

AMENDED IN SENATE JULY 18, 2001

AMENDED IN SENATE JULY 5, 2001

AMENDED IN ASSEMBLY MAY 31, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 306

Introduced by Assembly Member Frommer

(Principal coauthor: Senator Polanco)

(Coauthors: Assembly Members Diaz, Firebaugh, Florez, Havice, Jackson, Koretz, Leach, Lowenthal, Robert Pacheco, Salinas, Steinberg, Washington, and Wesson)

(Coauthors: Senators Alpert, Burton, Figueroa, Kuehl, Perata, and Romero)

February 16, 2001

An act to amend Sections 56352 and 60061 of, and to add Section 56351.5 to, the Education Code, relating to special education, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 306, as amended, Frommer. Special education.

(1) Existing law requires educational agencies to develop an individualized education program for pupils with exceptional needs, including, but not limited to, a functionally blind pupil, as defined, or a pupil with low vision, as defined, and requires that a functional vision assessment be conducted to determine the appropriate reading medium for the pupil and an assessment of braille skills.

This bill would require instruction in braille provided to a functionally blind pupil to be sufficient to enable the pupil to

communicate effectively and efficiently with the same level of language proficiency expected of the child's peers of comparable ability and grade level who have no vision impairment. By establishing this additional requirement for local educational agencies, the bill would impose a state-mandated local program.

(2) Existing law requires braille instruction to be provided by a teacher credentialed to teach pupils who are functionally blind. Existing related regulations authorize holders of certain credentials to teach children with disabilities in a special day class in which the primary disability is visual impairment including blindness.

This bill would authorize a school district, special education local plan area, or county office of education to reinforce braille instruction using a braille instructional aide who meets certain criteria and is under the supervision of a teacher who holds an appropriate credential, as determined by the Commission on Teacher Credentialing, to teach pupils who are functionally blind or visually impaired.

(3) Existing law provides for the adoption and selection of quality instructional materials for use in elementary and secondary schools, and imposes requirements upon publishers and manufacturers, including, but not limited, to the requirement that they provide to the state, at no cost, the right to transcribe, reproduce, and distribute the material in braille, large print, recordings, or other accessible media for use by pupils with visual disabilities, including computer diskette versions of print materials if made available to any other state, and those corrections and revisions as may be necessary.

This bill would delete the provision that requires a publisher or manufacturer to provide computer diskette versions of print material if made available to any other state, and instead, would require computer files or electronic versions of each state-adopted literary title to be provided within 30 days of request by the state, and computer files or other electronic versions of nonliterary titles, including science and math, to be provided when technology is available to convert those materials. ~~The bill would require the state to certify to the publisher or manufacturer, among other things, that electronic or printed instructional materials provided to the state will be used solely for pupils who have disabilities that prevent the use of standard instructional materials.~~

This bill would appropriate \$227,000 for allocation to at least 15 community college districts throughout the state to enable each district to offer at least one additional course to train individuals in braille



instruction. The funds appropriated by this bill would be applied toward the minimum funding requirements for school districts and community college districts imposed by Section 8 of Article XVI of the California Constitution.

(4) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

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

1 SECTION 1. Section 56351.5 is added to the Education Code,
2 to read:

3 56351.5. (a) Instruction in braille provided to a functionally
4 blind pupil shall be of sufficient quality and duration to enable the
5 pupil to communicate effectively and efficiently with the same
6 level of language proficiency expected of the child’s peers of
7 comparable ability and grade level who have no vision
8 impairment.

9 (b) (1) A school district, special education local plan area, or
10 county office of education may reinforce braille instruction using
11 a braille instructional aide who meets the criteria set forth in
12 paragraph (2) under the supervision of a teacher who holds an
13 appropriate credential, as determined by the Commission on
14 Teacher Credentialing, to teach pupils who are functionally blind
15 or visually impaired. This instruction shall be in accordance with
16 the pupil’s individualized education program.

17 (2) For purposes of this section, a braille instructional aide shall
18 demonstrate to the supervising teacher that he or she is fluent in
19 reading and writing grade 2 braille and possesses basic knowledge
20 of the rules of braille construction.



1 (c) Any school district, special education local plan area, or
 2 county office of education that employs a braille instructional aide
 3 shall provide the aide with information regarding teaching
 4 credential programs, including the Pre-Internship Teaching
 5 Program (Article 5.6 (commencing with Section 44305) of
 6 Chapter 2 of Part 25), the Wildman-Keeley-Solis Exemplary
 7 Teacher Training Act of 1997 (Article 12 (commencing with
 8 Section 44390) of Chapter 2 of Part 25), and the Teacher Education
 9 Internship Act of 1967 (Article 3 (commencing with Section
 10 44450) of Chapter 3 of Part 25).

11 SEC. 2. Section 56352 of the Education Code is amended to
 12 read:

13 56352. (a) A functional vision assessment conducted
 14 pursuant to Section 56320 shall be used as one criterion in
 15 determining the appropriate reading medium or media for the
 16 pupil.

