AMENDED IN ASSEMBLY JULY 9, 2025

AMENDED IN SENATE APRIL 28, 2025

AMENDED IN SENATE MARCH 26, 2025

SENATE BILL No. 577

Introduced by Senators Laird and Allen

February 20, 2025

An act to amend Sections ~~128.5,~~ 340.1, 340.11, 864, and 1038 of, and to add Sections 340.12 and ~~341.95,~~ *341.95* to, the Code of Civil Procedure, to amend Sections 41320, 41329.52, and 41329.53 of, and to add Chapter 5 (commencing with Section 14560) to Part 9 of Division 1 of Title 1 of, the Education ~~Code, and to amend Section 977.8 of the Government~~ Code, relating to state government.

LEGISLATIVE COUNSEL'S DIGEST

SB 577, as amended, Laird. State Government.

~~(1) Existing law authorizes a trial court to order a party, the party's attorney, or both, to pay the reasonable expense incurred by another party as a result of bad-faith actions or tactics, as defined. Existing law provides the court may also award sanctions, as specified. Existing law provides that where the bad faith actions or tactics involve the filing of a pleading that can be withdrawn or corrected, the filing party shall be provided 21 days in order to do so, prior to award of sanctions against the filing party, as specified.~~

~~This bill would provide that bad-faith actions or tactics used on or after January 1, 2026, in certain civil actions against public entities, do not benefit from the 21-day safe harbor period to withdraw or correct the bad-faith filings prior to the award of sanctions.~~

~~(2)~~

(1) Existing law requires that specified actions for recovery of damages suffered as a result of childhood sexual assault that occurred before January 1, ~~2024~~ *2024*, be commenced within 22 years of the date the plaintiff attains the age of majority or within 5 years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual assault, whichever period expires later. Existing law provides that there is no time limit for commencement of such actions for recovery of damages suffered as a result of childhood sexual assault which occurred on or after January 1, 2024. Actions subject to these time limits include actions for liability against any person or entity who owed a duty of care to the plaintiff and an action for liability against any person or entity for an intentional act that was the legal cause of the childhood sexual assault. Existing law provides that in actions against entities for violation of a duty of care, the plaintiff must establish that the entity acted wrongfully or negligently.

This bill would shorten the amount of time a victim of childhood sexual assault that occurred before January 1, ~~2024~~ *2024,* would have to file a specified action to 22 years from the date the plaintiff attains the age of majority or within 3 years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual assault, whichever period expires later. This bill would, for actions filed on or after April 15, 2025, against a public ~~entity~~ *entity, or one of its employees or agents,* by a plaintiff who is 40 years of age or older, increase the standard of liability to gross negligence. For all cases against a public entity filed on or after April 15, 2025, this bill would provide factors that courts must consider when reviewing motions for remittitur and would authorize a court to structure judgments against public entities so that they could be paid over time.

This bill would require all cases filed by victims of childhood sexual assault that occurred at the MacLaren Children's Center or any juvenile probation facility or detention center operated by the Los Angeles County Probation Department that was closed before or on January 1, 2020, be filed on or before January 1, 2026. This bill specifies that the procedural requirements that typically apply to such causes of action, including the requirement that plaintiffs who file their claims at the age of 40 or greater file a certificate of merit, as specified, also apply to these specific cases. This bill would require that in these cases, certificates of merit along with additional information shall be provided

to a court-appointed special master. This bill would prohibit a special master from distributing funds pursuant to a settlement agreement until all of those requirements have been satisfied.

(2) For actions for recovery of damages suffered as a result of childhood sexual assault that occurred before January 1, 2024, existing law requires a plaintiff 40 years of age or older at the time the action is filed to file certificates of merit. Existing law provides that the failure to file certificates in accordance with these provisions is grounds for a demurrer.

This bill would instead require the certificates to be filed concurrently with the complaint and would prohibit a court clerk from accepting the filing of a complaint that lacks the certificates, except as specified.

(3) Existing law authorizes a person who is sexually assaulted and who proves it was as the result of a cover up, as defined, to recover up to treble damages against the defendant who is found to have covered up the sexual assault, unless prohibited by another law.

This bill would prohibit such treble damages from being imposed against a defendant that is a public entity.

~~(3)~~

(4) Under existing law, bonds, warrants, contracts, obligations, and evidences of indebtedness, for the purpose of validating proceedings, are deemed to be in existence upon their authorization, as specified.

This bill would provide that, for purposes of determining the validity of refunding bonds to refund a tort action judgment entered against a public ~~entity,~~ *agency,* as specified, indebtedness is deemed to be in existence on the date of ~~the public entity's~~ adoption *by the governing body of the public agency* of a resolution or ~~ordinance that satisfies specified conditions.~~ *ordinance, as specified.*

~~(4)~~

(5) Existing law permits a defendant or a cross-defendant in a civil proceeding under the Government Claims Act, or in any civil action for indemnity or contribution, to seek from the court, at the time of the granting of a motion for summary judgment, directed verdict, motion for judgment in a nonjury trial, or nonsuit dismissing the moving party other than the plaintiff, petitioner, cross-complainant, or intervenor, a determination of whether the plaintiff, petitioner, cross-complainant, or intervenor brought their proceeding in good faith and with reasonable cause. If the court determines that the proceeding was not brought in good faith or with reasonable cause, existing law requires the court to decide the reasonable and necessary defense costs incurred by the party

opposing the proceeding and to render judgment in favor of that party. Existing law applies these provisions only if the defendant or cross-defendant has made a motion for summary judgment, a motion for directed verdict, a motion for judgment in a nonjury trial, or nonsuit.

This bill would expand the above provision to apply to a demurrer brought by a defendant or cross-defendant. *The bill would also prohibit an award of defense costs under these provisions against an attorney from being passed on to a client as a litigation cost.*

~~(5)~~

(6) Existing law, the California School Finance Authority Act, authorizes a participating party, as defined, in connection with securing financing or refinancing of a project, or working capital, as defined, to elect to provide for funding payments of bonds issued by the California School Finance Authority and related obligations by electing to participate in a state or local intercept, or both, by an action of its governing board. Existing law requires the Controller, the county treasurer, or other appropriate county fiscal officer, as applicable, upon receipt of written notice provided by the participating party, to make an apportionment or revenue transfer from specified moneys designated for apportionment to the participating party.

This bill would provide a similar authorization to a participating party, as defined, in connection with securing financing, refinancing, or refunding of a public debt obligation, as defined, to elect to provide for funding payments of the public debt obligation by electing to participate in a state or local intercept, or both, by an action of its governing board. The bill would require the Controller, the county treasurer, or other appropriate county fiscal officer, as applicable, upon receipt of written notice provided by the participating party, to make an apportionment or revenue transfer from specified moneys designated for apportionment to the participating party, as provided. The bill would authorize, and not require, a county to participate in local intercepts under these provisions. The bill would require a participating party to certify the payment schedule, as specified. By expanding the crime of perjury, this bill would impose a state-mandated local program.

