
SENATE COMMITTEE ON EDUCATION

Senator Connie Leyva, Chair

2021 - 2022 Regular

Bill No: AB 1491
Author: McCarty
Version: May 18, 2021
Urgency: No
Consultant: Ian Johnson

Hearing Date: June 1, 2022

Fiscal: Yes

Subject: Adult education: consortia: carryover of allocated funds.

SUMMARY

This bill prohibits an adult education consortium member or consortium from carrying over more than 20 percent of its allocation from the prior fiscal year, as specified.

BACKGROUND

Existing law:

- 1) Establishes the California Adult Education Program (CAEP) and authorizes the Chancellor and the SPI to administer the program.
- 2) Authorizes the Chancellor and the SPI, with advice from the executive director of the State Board of Education (SBE), to divide the state into adult education regions based on specified factors and approve one adult consortium for each adult education region.
- 3) Authorizes the Chancellor and the SPI, with advice from the SBE, to approve the rules and procedures for each consortium regarding membership, funding and use of funds, governing structure, and decision making procedures, as defined. Permits any community college district, school district, county office of education, or any combination residing in the adult education region to be a member of the adult education consortium.
- 4) Requires, beginning in the 2019-2020 fiscal year, each member of the consortia to have a consortium approved three-year adult education plan that addresses a three-year fiscal planning cycle and meets specified requirements regarding providing adult educational services to meet the region's adult education needs. Requires consortium members to have the plan in order to receive funds allocated for adult education by the state and requires the plan to be updated at least once each year.

ANALYSIS

This bill:

- 1) Defines carryover as the annual amount of unspent adult education funds expressed compared as a percentage of the current year's fiscal allocation.

- 2) Adds to the reasons a consortium may reduce funds allocated to a consortia member in a year when the Superintendent of Public Instruction (SPI) and the Chancellor of the California Community Colleges (Chancellor) provides less funding to the consortium than in the previous year, the following: if a member of the consortia has in excess unspent funds above the agreed upon percentage of the current fiscal year's allocation as determined by the members of the consortium.
- 3) Requires that in a fiscal year in which the SPI and the Chancellor allocate less funds to the consortium than previously allocated, the following:
 - a) A consortia member is not permitted to have a carryover of more than 20 percent for more than two fiscal years, and;
 - b) By July 1, 2023 members of the consortium are permitted to vote on whether to reduce the member of the consortium's allocation, if the member has a carryover of 20 percent or more, and permits each member of the consortia to have one vote.
- 4) Requires each consortium member by September 1 of each fiscal year to certify its expenditures for the previous fiscal year.
- 5) Except as provided above (in 2 and 3), by July 1, 2023, requires the following with respect to consortium members:
 - a) No more than 20 percent of a member's annual allocation may be carried over into the next fiscal year unless a written plan for the expenditure of the funds, which is aligned with the consortium's adult education plan, is approved by the members of the consortium by October 31, and permits the vote to be in accordance with the governance process of the consortium;
 - b) Requires a member's plan to exceed 20 percent carryover from the previous fiscal year to be submitted to the consortium by September 30 and the plan only be effective if the consortium members approve the plan; and
 - c) Permits a consortium to deem a member ineffective and enables the consortium to reduce the member's annual allocation by the carryover amount above 20 percent if a consortium member has a carryover above 20 percent and a consortium member does not have an expenditure plan approved by the membership of the consortium.
 - d) Specifies that in a fiscal year during which a state or local emergency declaration is made, a member whose carryover exceeds 20 percent shall be provided an additional year following the end of the emergency declaration to comply with its plan for expenditure.
- 6) Requires each consortium, by September 30 of each fiscal year, to certify its expenditures for the previous fiscal year.