17 (b) An assessment of braille skills shall be required for
 18 functionally blind pupils who have the ability to read in
 19 accordance with guidelines established pursuant to Section 56136.
 20 A school district, special education local plan area, or county
 21 office of education may provide pupils with low vision with the
 22 opportunity to receive assessments to determine the appropriate
 23 reading medium or media, including braille instruction, for the
 24 pupils.

25 (c) The determination, by a pupil’s individualized education
 26 program team, of the most appropriate medium or media,
 27 including braille, for functionally blind pupils who have the ability
 28 to read shall use as one criterion the assessment provided for
 29 pursuant to subdivision (b) and shall be in accordance with
 30 guidelines established pursuant to Section 56136.

31 (d) Except as provided in subdivision (b) of Section 56351.5,
 32 braille instruction shall be provided by a teacher who holds an
 33 appropriate credential, as determined by the Commission on
 34 Teacher Credentialing, to teach pupils who are functionally blind
 35 or visually impaired.

36 (e) Each visually impaired pupil shall be provided with the
 37 opportunity to receive an assessment to determine the appropriate
 38 reading medium or media, including braille instruction, if
 39 appropriate, for that pupil.



1 ~~SEC. 3.—Section 60061 of the Education Code is amended to~~
2 ~~read:~~

3 ~~60061.—(a) A publisher or manufacturer shall do all of the~~
4 ~~following:~~

5 ~~(1) Furnish the instructional materials offered by the publisher~~
6 ~~at a price in this state that, including all costs of transportation to~~
7 ~~that place, does not exceed the lowest price at which the publisher~~
8 ~~offers those instructional materials for adoption or sale to any state~~
9 ~~or school district in the United States.~~

10 ~~(2) Automatically reduce the price of those instructional~~
11 ~~materials to any governing board to the extent that reductions are~~
12 ~~made elsewhere in the United States.~~

13 ~~(3) Provide any instructional materials free of charge in this~~
14 ~~state to the same extent as that received by any state or school~~
15 ~~district in the United States.~~

16 ~~(4) Guarantee that all copies of any instructional materials sold~~
17 ~~in this state are at least equal in quality to the copies of those~~
18 ~~instructional materials that are sold elsewhere in the United States,~~
19 ~~and are kept revised, free from all errors, and up to date as may be~~
20 ~~required by the state board.~~

21 ~~(5) Not in any way, directly or indirectly, become associated or~~
22 ~~connected with any combination in restraint of trade in~~
23 ~~instructional materials, or enter into any understanding,~~
24 ~~agreement, or combination to control prices or restrict competition~~
25 ~~in the sale of instructional materials for use in this state.~~

26 ~~(6) Maintain a representative, office, or depository in the State~~
27 ~~of California or arrange with an independently owned and~~
28 ~~operated depository in the State of California to receive and fill~~
29 ~~orders for instructional materials.~~

30 ~~(7) Provide to the state, at no cost, computer files or other~~
31 ~~electronic versions of each state-adopted literary title and the right~~
32 ~~to transcribe, reproduce, modify, and distribute the material in~~
33 ~~braille, large print if the publisher does not offer a large print~~
34 ~~edition, recordings, American Sign Language videos for the deaf,~~
35 ~~or other specialized accessible media exclusively for use by pupils~~
36 ~~with visual disabilities or other disabilities that prevent use of~~
37 ~~standard instructional materials. Computer files or other electronic~~
38 ~~versions of materials adopted shall be provided within 30 days of~~
39 ~~request by the state as needed for the purposes described in this~~
40 ~~subdivision as follows:~~



1 ~~(A) Computer files or other electronic versions of literary titles~~
2 ~~shall maintain the structural integrity of the standard instructional~~
3 ~~materials, be compatible with commonly used braille translation~~
4 ~~and speech synthesis software, and include corrections and~~
5 ~~revisions as may be necessary.~~

6 ~~(B) Computer files or other electronic versions of nonliterary~~
7 ~~titles, including science and mathematics, shall be provided when~~
8 ~~technology is available to convert those materials to a format that~~
9 ~~maintains the structural integrity of the standard instructional~~
10 ~~materials and is compatible with braille translation and speech~~
11 ~~synthesis software.~~

12 ~~(8) Upon the willful failure of the publisher or manufacturer to~~
13 ~~comply with the requirements of this section, be liable to the~~
14 ~~governing board in the amount of three times the total sum that the~~
15 ~~publisher or manufacturer was paid in excess of the price required~~
16 ~~under paragraphs (1), (2), and (5) of subdivision (a), and in the~~
17 ~~amount of three times the total value of the instructional materials~~
18 ~~and services that the governing board is entitled to receive free of~~
19 ~~charge under subdivision (a).~~

20 ~~(b) The state shall certify all of the following to the publisher~~
21 ~~or manufacturer:~~

22 ~~(1) Electronic copies of printed material in any specialized~~
23 ~~format provided to the state pursuant to this section shall be used~~
24 ~~solely for pupils who have disabilities that prevent the use of~~
25 ~~standard instructional materials.~~