~~(6)~~

(7) Existing law authorizes the governing board of a school district that determines during a fiscal year that its revenues are less than the amount necessary to meet its current year expenditure obligations to request an emergency apportionment through the Superintendent of Public Instruction, subject to specified requirements. Existing law

prescribes the financing conditions on emergency apportionments, including a requirement for a school district to develop a schedule to repay the emergency loan, which the county superintendent of schools is required to review, comment on, and submit to the Superintendent for approval.

Existing law authorizes emergency apportionments to be provided through an interim loan from the General Fund and lease financing to be made available by the California Infrastructure and Economic Development Bank, which is authorized to issue bonds for purposes of the emergency apportionments and related costs. Existing law prohibits the term of the lease from exceeding 20 years, except as specified. Existing law authorizes, as an alternative to lease financing, emergency apportionments to be provided from the General Fund. Existing law requires the emergency apportionment to be repaid within 20 years.

This bill would require the school district to consult the county superintendent of schools and the County Office Fiscal Crisis and Management Assistance Team in developing the repayment schedule and would require the county superintendent of schools to submit the repayment schedule to the Department of Finance, instead of the Superintendent, for approval. The bill would extend the maximum term of a lease or for repayment of an emergency apportionment to 30 years. The bill would require the determination of the term to be made by the Department of Finance, in consultation with the school district, the county superintendent of schools, the Superintendent, and the County Office Fiscal Crisis and Management Assistance Team and would require the determination to take into consideration specified factors. To the extent the bill imposes new duties on county superintendents of schools, the bill would impose a state-mandated local program.

~~(7) Existing law authorizes the governing board of a local taxing entity to deem it necessary for the local taxing entity to incur a bonded indebtedness to fund all or any portion of an outstanding judgment against the entity by adoption of a resolution that includes, among other things, the date of the special election of the local taxing entity that a proposition on the matter shall be submitted to the voters. If 2/3 or more of the votes cast upon the proposition at the election are in favor of incurring the bonded indebtedness, the board may issue the bonds at the time or times it deems proper and may sell the bonds at the times or in the manner the board deems to be to the public interest. Existing law authorizes a public agency to bring an action to determine the validity of bonds pursuant to specified procedures. Existing law~~

~~establishes that, for purposes of those procedures, bonds shall be deemed to be in existence upon their authorization and authorized as of the date of adoption by the governing body of the public agency of a resolution or ordinance authorizing their issuance.~~

~~This bill would authorize a local public entity to initiate an action to determine the validity of those bonds before a judgment in a tort action against the local taxing entity necessitating the bonded indebtedness has been entered and endow bonds to fund all or any portion of an outstanding judgment against a local taxing entity with a rebuttable presumption of validity in an action described above.~~

~~(8)~~ The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, with regard to certain mandates, no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

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~~With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.~~

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

~~SECTION 1. Section 128.5 of the Code of Civil Procedure is amended to read:~~

~~128.5. (a) A trial court may order a party, the party's attorney, or both, to pay the reasonable expenses, including attorney's fees, incurred by another party as a result of actions or tactics, made in bad faith, that are frivolous or solely intended to cause unnecessary delay. This section also applies to judicial arbitration proceedings~~

~~under Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3.~~

~~(b) For purposes of this section:~~

~~(1) "Actions or tactics" include, but are not limited to, the making or opposing of motions or the filing and service of a complaint, cross-complaint, answer, or other responsive pleading. The mere filing of a complaint without service thereof on an opposing party does not constitute "actions or tactics" for purposes of this section.~~

~~(2) "Frivolous" means totally and completely without merit or for the sole purpose of harassing an opposing party.~~

~~(c) Expenses pursuant to this section shall not be imposed except on notice contained in a party's moving or responding papers or, on the court's own motion, after notice and opportunity to be heard. An order imposing expenses shall be in writing and shall recite in detail the action or tactic or circumstances justifying the order.~~

~~(d) In addition to any award pursuant to this section for an action or tactic described in subdivision (a), the court may assess punitive damages against the plaintiff on a determination by the court that the plaintiff's action was an action maintained by a person convicted of a felony against the person's victim, or the victim's heirs, relatives, estate, or personal representative, for injuries arising from the acts for which the person was convicted of a felony, and that the plaintiff is guilty of fraud, oppression, or malice in maintaining the action.~~

~~(e) This section shall not apply to disclosures and discovery requests, responses, objections, and motions.~~

~~(f) Sanctions ordered pursuant to this section shall be ordered pursuant to the following conditions and procedures:~~

~~(1) If, after notice and a reasonable opportunity to respond, the court issues an order pursuant to subdivision (a), the court may, subject to the conditions stated below, impose an appropriate sanction upon the party, the party's attorneys, or both, for an action or tactic described in subdivision (a). In determining what sanctions, if any, should be ordered, the court shall consider whether a party seeking sanctions has exercised due diligence.~~

~~(A) A motion for sanctions under this section shall be made separately from other motions or requests and shall describe the specific alleged action or tactic, made in bad faith, that is frivolous or solely intended to cause unnecessary delay.~~

~~(B) If the alleged action or tactic is the making or opposing of a written motion or the filing and service of a complaint, cross-complaint, answer, or other responsive pleading that can be withdrawn or appropriately corrected, a notice of motion shall be served as provided in Section 1010, but shall not be filed with or presented to the court, unless 21 days after service of the motion or any other period as the court may prescribe, the challenged action or tactic is not withdrawn or appropriately corrected.~~

~~(C) If warranted, the court may award to the party prevailing on the motion the reasonable expenses and attorney's fees incurred in presenting or opposing the motion. Absent exceptional circumstances, a law firm shall be held jointly responsible for violations committed by its partners, associates, and employees.~~

~~(D) If the alleged action or tactic is the making or opposing of a written motion or the filing and service of a complaint, cross-complaint, answer, or other responsive pleading that can be withdrawn or appropriately corrected, the court on its own motion may enter an order describing the specific action or tactic, made in bad faith, that is frivolous or solely intended to cause unnecessary delay, and direct an attorney, law firm, or party to show cause why it has made an action or tactic as defined in subdivision (b), unless, within 21 days of service of the order to show cause, the challenged action or tactic is withdrawn or appropriately corrected.~~

~~(2) An order for sanctions pursuant to this section shall be limited to what is sufficient to deter repetition of the action or tactic or comparable action or tactic by others similarly situated. Subject to the limitations in subparagraphs (A) and (B), the sanction may consist of, or include, directives of a nonmonetary nature, an order to pay a penalty into court, or, if imposed on motion and warranted for effective deterrence, an order directing payment to the movant of some or all of the reasonable attorney's fees and other expenses incurred as a direct result of the action or tactic described in subdivision (a).~~

~~(A) Monetary sanctions may not be awarded against a represented party for a violation of presenting a claim, defense, and other legal contentions that are warranted by existing law or by a nonfrivolous argument for the extension, modification, or reversal of existing law or the establishment of new law.~~

~~(B) Monetary sanctions may not be awarded on the court's motion unless the court issues its order to show cause before a voluntary dismissal or settlement of the claims made by or against the party that is, or whose attorneys are, to be sanctioned.~~