- 7) Stipulates that, by July 1, 2023, no consortium may have an annual carryover of more than 20 percent of its annual allocation and requires that a consortium that does have a carryover of more than 20 percent of its annual allocation to have its allocations reduced in the next fiscal year by the amount they exceed 20 percent.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “Each year, the Legislature provides funding to adult education programs with the expectation that this funding is going to serve adult education students in that budget year. Instead, we find that some adult education providers carryover as much as 100% of their yearly allocation, while other programs run out of funding and struggle to meet the need within their communities. AB 1491 establishes clear criteria, accountability, and a cap on funding carryover (with appropriate exceptions) to ensure that the limited dollars allocated for adult education are used in a timely manner to support growing student needs.”
- 2) ***Adult education system in California.*** The primary purpose of adult education is to provide adults with the precollegiate knowledge and skills they need to participate in civic life and the workforce. Toward this end, most adult education course offerings are in three instructional areas: basic math and English, English as a second language, and career technical education (CTE). For CTE, adult education providers tend to offer programs that are one year or less in length.

Community colleges and school districts (through their adult schools) are the primary providers of adult education. In addition, various other entities provide adult education, including community-based organizations, libraries, and jails. Due to longstanding concerns with a lack of coordination among providers, the 2013-14 budget package restructured California’s adult education system by creating the CAEP and the adult education regional consortia, requiring each provider to become a member of a consortium with other providers to create an adult education plan to meet the civic and basic skill needs of adults in a specific region. Consortia membership is limited to LEAs, community college districts, county offices of education, and joint powers agencies.

- 3) ***How are adult education consortia funded?*** AB 104 (Committee on Budget), Chapter 13, Statutes of 2015 created the Adult Education Block Grant, which provides \$500 million in ongoing Proposition 98 funds to the consortia to serve the educational needs of adults in their region according to the consortium regional education plans. The Adult Education Block Grant has since been renamed the CAEP and has received two costs of living increases in subsequent fiscal years for a total of about \$538.5 million annually. The California Community Colleges (CCC) and the California Department of Education (CDE) disperse funding to regional consortia based on three factors:
 - a) The previous year’s allocation to each consortium;
 - b) Need for additional funding to meet the regional consortium’s adult education needs; and,

- c) Whether the consortium has effectively met the need.

If a consortium receives more funding in a given year than the previous fiscal year, each consortium member will receive at least the same amount of funding as they received in the previous year. If a consortium receives less funding in a given fiscal year, the consortium members will also receive less funding. The consortium determines the total percentage of funding loss and deducts the same percentage from each consortium member's funding allocation equal to the total percentage of total funding loss. Beginning in 2019-2020, each consortium is required to provide a member approved three year adult education plan that aligns with a three year fiscal plan to meet the educational needs of the region. The plan is to be updated each year with information regarding the educational services provided and the adult education needs of the region.

- 4) ***Is there a need to limit carryover funds?*** This bill would require members of a local consortium to carryover no more than 20 percent of their annual allocation unless they have a plan that has been approved by the local consortium. Local consortia within the CAEP are self-governed and have the ability to allocate funding to individual members within certain parameters. Proponents argue that the funds appropriated by the State should be spent in the year they are allocated given the tremendous need for adult education services and the limited funding available. Opponents argue that any consideration of limits on carryover should be considered within a three-year timeframe given the statutorily required three-year plan.
- 5) ***Arguments in support.*** The California Council for Adult Education and the California Adult Education Administrators Association state, "While annual carry-over may be planned for use for upcoming expenditures and some carryover may be a result of funding distribution delays at the state level, in some areas of the state, there are large – and growing – amounts of carry-over without a consortium-approved plan for expenditure of those funds. This growing carryover within consortia and specifically among individual members is resulting in funding not being used to serve students in the budget year as the needs grow.

"Given the overall shortage of funding to serve adult education students and the imperative to address critical learning needs of so many marginalized and disadvantaged adults and their families in California, local consortia need a mechanism for increased accountability of use of funds each year. Having any member carrying over a significant portion of the annual allocation creates undue tension within consortia as so many members struggle to meet unmet need within their communities, a particularly problematic issue for K12 Adult Schools who do not have access to separate apportionment. AB 1491 would establish clear criteria, accountability and a maximum threshold (proposed at 15%) for consortia members to carryover from year to year so as to ensure the maximum amount is used to support growing student needs in the budget year."

