the Senate Appropriations Committee to strike the addition of RFEP to the LCFF and subsequently died on the Senate third reading file.

Arguments in support. Supporters argue that the change in status, itself, has important consequences for pupils and that it is needed to allow former EL pupils access to "mainstream academic programs." Allowing districts to retain EL funding for pupils for two years after redesignation will remove the disincentive to redesignate when it is academically appropriate and provide funding for needed follow up support services.

Arguments in opposition. Opponents argue that it is premature to make changes to the LCFF, because "school districts should have transitional time to implement the existing LCFF regulations and allocations already set in motion within the last two years."

REGISTERED SUPPORT / OPPOSITION:

Support

Association of California School Administrators
California State PTA
Families in Schools
Los Angeles Area Chamber of Commerce
Los Angeles Unified School District

Opposition

California Teachers Association

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