~~(g) A motion for sanctions brought by a party or a party's attorney primarily for an improper purpose, such as to harass or to cause unnecessary delay or needless increase in the cost of litigation, shall itself be subject to a motion for sanctions. It is the intent of the Legislature that courts shall vigorously use its sanction authority to deter the improper actions or tactics or comparable actions or tactics of others similarly situated.~~

~~(h) The liability imposed by this section is in addition to any other liability imposed by law for acts or omissions within the purview of this section.~~

~~(i) This section applies to actions or tactics that were part of a civil case filed on or after January 1, 2015.~~

~~(j) In a civil case filed on or after January 1, 2026, subparagraphs (B) and (D) of paragraph (1) of subdivision (f) do not apply to motions under this section if the moving party is a public entity and all of the following apply:~~

~~(1) The complainant or cross-complainant is represented by counsel.~~

~~(2) The public entity attempted to meet and confer with counsel for the complainant or cross-complainant prior to filing any dispositive motion, including but not limited to, a demurrer.~~

~~(3) The complaint or cross-complaint involves an action for dangerous condition of public property where the public entity has disclaimed ownership of the property or an action alleging negligence of a public entity employee where the public entity has asserted that the person identified is not a public entity employee, and, as part of the meet and confer process, the public entity provided counsel for the complainant or cross-complainant with a declaration under penalty of perjury disclaiming ownership of the public property at issue or confirming the person was not an employee or agent of the public entity.~~

~~(4) Counsel for the complainant or cross-complainant failed to meaningfully participate in the meet and confer effort initiated by counsel for the public entity before the public entity filed the dispositive motion.~~

~~SEC. 2.~~

SECTION 1. Section 340.1 of the Code of Civil Procedure is amended to read:

340.1. (a) There is no time limit for the commencement of any of the following actions for recovery of damages suffered as a result of childhood sexual assault:

(1) An action against any person for committing an act of childhood sexual assault.

(2) An action for liability against any person or entity who owed a duty of care to the plaintiff, if a wrongful or negligent act by that person or entity was a legal cause of the childhood sexual assault that resulted in the injury to the plaintiff.

(3) An action for liability against any person or entity if an intentional act by that person or entity was a legal cause of the childhood sexual assault that resulted in the injury to the plaintiff.

(b) (1) In an action described in subdivision (a), a person who is sexually assaulted and proves it was as the result of a cover up may recover up to treble damages against a defendant who is found to have covered up the sexual assault of a minor, unless prohibited by another law.

(2) For purposes of this subdivision, a "cover up" is a concerted effort to hide evidence relating to childhood sexual assault.

(3) This subdivision shall not apply to a defendant that is a public entity.

(c) "Childhood sexual assault" as used in this section includes any act committed against the plaintiff that occurred when the plaintiff was under 18 years of age and that would have been proscribed by Section 266j of the Penal Code; Section 285 of the Penal Code; paragraph (1) or (2) of subdivision (b), or of subdivision (c), of Section 286 of the Penal Code; subdivision (a) or (b) of Section 288 of the Penal Code; paragraph (1) or (2) of subdivision (b), or of subdivision (c), of Section 287 or of former Section 288a of the Penal Code; subdivision (h), (i), or (j) of Section 289 of the Penal Code; any sexual conduct as defined in paragraph (1) of subdivision (d) of Section 311.4 of the Penal Code; Section 647.6 of the Penal Code; or any prior laws of this state of similar effect at the time the act was committed. This subdivision does not limit the availability of causes of action permitted under subdivision (a), including causes of action against persons or entities other than the alleged perpetrator of the abuse.

(d) This section shall not be construed to alter the otherwise applicable burden of proof, as defined in Section 115 of the Evidence Code, that a plaintiff has in a civil action subject to this section.

(e) Every plaintiff 40 years of age or older at the time the action is filed shall file certificates of merit as specified in subdivision (f).

(f) Certificates of merit setting forth the facts that support the declaration shall be executed by the attorney for the plaintiff and by a licensed mental health practitioner selected by the plaintiff declaring, respectively, as follows:

(1) That the attorney has reviewed the facts of the case, consulted with at least one mental health practitioner who the attorney reasonably believes is knowledgeable of the relevant facts and issues involved in the particular action, and concluded on the basis of that review and consultation that there is reasonable and meritorious cause for the filing of the action.

(2) That the mental health practitioner consulted is licensed to practice and practices in this state and is not a party to the action, that the practitioner is not treating and has not treated the plaintiff, and that the practitioner has interviewed the plaintiff and is knowledgeable of the relevant facts and issues involved in the particular action, and has concluded, on the basis of the practitioner's knowledge of the facts and issues, that in the practitioner's professional opinion there is a reasonable basis to believe that the plaintiff had been subject to childhood sexual abuse.

(g) If certificates are required pursuant to subdivision (e), the attorney for the plaintiff shall execute a separate certificate of merit for each defendant named in the complaint.

(h) In any action subject to subdivision (e), a defendant shall not be served, and the duty to serve a defendant with process does not attach, until the court has reviewed the certificates of merit filed pursuant to subdivision (f) with respect to that defendant, and has found, in camera, based solely on those certificates of merit, that there is reasonable and meritorious cause for the filing of the action against that defendant. At that time, the duty to serve that defendant with process shall attach.

(i) A violation of this section may constitute unprofessional conduct and may be the grounds for discipline against the attorney.

(j) The failure to file certificates in accordance with this section shall be grounds for a demurrer pursuant to Section 430.10 or a motion to strike pursuant to Section 435.

(k) In any action subject to subdivision (e), a defendant shall be named by "Doe" designation in any pleadings or papers filed in the action until there has been a showing of corroborative fact as to the charging allegations against that defendant.

(*l*) At any time after the action is filed, the plaintiff may apply to the court for permission to amend the complaint to substitute the name of the defendant or defendants for the fictitious designation, as follows:

(1) The application shall be accompanied by a certificate of corroborative fact executed by the attorney for the plaintiff. The certificate shall declare that the attorney has discovered one or more facts corroborative of one or more of the charging allegations against a defendant or defendants, and shall set forth in clear and concise terms the nature and substance of the corroborative fact. If the corroborative fact is evidenced by the statement of a witness or the contents of a document, the certificate shall declare that the attorney has personal knowledge of the statement of the witness or of the contents of the document, and the identity and location of the witness or document shall be included in the certificate. For purposes of this section, a fact is corroborative of an allegation if it confirms or supports the allegation. The opinion of any mental health practitioner concerning the plaintiff shall not constitute a corroborative fact for purposes of this section.

(2) If the application to name a defendant is made before that defendant's appearance in the action, neither the application nor the certificate of corroborative fact by the attorney shall be served on the defendant or defendants, nor on any other party or their counsel of record.

(3) If the application to name a defendant is made after that defendant's appearance in the action, the application shall be served on all parties and proof of service provided to the court, but the certificate of corroborative fact by the attorney shall not be served on any party or their counsel of record.

(m) The court shall review the application and the certificate of corroborative fact in camera and, based solely on the certificate and any reasonable inferences to be drawn from the certificate, shall, if one or more facts corroborative of one or more of the

charging allegations against a defendant has been shown, order that the complaint may be amended to substitute the name of the defendant or defendants.

