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Mental Health Services for Students: Overview of May Revision Proposals

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:

Assembly Budget Subcommittee No. 2 on Education Finance

Hon. Susan Bonilla, Chair

Assembly Budget Subcommittee No. 1

On Health and Human Services

Hon. Holly Mitchell, Chair





Background

- ☑ ***Longstanding Federal Requirement to Provide Free Appropriate Public Education, Including Necessary Mental Health Care.*** Special education pupils are entitled to services specified in their Individualized Education Plans (IEPs).

- ☑ ***In California, Responsibility for Student Mental Health Services Shifted From Schools to Counties in 1984.*** Providing these services, commonly referred to as “AB 3632 services,” was determined to be a state reimbursable mandate to counties.

- ☑ ***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.
 - Services include mental health assessments, case management, individual and group therapy, rehabilitative counseling, and medication support.



Annual Costs for AB 3632 Services Continue to Grow

AB 3632 Costs Over Time						
<i>(In Millions)</i>						
	Mental Health Services			Residential Care		Totals
	Federal Special Education	DMH Categorical	Mandate Claims ^a	DSS	County Funds ^a	
1998-99	—	\$12	\$50	\$23	\$34	\$119
1999-00	—	12	68	24	35	139
2000-01	—	12	78	25	37	152
2001-02	—	12	119	31	46	208
2002-03	—	—	146	38	57	241
2003-04	—	—	57	39	58	154
2004-05	\$69	—	68	37	55	229
2005-06	69	—	72	38	57	236
2006-07	69	52	61	43	65	290
2007-08	69	52	83	48	72	324
2008-09	69	104	46	51	77	347
2009-10	69	—	94	59	89 ^b	311

^a Some counties are claiming mandate reimbursements for some of their local share of residential care costs, so some costs may be double-counted in these two columns.
^b Additional mandate claims being submitted for 2009-10.
 DMH = Department of Mental Health and DSS = Department of Social Services.



There Are Two Major Categories of AB 3632 Expenditures:

- **Mental Health Services.** County mental health agencies receive federal special education funds, state General Fund through the Department of Mental Health, and reimbursement for residual costs through the state mandate claiming process. Medi-Cal funds can cover some AB 3632 services for eligible children (not shown in table).
- **Residential Care.** County welfare departments receive state General Fund through the Department of Social Services' budget and use local funds (mostly from the 1991 realignment) to pay the room and board costs for students requiring residential placements.



Awkward Shift of Student Mental Health Responsibilities in Current Year

- ☑ ***Governor Schwarzenegger Vetoed Funds From 2010-11 Budget Act, Suspended AB 3632 Mandate for Counties.*** Recent court decisions appear to uphold this action.
- ☑ ***Federal Mandate Remains in Place for Schools.*** Because of federal special education law, schools face ultimate responsibility for ensuring students get necessary services. Current arrangements for maintaining services differ across counties.
- ☑ ***March Budget Package Provided Some Additional Funding for Schools.*** Senate Bill 70 provided \$81 million in one-time Proposition 98 funds to help schools fund current-year services. (Additional \$76 million in federal funds was provided in *2010-11 Budget Act*.)
- ☑ ***Although Year Is Almost Over, Uncertainty Over Funding Remains.*** It is unclear whether counties ultimately will be able to claim mandate reimbursements for services they provided in the current year. Education groups are appealing the court's decision that a Governor can suspend a mandate through a veto.



Overview of Governor's May Revision Proposal

- Officially Repeals AB 3632 Mandate, Officially Realigns Responsibility to Schools.*** Consistent with federal law, proposal would require schools to provide mental health services included in an IEP. Would not require any additional services beyond federal law.
 - This is a change from the Governor's January proposal, which would have continued to make counties responsible for providing services and funded the program with realignment dollars rather than as a state mandate.

- Provides Up to \$389 Million for Services in 2011-12.*** Funds would come from three sources:
 - ***Proposition 98 (\$222 Million).*** Governor proposes to permanently increase—"rebench"—the Proposition 98 minimum guarantee by this amount.
 - ***Proposition 63 (\$99 Million).*** Because Mental Health Services Act funds flow to counties, these funds would only be available for school districts that choose to contract with county mental health agencies for services.
 - ***Federal Special Education (\$69 Million).*** Dedicates same amount of federal funds as in current year but would allocate funds to districts rather than passing through to counties.

- Funding Based on Administration's High Estimate of 2011-12 Program Costs.*** Includes 2011-12 cost-of-living adjustment, even though this is not provided for any other program.



Recommend Adopting Governor's Proposal to Officially Shift Responsibilities To Schools



Recommend Adopting Governor's Proposal to Repeal

Mandate and Shift Responsibilities. Districts can continue to contract with county mental health agencies, choose a different service provider, or develop in-house expertise.

- Refocuses emphasis on students' educational needs.
- Strengthens program accountability.
- Encourages cost-effective provision of services.



Recommend Reconsidering Governor's Funding Proposal.

While we believe the Governor's policy makes sense, we believe the Legislature might want to modify his approach to funding the realigned responsibilities. Some important questions include:

- ***Should Proposition 98 Be Rebench, and, if so, by How Much?*** There are dicey legal, policy, and implementation issues associated with rebenching the minimum guarantee, particularly for programmatic shifts.
- ***How Much Additional Funding Should Be Provided to Schools?*** The county-based program has lacked both incentives to contain costs and accountability over how funds were spent. Schools likely would run a more efficient and effective program.
- ***Are Proposition 63 Funds an Appropriate Source for a Realigned Structure?*** School districts would only be able to access these funds if they chose to contract with county mental health agencies.



Implementation Issues to Consider



Several Important Implementation Issues if Legislature Adopts May Revision Proposal:

- ***Amount and Sources of Funding.*** Provide the \$389 million proposed by the Governor, including Proposition 63, or some other amount/source?
- ***Allocation of Funding.*** Allocate funding to districts based on an equal per-pupil basis (Governor's proposal) or based on caseload and costs from the existing program? To avoid inappropriate incentives, the current special education funding model is based on per-pupil formula.
- ***Requirements for Use of Funds.*** Require that districts use new funds only for mental health services or allow usage for any special education costs? Caseload may vary across the state, and the current special education funding model does not restrict funds for particular services.
- ***Program Requirements.*** Repeal state law and default to the broad federal special education mandate (Governor's proposal) or maintain some California-specific statutory requirements for student mental health services?
- ***Transitional Issues.*** Are there additional ways the state can or should assist districts through this transition?
- ***Schools' Access to Medi-Cal Funding.*** Should the state enable school districts to claim full Medi-Cal reimbursements the way counties currently do?