- 6) ***Arguments in opposition.*** The Association of Community and Continuing Education states, "We have serious concerns about AB 1491, as State-level guidance has been focused on a 3-year plan (in Education Code) and 3-year

fiscal cycle. A change in the fiscal cycle will result in additional resources to change to an annual planning cycle, and staff time to understand how this will impact the current 3-year plan. With a minimum amount of carry-over allowed, it could lead to unintended consequences related to spending habits at the expense of the program and students we serve. Some districts, both community colleges and K-12 schools, will have cash flow issues which will result in borrowing money from the district and using CAEP funds to pay interest which is an inefficient way to use state resources. In addition, with the cash flow issues, teachers and faculty could be laid off or not scheduled and programs will shut down until the cash flow issue is resolved and funds are allocated. The bill's language also calls for consortia as a whole, to lose funding if they are over the 15% threshold. This could result in millions of dollars leaving the region to serve adult learners, and going back to the State general fund, leaving the most at-risk and under-represented students without access to adult education. If community colleges are not given the time to allocate funds, some rural colleges or colleges with limited noncredit programming, might reconsider continued participation in the regional consortium structure thereby weakening the intent of the program statewide."

- 7) **Committee Amendments.** As currently drafted, this bill imposes an arbitrary 20 percent carryover cap for individual consortium members. Imposing such a cap fails to recognize that: (1) each consortium has a unique membership and runs different programs with varying resources, goals, and challenges, and (2) the adult education program model was designed to allow local consortium to plan, operate, and self-govern their programs in a way that best meets their local needs.

Existing law allows a consortium to make a finding that a member is "consistently ineffective in providing services that address the needs identified in the adult education plan..." and then reduce that member's allocation for redistribution among all the other members. However, statute is silent on how a consortium can make such a finding, resulting in consortia being advised that a unanimous vote is required. That means currently an ineffective member of a consortium can vote down any attempt at having their allocation reduced.

If it is the desire of the Committee to pass this measure, **staff recommends** amending the bill as follows:

- a) Strike the contents of the bill.
- b) Amend Education Code Section (ECS) 84901 by defining "carryover" to mean the amount of unspent adult education program funds from the prior fiscal year, certified on or before September 1 of the current fiscal year, expressed as a percentage of the prior fiscal year's allocation.
- c) Amend ECS 84914 by clarifying that a consortium's existing authority to make a finding that a member has been consistently ineffective in providing services that address the needs identified in the adult education plan:

- i) May be based on that member having excessive carryover for at least two consecutive fiscal years,
 - ii) Shall require a majority vote of the consortium's membership,
 - iii) Authorizes the consortium to reduce the ineffective member's allocation by no more than the amount of the member's carryover.
- d) Amend ECS 84914 to require a consortium with carryover from one or more prior fiscal years exceeding 20 percent to submit a written expenditure plan, including future corrective actions to reduce the consortium's carryover to below 20 percent, to the chancellor and the Superintendent.
- e) Amend ECS 84914 to specify that, for each fiscal year that a consortium has carryover of more than 20 percent, the chancellor and the Superintendent shall prescribe and assign technical assistance to that consortium to ensure that adequate adult education services are provided to the region in proportion to the region's available funding. Clarify that the chancellor and the Superintendent shall ensure that the consortium funding remains dedicated to that consortium's region.

SUPPORT

California Adult Education Administrators Association (co-sponsor)
California Council for Adult Education (co-sponsor)
Association of California School Administrators
California Federation of Teacher
Los Angeles Unified School District

OPPOSITION

Association of Community and Continuing Education
Miracosta Community College District
Mt. San Antonio College
North Orange County Community College District
Rancho Santiago Community College District
San Diego College of Continuing Education
San Diego Community College District
South Orange County Community College District

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