(n) The court shall keep under seal and confidential from the public and all parties to the litigation, other than the plaintiff, any and all certificates of corroborative fact filed pursuant to subdivision (*l*).

(o) Upon the favorable conclusion of the litigation with respect to any defendant for whom a certificate of merit was filed or for whom a certificate of merit should have been filed pursuant to this section, the court may, upon the motion of a party or upon the court's own motion, verify compliance with this section by requiring the attorney for the plaintiff who was required by subdivision (f) to execute the certificate to reveal the name, address, and telephone number of the person or persons consulted with pursuant to subdivision (f) that were relied upon by the attorney in preparation of the certificate of merit. The name, address, and telephone number shall be disclosed to the trial judge in camera and in the absence of the moving party. If the court finds there has been a failure to comply with this section, the court may order a party, a party's attorney, or both, to pay any reasonable expenses, including attorney's fees, incurred by the defendant for whom a certificate of merit should have been filed.

(p) This section applies to any claim in which the childhood sexual assault occurred on and after January 1, 2024. Notwithstanding any other law, a claim for damages based on conduct described in paragraphs (1) to (3), inclusive, of subdivision (a), in which the childhood sexual assault occurred on or before December 31, 2023, may only be commenced pursuant to the applicable statute of limitations set forth in existing law as it read on December 31, 2023.

(q) Notwithstanding any other law, including Chapter 1 (commencing with Section 900) of Part 3 of Division 3.6 of Title 1 of the Government Code and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code, a claim for damages described in paragraphs (1) through (3), inclusive, of subdivision (a), is not required to be presented to any government entity prior to the commencement of an action.

(r) Any action filed pursuant to paragraph (2) or (3) of subdivision (a) which results in a dismissal without prejudice shall

not be refiled if 5 years or more have passed from the original filing date of such action.

~~SEC. 3.~~

SEC. 2. Section 340.11 of the Code of Civil Procedure is amended to read:

340.11. (a) (1) Notwithstanding Section 340.1, in an action for recovery of damages suffered as a result of childhood sexual assault that occurred before January 1, 2024, the time for commencement of the action shall be within 22 years of the date the plaintiff attains the age of majority or within three years of the date the plaintiff discovers or reasonably should have discovered that psychological injury or illness occurring after the age of majority was caused by the sexual assault, whichever period expires later, for any of the following actions:

(A) An action against any person for committing an act of childhood sexual assault.

(B) An action for liability against any person or entity who owed a duty of care to the plaintiff, if a wrongful or negligent act by that person or entity was a legal cause of the childhood sexual assault that resulted in the injury to the plaintiff.

(C) An action for liability against any person or entity if an intentional act by that person or entity was a legal cause of the childhood sexual assault that resulted in the injury to the plaintiff.

(2) Notwithstanding paragraph (1) or Section 340.1, in an action for recovery of damages suffered as a result of childhood sexual assault that occurred before January 1, 2024, involving an act that would have been proscribed by Sections 311.1 or 311.2 of the Penal Code, the time for commencement of the action shall be within 22 years of the date the plaintiff attains the age of majority or within 10 years of the date the plaintiff discovers or reasonably should have discovered, after the age of majority, the existence of obscene matter, for any of the actions identified in subparagraphs (A) to (C), inclusive, of paragraph (1).

(b) (1) In an action described in subdivision (a), a person who is sexually assaulted and proves it was as the result of a cover up may recover up to treble damages against a defendant who is found to have covered up the sexual assault of a minor, unless prohibited by another law.

(2) For purposes of this subdivision, a “cover up” is a concerted effort to hide evidence relating to childhood sexual assault.

(c) An action described in subparagraph (B) or (C) of paragraph (1) of subdivision (a) shall not be commenced on or after the plaintiff's 40th birthday unless the person or entity knew or had reason to know, or was otherwise on notice, of any misconduct that creates a risk of childhood sexual assault by an employee, volunteer, representative, or agent, or the person or entity failed to take reasonable steps or to implement reasonable safeguards to avoid acts of childhood sexual assault. For purposes of this subdivision, providing or requiring counseling is not sufficient, in and of itself, to constitute a reasonable step or reasonable safeguard. Nothing in this subdivision shall be construed to constitute a substantive change in negligence law.

(d) "Childhood sexual assault" as used in this section includes any act committed against the plaintiff that occurred when the plaintiff was under ~~the age of~~ 18 years *of age* and that would have been proscribed by Section 266j of the Penal Code; Section 285 of the Penal Code; paragraph (1) or (2) of subdivision (b), or of subdivision (c), of Section 286 of the Penal Code; subdivision (a) or (b) of Section 288 of the Penal Code; paragraph (1) or (2) of subdivision (b), or of subdivision (c), of Section 287 or of former Section 288a of the Penal Code; subdivision (h), (i), or (j) of Section 289 of the Penal Code; subdivision (a) of Section 311.1 of the Penal Code; subdivisions (b) to (d), inclusive, of Section 311.2 of the Penal Code; any sexual conduct as defined in paragraph (1) of subdivision (d) of Section 311.4 of the Penal Code; Section 647.6 of the Penal Code; or any prior laws of this state of similar effect at the time the act was committed. This subdivision does not limit the availability of causes of action permitted under subdivision (a), including causes of action against persons or entities other than the alleged perpetrator of the abuse.

(e) This section shall not be construed to alter the otherwise applicable burden of proof, as defined in Section 115 of the Evidence Code, that a plaintiff has in a civil action subject to this section.

(f) Every plaintiff 40 years of age or older at the time the action is filed shall file certificates of merit as specified in subdivision (g).

(g) Certificates of merit shall be executed by the attorney for the plaintiff and by a licensed mental health practitioner selected by the plaintiff declaring, respectively, as follows:

(1) That the attorney has reviewed the facts of the case, consulted with at least one mental health practitioner who the attorney reasonably believes is knowledgeable of the relevant facts and issues involved in the particular action, and concluded on the basis of that review and consultation that there is reasonable and meritorious cause for the filing of the action.

(2) That the mental health practitioner consulted is licensed to practice and practices in this state and is not a party to the action, that the practitioner is not treating and has not treated the plaintiff, and that the practitioner has interviewed the plaintiff and is knowledgeable of the relevant facts and issues involved in the particular action, and has concluded, on the basis of the practitioner's knowledge of the facts and issues, that in the practitioner's professional opinion there is a reasonable basis to believe that the plaintiff had been subject to childhood sexual abuse.

(3) That the attorney was unable to obtain the consultation required by paragraph (1) because a statute of limitations would impair the action and that the certificates required by paragraphs (1) and (2) could not be obtained before the impairment of the action. If a certificate is executed pursuant to this paragraph, the certificates required by paragraphs (1) and (2) shall be filed within 60 days after filing the complaint.

(h) If certificates are required pursuant to subdivision (f), the attorney for the plaintiff shall execute a separate certificate of merit for each defendant named in the complaint.