26 ~~(2) Printed instructional materials provided to the state~~
27 ~~pursuant to this section may not be copied or duplicated for use by~~
28 ~~any person other than a pupil who has a disability that prevents the~~
29 ~~use of standard instructional materials or a person providing~~
30 ~~instruction to the pupil.~~

31 ~~(3) If a pupil is permitted to use an electronic version of an~~
32 ~~instructional material, the disk or file shall be copy-protected or~~
33 ~~other reasonable precautions shall be taken to ensure that~~
34 ~~instructional material is not copied or distributed in violation of the~~
35 ~~federal copyright law contained in Title 17 of the United States~~
36 ~~Code.~~

37 *SEC. 3. Section 60061 of the Education Code is amended to*
38 *read:*

39 60061. (a) A publisher or manufacturer shall *do all of the*
40 *following:*



1 ~~(a)~~
2 (1) Furnish the instructional materials offered by the publisher
3 at a price in this state that, including all costs of transportation to
4 that place, does not exceed the lowest price at which the publisher
5 offers those instructional materials for adoption or sale to any state
6 or school district in the United States.

7 ~~(b)~~
8 (2) Automatically reduce the price of those instructional
9 materials to any governing board to the extent that reductions are
10 made elsewhere in the United States.

11 ~~(c)~~
12 (3) Provide any instructional materials free of charge in this
13 state to the same extent as that received by any state or school
14 district in the United States.

15 ~~(d)~~
16 (4) Guarantee that all copies of any instructional materials sold
17 in this state are at least equal in quality to the copies of those
18 instructional materials that are sold elsewhere in the United States,
19 and are kept revised, free from all errors, and up to date as may be
20 required by the state board.

21 ~~(e)~~
22 (5) Not in any way, directly or indirectly, become associated or
23 connected with any combination in restraint of trade in
24 instructional materials, or enter into any understanding,
25 agreement, or combination to control prices or restrict competition
26 in the sale of instructional materials for use in this state.

27 ~~(f)~~
28 (6) Maintain a representative, office, or depository in the State
29 of California or arrange with an independently owned and
30 operated depository in the State of California to receive and fill
31 orders for instructional materials.

32 ~~(g)~~
33 (7) Provide to the state, at no cost, *computer files or other*
34 *electronic versions of each state-adopted literary title and the right*
35 *to transcribe, reproduce, modify, and distribute the material in*
36 ~~Braille, large print, braille, large print if the publisher does not~~
37 ~~offer a large print edition, recordings, American Sign Language~~
38 ~~videos for the deaf, or other specialized accessible media~~
39 ~~exclusively for use by pupils with visual disabilities. This right~~
40 ~~shall include computer diskette versions of print materials if made~~



1 ~~available to any other state, and those~~ *or other disabilities that*
2 *prevent use of standard instructional materials. Computer files or*
3 *other electronic versions of materials adopted shall be provided*
4 *within 30 days of request by the state as needed for the purposes*
5 *described in this subdivision as follows:*

6 (A) *Computer files or other electronic versions of literary titles*
7 *shall maintain the structural integrity of the standard instructional*
8 *materials, be compatible with commonly used braille translation*
9 *and speech synthesis software, and include corrections and*
10 *revisions as may be necessary.*

11 (B) *Computer files or other electronic versions of nonliterary*
12 *titles, including science and mathematics, shall be provided when*
13 *technology is available to convert those materials to a format that*
14 *maintains the structural integrity of the standard instructional*
15 *materials and is compatible with braille translation and speech*
16 *synthesis software.*

17 ~~(h)~~

18 (b) Upon the willful failure of the publisher or manufacturer to
19 comply with the requirements of this section, *the publisher or*
20 *manufacturer shall be liable to the governing board in the amount*
21 *of three times the total sum that the publisher or manufacturer was*
22 *paid in excess of the price required under subdivisions (a), (b), and*
23 ~~(e)~~, *paragraphs (1), (2), and (5) of subdivision (a), and in the*
24 *amount of three times the total value of the instructional materials*
25 *and services that the governing board is entitled to receive free of*
26 *charge under subdivision ~~(e)~~ (a).*

27 SEC. 4. The sum of two hundred twenty-seven thousand
28 dollars (\$227,000) is hereby appropriated from the General Fund
29 to the Chancellor of the California Community Colleges for
30 allocation to at least 15 community college districts located
31 throughout the state to enable each district to offer at least one
32 additional course to train individuals in braille instruction to assist
33 in providing services, as prescribed in this act.

34 SEC. 5. Notwithstanding Section 17610 of the Government
35 Code, if the Commission on State Mandates determines that this
36 act contains costs mandated by the state, reimbursement to local
37 agencies and school districts for those costs shall be made pursuant
38 to Part 7 (commencing with Section 17500) of Division 4 of Title
39 2 of the Government Code. If the statewide cost of the claim for
40 reimbursement does not exceed one million dollars (\$1,000,000),



- 1 reimbursement shall be made from the State Mandates Claims
- 2 Fund.

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