

Senate Bill No. 1405

Passed the Senate August 28, 2002

Secretary of the Senate

Passed the Assembly August 26, 2002

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day of
_____, 2002, at _____ o'clock __M.

Private Secretary of the Governor



CHAPTER _____

An act to amend Sections 45344.5 and 45361.5 of, and to add Article 6.5 (commencing with Section 45330) to Chapter 5 of Part 25 of, the Education Code, relating to paraprofessionals.

LEGISLATIVE COUNSEL'S DIGEST

SB 1405, O'Connell. Paraprofessionals: instructional aides.

Existing law provides that no person shall be initially assigned to assist in instruction as an instructional aide, as defined, or to assist in instruction as a teacher aide for kindergarten and grades 1 to 12, inclusive, unless the person has demonstrated proficiency in basic reading, writing, and mathematics skills up to or exceeding that required for high school seniors, as provided.

This bill would apply those requirements to paraprofessionals and would define paraprofessional to include an instructional aide or a teacher aide. The bill would set forth qualifications for paraprofessionals consistent with the federal No Child Left Behind Act of 2001. The bill would impose a state-mandated local program by imposing new duties on school districts to comply with the requirements of the bill.

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 no reimbursement is required by this act for a specified reason.

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

SECTION 1. The Legislature finds and declares that California is a major participant in the Title I program under the recently enacted federal legislation, No Child Left Behind Act of 2001 (P.L. 107-110). Since 1982, paraprofessionals in California public schools have been assessed for their proficiency and ability to assist teachers and certificated personnel in teaching reading, writing, and mathematics. This legislation is intended to ensure that state law conforms with federal law regarding the testing



requirements for paraprofessionals supported by federal Title I funds.

SEC. 2. Article 6.5 (commencing with Section 45330) is added to Chapter 5 of Part 25 of the Education Code, to read:

Article 6.5. Paraprofessionals

45330. (a) As used in this section, a paraprofessional means a person who assists classroom teachers and other certificated personnel in instructing reading, writing, and mathematics. A paraprofessional includes an instructional aide as defined in subdivision (a) of Section 45343 and a teacher aide as described in Section 45360.

(b) A paraprofessional shall perform only duties that, in the judgement of the certificated personnel to whom the instructional aide is assigned, may be performed by a person not licensed as a classroom teacher. These duties shall not include assignment of grades to pupils.

(c) Pursuant to the federal No Child Left Behind Act of 2001 (P.L. 107-110), a local education agency that receives funding from Title 1 of that act shall ensure that every paraprofessional hired on or after January 8, 2002, who is supported by those Title 1 funds and who assists in instruction has demonstrated at least one of the following in addition to any other requirements under that act:

(1) Completion of at least two years of study at an institution of higher education.

(2) Possession of an associate's degree or higher.

(3) Through a local or state assessment, that is appropriate to the responsibilities to be assigned to the paraprofessional, knowledge of, and ability to assist in, instructing reading, writing, and mathematics.

(d) Except as provided in subdivision (h), a paraprofessional hired prior to January 8, 2002, who is supported by federal funds from Title I of the federal No Child Left Behind Act of 2001 (P.L. 107-110) shall meet the requirements of subdivision (c) no later than January 8, 2006.

(e) No person shall be initially assigned to assist in instruction as a paraprofessional in kindergarten and grades 1 to 12, inclusive, unless the person has demonstrated proficiency in reading,



writing, and mathematics skills up to or exceeding that required by the employing district for high school seniors pursuant to subdivisions (a) and (f) of Section 51220 if the employing district educates high school students.

(f) If the employing district is an elementary school district, the paraprofessional shall demonstrate proficiency in reading, writing, and mathematics skills up to or exceeding that required for high school seniors pursuant to subdivisions (a) and (f) of Section 51220 in the high school district that includes all or the largest portion of the elementary district.

(g) In establishing the educational qualifications or in developing a proficiency exam, a school district shall align the qualifications and proficiency exams pursuant to paragraph (3) of subdivision (c).

(h) A paraprofessional who is supported by federal funds from Title I of the federal No Child Left Behind Act of 2001 (P.L. 107-110) and who meets either of the following conditions is exempt from the requirements described in paragraphs (1) to (3), inclusive, of subdivision (c):

(1) The paraprofessional is proficient in English and a language other than English and provides services primarily to enhance participation of pupils by acting as a translator.

(2) The paraprofessional's duties consist solely of conducting parental involvement activities.

(i) A paraprofessional who was hired on or before January 1, 2003, and who has previously demonstrated, through a local assessment, knowledge of, and an ability to assist in, instructing reading, writing, and mathematics, is deemed to have met the proficiency exam requirements of paragraph (3) of subdivision (c).

(j) A school district may use an existing proficiency assessment or may develop a new proficiency assessment to meet the requirements of paragraph (3) of subdivision (c).

(k) Pursuant to the federal No Child Left Behind Act of 2001, a local education agency may use a portion of the funds from that act for staff development for paraprofessionals, to the extent that those funds are appropriated in the annual Budget Act for this purpose.

SEC. 3. Section 45344.5 of the Education Code is amended to read:



45344.5. (a) No person shall be initially assigned to assist in instruction as an instructional aide unless the person has demonstrated proficiency in basic reading, writing, and mathematics skills pursuant to Section 45330.

(b) A school district may charge prospective aides taking the district's proficiency test a fee to fund the costs incurred by the district in giving the test. This fee may be subject to negotiation between the district and the exclusive representative of instructional aides, but in no event shall the fee exceed seven dollars (\$7).

(c) An instructional aide who passes a district proficiency test as required by this section, transfers to another district, and is employed in the same capacity shall be considered to have met the proficiency standards for purposes of this section unless the district to which he or she has transferred determines that the test taken by the aide is not comparable to the standards required by the employing district.

SEC. 4. Section 45361.5 of the Education Code is amended to read:

45361.5. (a) No person shall be initially assigned to assist in instruction for work as an aide for instructional purposes in kindergarten and grades 1 to 12, inclusive, unless the person has demonstrated proficiency in basic reading, writing, and mathematics skills pursuant to Section 45330.

(b) As used in this section, "initially assigned" means any assignment, including substitute, temporary, probationary, or permanent employment, to assist in instruction as an aide for instructional purposes.

(c) A school district may charge a fee to prospective aides taking the district proficiency test pursuant to the requirements of this section to fund the costs incurred by the district in giving the test. This fee may be subject to negotiation between the district and the exclusive representative of instructional aides, but in no event shall the fee exceed seven dollars (\$7).

(d) The school district governing board, at a public meeting, may grant an exemption from this requirement to any person, for a period of one year, if the person is to be assigned as a bilingual-crosscultural aide and the governing board determines that there is no other person available to serve in the same capacity. Upon or prior to the expiration of the one-year period, the



bilingual-crosscultural aide shall be required to take and pass the basic skills test required by this section. A bilingual-crosscultural aide who has not demonstrated his or her basic skills proficiency through these means may not be compensated for work as a bilingual-crosscultural aide. A bilingual-crosscultural aide may only be granted one exemption from this requirement. The authority of district governing boards to grant these exemptions shall cease on June 30, 1985.

(e) An aide who passes a district proficiency test as required by this section who transfers to another district and is employed in the same capacity, shall be considered to have met the proficiency standards for purposes of this section unless the district to which he or she has transferred determines that the test taken by the aide is not comparable to the standards required by the employing district.

(f) An aide who passes a district proficiency test, as required by this section, and who is reassigned to another school or program in the district and is employed in the same capacity, shall be considered to have met the state basic skills proficiency test requirement.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.



Approved _____, 2002

Governor