(i) In any action subject to subdivision (f), a defendant shall not be served, and the duty to serve a defendant with process does not attach, until the court has reviewed the certificates of merit filed pursuant to subdivision (g) with respect to that defendant, and has found, in camera, based solely on those certificates of merit, that there is reasonable and meritorious cause for the filing of the action against that defendant. At that time, the duty to serve that defendant with process shall attach.

(j) A violation of this section may constitute unprofessional conduct and may be the grounds for discipline against the attorney.

~~(k) The failure to file certificates in accordance with this section shall be grounds for a demurrer pursuant to Section 430.10 or a motion to strike pursuant to Section 435.~~

(k) (1) The certificates required by this section shall be filed concurrently with the complaint.

(2) The court clerk shall not accept for filing a complaint that lacks the certificates required by this section.

(*l*) In any action subject to subdivision (f), a defendant shall be named by "Doe" designation in any pleadings or papers filed in the action until there has been a showing of corroborative fact as to the charging allegations against that defendant.

(m) At any time after the action is filed, the plaintiff may apply to the court for permission to amend the complaint to substitute the name of the defendant or defendants for the fictitious designation, as follows:

(1) The application shall be accompanied by a certificate of corroborative fact executed by the attorney for the plaintiff. The certificate shall declare that the attorney has discovered one or more facts corroborative of one or more of the charging allegations against a defendant or defendants, and shall set forth in clear and concise terms the nature and substance of the corroborative fact. If the corroborative fact is evidenced by the statement of a witness or the contents of a document, the certificate shall declare that the attorney has personal knowledge of the statement of the witness or of the contents of the document, and the identity and location of the witness or document shall be included in the certificate. For purposes of this section, a fact is corroborative of an allegation if it confirms or supports the allegation. The opinion of any mental health practitioner concerning the plaintiff shall not constitute a corroborative fact for purposes of this section.

(2) If the application to name a defendant is made before that defendant's appearance in the action, neither the application nor the certificate of corroborative fact by the attorney shall be served on the defendant or defendants, nor on any other party or their counsel of record.

(3) If the application to name a defendant is made after that defendant's appearance in the action, the application shall be served on all parties and proof of service provided to the court, but the certificate of corroborative fact by the attorney shall not be served on any party or their counsel of record.

(n) The court shall review the application and the certificate of corroborative fact in camera and, based solely on the certificate and any reasonable inferences to be drawn from the certificate,

shall, if one or more facts corroborative of one or more of the charging allegations against a defendant has been shown, order that the complaint may be amended to substitute the name of the defendant or defendants.

(o) The court shall keep under seal and confidential from the public and all parties to the litigation, other than the plaintiff, any and all certificates of corroborative fact filed pursuant to subdivision (m).

(p) Upon the favorable conclusion of the litigation with respect to any defendant for whom a certificate of merit was filed or for whom a certificate of merit should have been filed pursuant to this section, the court may, upon the motion of a party or upon the court's own motion, verify compliance with this section by requiring the attorney for the plaintiff who was required by subdivision (g) to execute the certificate to reveal the name, address, and telephone number of the person or persons consulted with pursuant to subdivision (g) that were relied upon by the attorney in preparation of the certificate of merit. The name, address, and telephone number shall be disclosed to the trial judge in camera and in the absence of the moving party. If the court finds there has been a failure to comply with this section, the court may order a party, a party's attorney, or both, to pay any reasonable expenses, including attorney's fees, incurred by the defendant for whom a certificate of merit should have been filed.

(q) Notwithstanding any other law, a claim for damages described in subparagraphs (A) to (C), inclusive, of paragraph (1) of subdivision (a) that has not been litigated to finality and that would otherwise be barred as of January 1, 2020, because the applicable statute of limitations, claim presentation deadline, or any other time limit had expired, is revived, and these claims may be commenced within three years of January 1, 2020. A plaintiff shall have the later of the three-year time period under this subdivision or the time period under subdivision (a) as amended by the act that added this subdivision.

(r) The changes made to the time period under subdivision (a) of Section 340.1 by Chapter 861 of the Statutes of 2019 apply to and revive any action commenced on or after the date of enactment of that act, and to any action filed before the date of enactment, and still pending on that date, including any action or causes of

action that would have been barred by the laws in effect before the date of enactment.

(s) Notwithstanding any other law, including Chapter 1 of Part 3 of Division 3.6 of Title 1 of the Government Code (commencing with Section 900) and Chapter 2 of Part 3 of Division 3.6 of Title 1 of the Government Code (commencing with Section 910), a claim for damages described in paragraphs (1) to (3), inclusive, of subdivision (a), is not required to be presented to any government entity prior to the commencement of an action.

~~SEC. 4.~~

SEC. 3. Section 340.12 is added to the Code of Civil Procedure, to read:

340.12. For actions filed against a public entity *or one of its employees or agents* pursuant to Section 340.11 on or after April 15, 2025, the following additional provisions apply:

(a) A plaintiff who files an action pursuant to subparagraph (B) or (C) of paragraph (1) of subdivision (a) of ~~section~~ *Section* 340.11, at the age of 40 years of age or older, shall prove that the public entity *or its employee or agent* acted with gross negligence to establish liability.

(b) The court shall consider the following factors when evaluating any motion for remittitur:

(1) The mission of the public entity to provide public services and how the damages may impact that entity's mission given its economic status.

(2) Whether the amount awarded is compensatory for the plaintiff's harm.

(3) Whether the amount awarded is acting as a substitute for or functional equivalent of punitive damages.

(4) The severity of the harm to the plaintiff.

(5) The egregiousness of the defendant's conduct.

(c) A court retains the ability to issue a remittitur that conditions affirmance of the judgment on the plaintiff's consent to a reduction to the judgment.

(d) A court may structure any damages awarded against a public entity to be paid over time.

~~SEC. 5.~~

SEC. 4. Section 341.95 is added to the Code of Civil Procedure, to read:

341.95. (a) (1) Notwithstanding any other provision of law, including subdivisions (a) and (b) of Section 340.1, any civil action filed against the County of Los Angeles, arising out of conduct that would constitute childhood sexual assault, as defined in Section 340.1, and that allegedly occurred at, by, or under the supervision of the MacLaren Children's Center (also known as MacLaren Hall) in Los Angeles County or any juvenile probation facility or detention center operated by the Los Angeles County Probation Department that was closed on or before January 1, 2020, shall be commenced on or before January 1, 2026.

(2) Any civil action described in paragraph (1) that is not filed on or before January 1, 2026, is barred.

(b) This section applies to all claims described in subdivision (a) arising from conduct occurring at any time prior to the effective date of this section, but does not apply to claims for which a final settlement agreement has been reached prior to the effective date of this section.

(c) With the exception of the limitations period specified in subdivision (a), civil actions described in subdivision (a) are subject to the procedural requirements set forth in Section 340.1.

(d) For a claim brought pursuant to subdivision (a) by a claimant 40 years of age or older, settlement funds shall not be disbursed to that claimant, unless and until the claimant has complied with the certificate of merit requirements of Section 340.1.

(1) If the claimant was 40 years of age or older at the time of the filing of their action, the claimant or their attorney shall submit proof to a court-appointed special master, as agreed to by all parties, to oversee the disbursement of such funds, confirming that a certificate of merit has been filed in compliance with Section 340.1, including the name, qualifications, and opinion of the licensed mental health practitioner as required by Section 340.1.

(2) The special master shall not release, transfer, or otherwise make available any funds pursuant to a settlement agreement until all of the requirements of this section are satisfied.

~~SEC. 6.~~

SEC. 5. Section 864 of the Code of Civil Procedure is amended to read:

864. (a) For purposes of this chapter, bonds, warrants, contracts, obligations, and evidences of indebtedness shall be deemed to be in existence upon their authorization. Bonds and

warrants shall be deemed authorized as of the date of adoption by the governing body of the public agency of a resolution or ordinance authorizing their issuance, and contracts shall be deemed authorized as of the date of adoption by the governing body of the public agency of a resolution or ordinance approving the contract and authorizing its execution.

~~(b) For purposes of determining the validity pursuant to this chapter of any issuance or proposed issuance of refunding bonds pursuant to Articles 10 (commencing with Section 53570) and 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code, or any other law, to refund one or more tort action judgments entered against one or more public agencies by one or more California state or federal courts, and the legality and validity of all proceedings taken or proposed to be taken in a resolution or ordinance adopted by the public agency for the authorization, issuance, sale, and delivery of the bonds, for entering into any credit reimbursement or other agreement in connection therewith, for the use of the proceeds of the bonds, and for the payment of principal and interest on the bonds, each tort action judgment and the related refunding bonds, credit reimbursement or other agreement shall be deemed to be in existence as of the date of adoption by the governing body of the public agency of such resolution or ordinance, without regard to when the tort actions are filed or final judgments therein are entered by the court, at one time or from time to time, if all of the following conditions are satisfied:~~

~~(1) The judgments to be covered by the action under this chapter are entered by the applicable court or courts not later than a final date set forth in such resolution or ordinance.~~

~~(2) The public agency agrees in such resolution or ordinance that all judgments refunded with the proceeds of the bonds are final and not subject to appeal or further appeal, as applicable.~~

~~(3) The aggregate amount of judgments to be covered by the action brought under this chapter shall not exceed an amount set forth in such resolution or ordinance.~~

~~(4) No judgment will be refunded before it is entered by the court against the public agency.~~

(b) (1) (A) Each tort action judgment or settlement agreement and the related bonds, bond related documents, credit reimbursement, or other agreement shall be deemed to be in

existence as of the date of adoption by a public agency's governing body of such resolution or ordinance, without regard to any of the following:

(i) When a party files a tort action or the court enters a final judgment therein.

(ii) When the public agency enters into a settlement agreement.

(iii) Whether the effectiveness of a settlement agreement entered into by the public agency is contingent on any condition precedent, including, but not limited to, a determination on the validity of bonds pursuant to this chapter.

(B) Subparagraph (A) applies when determining either of the following:

(i) The validity pursuant to this chapter of any issuance or proposed issuance of refunding bonds pursuant to Articles 10 (commencing with Section 53570) and 11 (commencing with Section 53580) of Chapter 3 of Part 1 of Division 2 of Title 5 of the Government Code , or any other law, to finance or refinance one or more tort action judgment or settlement.

(ii) The validity of any proceeding taken or proposed to be taken in a resolution or ordinance adopted by a public agency's governing body for the authorization, issuance, sale, and delivery of the bonds, including any contracts or agreements providing for the issuance, security or payment of the bonds, or the use of proceeds of the bonds, and any credit reimbursement or other agreement entered into or to be entered into in connection therewith.

(C) Notwithstanding subparagraph (A), bond proceeds validated pursuant to this chapter shall not be used to fund a judgment or settlement agreement before the court orders the judgment against the public agency or the public agency enters into the settlement agreement and it is effective, as applicable.

(2) This subdivision applies to actions brought pursuant to this chapter to determine the validity of any issuance or proposed issuance of bonds to finance or refinance any of the following:

(A) One or more tort judgments that have not yet been entered against the public agency by the applicable court.

(B) One or more tort settlement agreements that have not yet been entered into by the public agency.

(C) One or more tort settlement agreements entered into by the public agency whose effectiveness is contingent on any condition precedent.

(3) For purposes of this subdivision, "tort action judgment or settlement" includes both of the following:

(A) A judgment entered against a public agency by one or more state or federal courts

(B) A tort action settlement agreement entered into by a public agency.

~~SEC. 7.~~

SEC. 6. Section 1038 of the Code of Civil Procedure is amended to read:

1038. (a) In any civil proceeding under the Government Claims Act (Division 3.6 (commencing with Section 810) of Title 1 of the Government Code) or for express or implied indemnity or for contribution in any civil action, the court, upon motion of the defendant or cross-defendant, shall, at the time of the granting of any objection by demurrer, summary judgment, *judgment on the pleadings,* motion for directed verdict, motion for judgment under Section 631.8, or any nonsuit dismissing the moving party other than the plaintiff, petitioner, cross-complainant, or intervenor, or at a later time set forth by rule of the Judicial Council adopted under Section 1034, determine whether or not the plaintiff, petitioner, cross-complainant, or intervenor brought the proceeding with reasonable cause and in the good faith belief that there was a justifiable controversy under the facts and law which warranted the filing of the complaint, petition, cross-complaint, or complaint or answer in intervention. If the court should determine that the proceeding was not brought in good faith and with reasonable cause, an additional issue shall be decided as to the defense costs reasonably and necessarily incurred by the party or parties opposing the proceeding, and the court shall render judgment in favor of that party *or their attorneys* in the amount of all reasonable and necessary defense costs, in addition to those costs normally awarded to the prevailing party. An award of defense costs under this section shall not be made except on notice contained in a party's papers and an opportunity to be heard. *An attorney against whom defense costs are awarded under this section shall not charge the client for those defense costs as a litigation cost or expense.*

(b) "Defense costs," as used in this section, shall include reasonable attorney's fees, expert witness fees, the expense of services of experts, advisers, and consultants in defense of the proceeding, and where reasonably and necessarily incurred in defending the proceeding.

(c) This section shall be applicable only on motion made before the discharge of the jury or entry of judgment, and any party requesting the relief pursuant to this section waives any right to seek damages for malicious prosecution. Failure to make the motion shall not be deemed a waiver of the right to pursue a malicious prosecution action.

(d) This section shall only apply if the defendant or cross-defendant has made an objection by demurrer, motion for summary judgment, *motion for judgment on the pleadings*, judgment under Section 631.8, directed verdict, or nonsuit and the demurrer *is sustained* or motion is granted.

~~SEC. 8.~~

SEC. 7. Chapter 5 (commencing with Section 14560) is added to Part 9 of Division 1 of Title 1 of the Education Code, to read:

Chapter 5. Election to Participate in Intercept

14560. For purposes of this section, the following definitions apply:

(a) "Participating party" means a school district, county office of education, community college district, or educational joint powers authority.

(b) "Public debt obligation" means a debt incurred by a participating party for any reason, including tort liability, and includes, but is not limited to, a general obligation bond, lease financing, tax and revenue anticipation note, and bond anticipation note.

14561. (a) Notwithstanding any other law, a participating party, in connection with securing financing, refinancing, or refunding of a public debt obligation may, in accordance with this section, elect to provide for funding, in whole or in part, payments on the public debt obligation.

(b) To participate under this section, the participating party shall do all of the following:

(1) Elect to participate in a state intercept or local intercept, or both, by an action of its governing board taken in compliance with the rules of that governing board. For a local intercept, the participating party shall send to the county treasurer, or other appropriate county fiscal officer, a request for the county to participate. A county is not required to participate. A county may agree to participate as evidenced by an agreement among the participating party or parties, the county, and the issuer of the public debt obligation.

(2) Provide written notice to the Controller and the Superintendent, with respect to a state intercept, or to the county treasurer or other appropriate county fiscal officer, with respect to a local intercept, no later than the date of the issuance of the public debt obligation or 60 days before the next payment, whichever is later, of all of the following:

(A) Its election to participate.

(B) A schedule of the payments subject to that election.

(C) The payee or payees of those payments, or the trustee or agent on their behalf to receive those payments.

(D) (i) Payment delivery instructions, which may be by wire transfer or other method approved by the Controller or county treasurer or other appropriate county fiscal officer, as applicable.

(ii) If the method of payment delivery is wire transfer, the participating party shall complete and submit the appropriate authorization form as prescribed by the Controller or the county treasurer or other appropriate county fiscal officer, as applicable.

(c) The participating party may amend, supplement, or restate the notice required pursuant to paragraph (2) of subdivision (b) for any reason, including, but not necessarily limited to, providing for new or increased payments. The participating party shall certify in the notice and in any amendment, supplement, or restatement of the notice that each and every payment reflected in the schedule is a payment described in subdivision (a) and the amounts scheduled do not exceed the actual or reasonably estimated payment obligations to be funded pursuant to this section. The participating party shall also represent in the notice that it is not submitting the notice for the purpose of accelerating a participating party's receipt of its apportionments. This section does not prohibit transfer by the recipient of an apportionment under this section to the participating party submitting the notice of the excess

apportionment above the amount needed to fund actual payments where the excess resulted from erroneous estimation of scheduled payments or otherwise.

(d) Upon receipt of the notice required by paragraph (2) of subdivision (b), the Controller shall make an apportionment to the indicated recipient on the date, or during the period, shown in the schedule in accordance with all of the following:

(1) If the participating party requests transfers in full as scheduled, in the amount of the scheduled transfer or whatever lesser amount is available from the sources described in subdivision (e).

(2) If the participating party does not request transfers in full as scheduled, in the amount of the anticipated deficiency for the purpose of making the required payment indicated in a written request of the participating party to the Controller and in the amount of the actual shortfall in payment indicated in a written request of the recipient or the participating party to the Controller or whatever lesser amount is available from the sources described in subdivision (e).

(3) To the extent funds available for an apportionment are insufficient to pay the amount set forth in a schedule in any period, the Controller shall, if and as requested in the notice, reschedule the payment of all or a portion of the deficiency to a subsequent period.

(4) In making apportionments under this section, the Controller may rely conclusively and without liability on any notice or request delivered under this section. The Controller may make, but is not obligated to make, apportionments not reflected on a notice or on an amended, supplemented, or restated notice delivered under this section that the Controller receives less than 20 days before when the apportionment would otherwise be required.

(e) The Controller shall make an apportionment under this section only from moneys designated for apportionment to the participating party delivering the notice, and only from one or more of the following:

(1) Any funding apportioned by the state for purposes of the local control funding formula pursuant to Section 42238.02, as implemented by Section 42238.03, or state categorical or grant programs, to a school district without regard to the specific funding source of the apportionment.

(2) Any funding apportioned by the state for purposes of the local control funding formula pursuant to Section 2574 or state categorical or grant programs, to a county superintendent of schools without regard to the specific funding source of the apportionment.

(3) Any funding apportioned by the state for purposes of community college apportionments pursuant to Sections 84750.4 and 84750.5, or state categorical or grant programs, to a community college district without regard to the specific funding source of the apportionment.

(4) Any funding apportioned by the state to an educational joint powers authority without regard to the specific funding source of the apportionment.

(f) Upon receipt of the notice required by paragraph (2) of subdivision (b), a county treasurer or other appropriate county fiscal officer shall make an apportionment or revenue transfer to the indicated recipient on the date, or during the period, shown in the schedule in accordance with all of the following:

(1) If the participating party requests transfers in full as scheduled, in the amount of the scheduled transfer or whatever lesser amount is available from the sources described in subdivision (g).

(2) If the participating party does not request transfers in full as scheduled, in the amount of the anticipated deficiency for the purpose of making the required payment indicated in a written request of the participating party to the county treasurer or other appropriate county fiscal officer and in the amount of the actual shortfall in payment indicated in a written request of the recipient or the participating party to the county treasurer or other appropriate county fiscal officer or whatever lesser amount is available from the sources described in subdivision (g).

(3) To the extent funds available for an apportionment or revenue transfer are insufficient to pay the amount set forth in a schedule in any period, the county treasurer or other appropriate county fiscal officer shall, if and as requested in the notice, reschedule the payment of all or a portion of the deficiency to a subsequent period.

(4) In making apportionments under this section, the county treasurer or other appropriate county fiscal officer may rely conclusively and without liability on any notice or request delivered under this section. The county treasurer or other appropriate county

fiscal officer may make, but is not obligated to make, apportionments or revenue transfers not reflected on a notice or on an amended, supplemented, or restated notice delivered under this section that the county treasurer or other appropriate county fiscal officer receives less than 20 days before when the apportionment would otherwise be required.

(g) The county treasurer or other appropriate county fiscal officer shall make an apportionment or revenue transfer under this section only from moneys designated for apportionment to the participating party delivering the notice, and only from one or more of the following:

(1) Any funding apportioned or administered by a county for purposes of the local control funding formula pursuant to Section 42238.02, as implemented by Section 42238.03, to a school district without regard to the specific funding source of the apportionment.

(2) Any funding apportioned or administered by a county for purposes of the local control funding formula pursuant to Section 2574 to a county superintendent of schools without regard to the specific funding source of the apportionment.

(3) Any funding apportioned or administered by a county for purposes of community college apportionments pursuant to Sections 84750.4 and 84750.5 to a community college district without regard to the specific funding source of the apportionment.

(4) Any funding apportioned or administered by a county to an educational joint powers authority without regard to the specific funding source of the apportionment.

(h) (1) The amount apportioned for a participating party pursuant to this section shall be deemed to be an allocation to the participating party, and shall be included in the computation of allocation, limit, entitlement, or apportionment for the participating party.

(2) The participating party and its creditors do not have a claim to funds apportioned or anticipated to be apportioned by the Controller or the county treasurer or appropriate county fiscal officer, as applicable, pursuant to this section.

(i) This section does not make the State of California liable for any payments within the meaning of Section 1 of Article XVI of the California Constitution.

(j) A school district or educational joint powers authority that has a qualified or negative certification pursuant to Section 42131,

or a county office of education that has a qualified or negative certification pursuant to Section 1240, may only participate under this section to intercept payments for indebtedness for which the repayment is determined to be probable pursuant to Section 42133.

(k) This section does not obligate the State of California to make available the sources of apportionment under subdivision (e) or a county to make available the sources of apportionment under subdivision (g) in any amount or at any time or, except as provided in this section, to fund any payment described in this section. This subdivision is intended solely to clarify existing law.

~~SEC. 9.~~

SEC. 8. Section 41320 of the Education Code is amended to read:

41320. As a condition to any emergency apportionment to be made pursuant to Section 41320.2, the following requirements shall be met:

(a) The school district requesting the apportionment shall submit to the county superintendent of schools having jurisdiction over the school district a report issued by an independent auditor approved by the county superintendent of schools on the financial conditions and budgetary controls of the school district, a written management review conducted by a qualified management consultant approved by the county superintendent of schools, and a fiscal plan adopted by the governing board to resolve the financial problems of the school district.

(b) The county superintendent of schools shall review, and provide written comment on, the independent auditor's report, the management review, and the school district plan. That written comment shall include the county superintendent's approval or disapproval of the school district plan. In the event the county superintendent disapproves the plan, the governing board shall revise the school district plan to respond to the concerns expressed by the county superintendent.

(c) Upon their approval of the school district plan, the county superintendent of schools shall submit copies of the report, review, plan, and written comments specified in subdivision (b) to the Superintendent, the Joint Legislative Audit Committee, the Joint Legislative Budget Committee, the Director of Finance, the president of the state board or their designee, and the Controller.

(d) The school district receiving the apportionment shall be eligible for assistance from the California Collaborative for Educational Excellence pursuant to Section 52074.

(e) The county superintendent of schools, with the concurrence of the Superintendent, shall certify to the Director of Finance that the action taken to correct the financial problems of the school district is realistic and will result in placing the school district on a sound financial basis.

(f) In consultation with the county superintendent of schools and the County Office Fiscal Crisis and Management Assistance Team, the school district shall develop a schedule to repay the emergency loan, including any lease financing pursuant to Article 2.7 (commencing with Section 41329.50), and submit it to the county superintendent of schools. The county superintendent of schools shall review and comment on the repayment schedule and submit it to the Department of Finance for approval or disapproval. Upon the approval of the repayment schedule, and of the other reports, reviews, plans, and the appointment of the trustee required by this article, the Superintendent shall request the Controller to disburse the proceeds of the emergency loan to the school district.

(g) The school district requesting the apportionment shall reimburse the county superintendent of schools for the costs incurred by the superintendent pursuant to this section.

~~SEC. 10.~~

SEC. 9. Section 41329.52 of the Education Code is amended to read:

41329.52. (a) A school district may receive a two-part financing designed to provide an advance of apportionments owed to the district from the State School Fund and the Education Protection Account.

(b) The initial emergency apportionment shall be an interim loan from the General Fund to the school district. General Fund money shall not be advanced to a school district until that district agrees to obtain a lease financing as described in subdivision (c) and the bank adopts a reimbursement resolution governing the lease financing. The interim loan shall be repaid in full, with interest, from the proceeds of the lease financing pursuant to subdivision (c) at a time mutually agreed upon between the Department of Finance and the bank. The interest rate on the interim loan shall be the rate earned by moneys in the Pooled

Money Investment Account as of the date of the initial disbursement of emergency apportionments to the school district.

(c) The school district shall enter into a lease financing with the bank for the purpose of financing the emergency apportionment, including a repayment to the General Fund of the amount advanced pursuant to subdivision (b). In addition to the emergency apportionment, the lease financing may include funds necessary for reserves, capitalized interest, credit enhancements, and costs of issuance. The bank shall issue bonds for that purpose pursuant to the powers granted pursuant to the Bergeson-Peace Infrastructure and Economic Development Bank Act as set forth in Division 1 (commencing with Section 63000) of Title 6.7 of the Government Code. The term of the lease shall not exceed 30 years, except that if at the end of the lease term any rent payable is not fully paid, or if the rent payable has been abated, the term of the lease shall be extended for a period not to exceed 10 years. The determination of the term of the lease shall be made by the Department of Finance, in consultation with the school district, the county superintendent of schools, the Superintendent, and the County Office Fiscal Crisis and Management Assistance Team. The determination shall take into consideration the amount of the lease, the school district's realistic ability to meet the annual repayment obligation, the school district's educational program and service needs, and the conditions established in Section 41320 and subdivision (a) of Section 41326.

~~SEC. 11.~~

SEC. 10. Section 41329.53 of the Education Code is amended to read:

41329.53. (a) As an alternative to the lease financing pursuant to Section 41329.52, a school district may receive an emergency apportionment from the General Fund designed to provide an advance of apportionments owed to the district from the State School Fund and the Education Protection Account. The calculation of the amount of the apportionment, including implied costs, and the interest rate shall be calculated pursuant to subdivision (c). Each year the Superintendent shall withhold from the apportionments to be made to the school district from the State School Fund and the Education Protection Account an amount equal to the emergency apportionment repayment that becomes due in the year.

(b) The emergency apportionment shall be repaid within 30 years. The determination of the term for repayment of the emergency apportionment shall be made by the Department of Finance, in consultation with the school district, the county superintendent of schools, the Superintendent, and the County Office Fiscal Crisis and Management Assistance Team. The determination shall take into consideration the amount of the emergency apportionment, the school district's realistic ability to meet the annual repayment obligation, the school district's educational program and service needs, and the conditions established in Section 41320 and subdivision (a) of Section 41326.

(c) The determination by statute as to whether the emergency apportionment shall take the form of lease financing pursuant to Section 41329.52 or an emergency apportionment from the General Fund pursuant to this section shall be based upon the availability of funds within the General Fund and not on any cost differential between the two financing mechanisms. To ensure that the two alternatives are cost neutral, if the statute does not authorize a lease financing, the bank shall commission a cost study from financial advisers under contract with the bank to determine the interest rate, costs of issuance, and if it is more cost effective, credit enhancement costs likely if the financing was a lease financing rather than an emergency apportionment from the General Fund. These implied lease costs shall be included as the fixed interest rate on the repayment of the emergency apportionment to the General Fund, repayable over the term for repayment of the emergency apportionment.

~~SEC. 12. Section 977.8 of the Government Code is amended to read:~~

~~977.8. (a) An action to determine the validity of bonds may be brought pursuant to Chapter 9 (commencing with Section 860) of Title 10 of Part 2 of the Code of Civil Procedure.~~

~~(b) A local public agency may initiate an action pursuant to subdivision (a) before a judgment in a tort action against the local taxing entity necessitating the bonded indebtedness has been entered.~~

~~(c) In an action pursuant to subdivision (a) there shall be a rebuttable presumption of validity of the bonds.~~

~~SEC. 13.~~

SEC. 11. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for certain costs that may be incurred by a local agency or school district because, in that regard, this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

However, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.

O