

Senate Bill No. 267

Passed the Senate August 31, 2006

Secretary of the Senate

Passed the Assembly August 23, 2006

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2006, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add and repeal Section 60852.4 of the Education Code, relating to pupil assessment, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 267, Romero. California High School Exit Examination: pupils with disabilities.

(1) Existing law requires the Superintendent of Public Instruction, with the approval of the State Board of Education, to develop a high school exit examination in English language arts and mathematics in accordance with state academic content standards. Existing law requires, commencing with the 2003–04 school year, each pupil completing grade 12 to successfully pass the high school exit examination as a condition of receiving a diploma of graduation or a condition of graduation from high school. Existing law requires that the high school exit examination be offered to individuals with exceptional needs, and that individuals with exceptional needs be administered the examination with appropriate accommodations, where necessary.

Existing law requires a school principal, at the request of the parent or guardian, to submit a request for a waiver of the requirement to successfully pass the high school exit examination to the governing board of the school district for a pupil with a disability who has taken the examination with modifications that alter what the test measures and has received the equivalent of a passing score on one or both subject matter parts of the examination. Existing law authorizes the governing board of a school district to waive the requirement to successfully pass one or both parts of the high school exit examination for a pupil with a disability if specified requirements are met. Existing law requires a school district to report to the state board, in a manner and by a date determined by the Superintendent, the number and characteristics of these waivers reviewed, granted, and denied, and any additional information, as provided.

Existing law, until December 31, 2006, requires a school district or state special school, as specified, to grant a high school

diploma to a pupil with a disability who is scheduled to graduate from high school in 2006, has not passed the high school exit examination, has not received a high school exit examination waiver, and meets other specified criteria. Existing law requires a school district or state special school that fails to grant a high school diploma to that pupil to submit certain documentation to the state board within 15 days after its determination that the pupil does not meet the specified criteria, and requires the board to review that failure to grant a high school diploma, as provided. Existing law authorizes the state board to direct the school district or state special school to grant a high school diploma to the pupil if the state board finds that the pupil meets the specified criteria. Existing law also requires the school district and state special school to report to the Superintendent certain information, including the number of pupils granted diplomas in this manner.

This bill would extend the above provisions relating to the granting or denial of a high school diploma by a school district or state special school to pupils with disabilities who are scheduled to graduate from high school in 2007, have not passed the high school exit examination or are eligible for a high school exit examination waiver, have not received a high school exit examination waiver, and meet other specified criteria. The bill would repeal these extended provisions on December 31, 2007. The bill would also require the pupil, parent, or legal guardian of the pupil to be notified that the pupil is entitled to receive a free appropriate public education, as specified, no later than 30 days prior to the receipt of a diploma in 2007. By extending the date on which school districts and state special schools must comply with the above requirements, the bill would impose a state-mandated local program.

The bill would require the Superintendent, by June 1, 2007, and with the approval of the state board, to recommend to the Legislature a course of action to adopt regarding pupils with disabilities who have met all other state and local graduation requirements, but who are unable to satisfy the high school exit examination requirement or obtain a waiver of the requirement, as specified under current law.

(2) 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, 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.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) It is the intent of the Legislature to address the needs of pupils with disabilities who are scheduled to receive a high school diploma in 2007, who have not yet satisfied the requirement to pass the California High School Exit Examination.

(b) It is further the intent of the Legislature that the Superintendent of Public Instruction and the State Board of Education shall make recommendations to the Legislature not later than June 1, 2007, about pupils with disabilities who are scheduled to receive a high school diploma in 2008, with regard to the California High School Exit Examination requirement.

SEC. 2. Section 60852.4 is added to the Education Code, to read:

60852.4. (a) Notwithstanding any other provision of law, a school district or state special school as designated in Sections 59000 and 59100 shall grant a high school diploma to a pupil with a disability who is scheduled to graduate from high school in 2007, has not passed the high school exit examination or is eligible for a waiver pursuant to subdivision (c) of Section 60851, and has not received a waiver pursuant to subdivision (c) of Section 60851, if all of the following criteria exist:

(1) The pupil has an operative individualized education program adopted pursuant to the federal Individuals with Disabilities Education Act (20 U.S.C. Sec. 1400 et seq.) or a plan adopted pursuant to Section 504 of the federal Rehabilitation Act of 1973 (29 U.S.C. Sec. 794 (a)).

(2) The individualized education program or Section 504 plan of the pupil, that is dated on or before July 1, 2006, indicates that the pupil has an anticipated graduation date, and is scheduled to receive a high school diploma on or before December 31, 2007.

(3) The school district or state special school certifies that the pupil has satisfied or will satisfy all other state and local requirements for the receipt of a high school diploma on or before December 31, 2007.

(4) The pupil has attempted to pass those sections not yet passed of the high school exit examination at least twice after grade 10, including at least once during the current grade 12 year of the pupil, with the accommodations or modifications, if any, specified in the individualized education program or the Section 504 plan of the pupil.

(5) (A) Either (i) the pupil received remedial or supplemental instruction focused on those sections not yet passed of the high school exit examination from his or her school, private tutoring, or another source, or (ii) the school district or state special school failed to provide the pupil with the opportunity to receive that remedial or supplemental instruction.

(B) If the pupil received remedial or supplemental instruction as described in clause (i) of subparagraph (A), the pupil has taken those sections not yet passed of the high school exit examination at least once following the receipt of that remedial or supplemental instruction. This subparagraph does not apply if following the receipt of that remedial or supplemental instruction, there is no further administration of the examination on or before December 31, 2007.

(6) No later than 30 days prior to the receipt of a diploma in 2007, the pupil, or the parent or legal guardian of the pupil if the pupil is a minor, has been notified in writing pursuant to Section 300.503 of Title 34 of the Code of Federal Regulations that the pupil is entitled to receive free appropriate public education up to and including the academic year during which the pupil reaches the maximum age pursuant to subdivision (c) of Section 56026, or until the pupil receives a high school diploma, whichever event occurs first.

(b) A school district or state special school shall submit documentation relating to the denial of a high school diploma on or before December 31, 2007, pursuant to this section, to the

state board within 15 days of the determination that the pupil with a disability who is scheduled to graduate from high school in 2007, does not meet the criteria stated in subdivision (a). The state board shall review any denial of a high school diploma by a school district or state special school pursuant to this section no later than its next regularly scheduled meeting, occurring at least 30 days after receipt of the above documentation from the school district or state special school. If the state board finds that the pupil meets the criteria stated in subdivision (a), the state board may require the school district or state special school to grant a high school diploma to the pupil.

(c) Each school district and state special school shall report to the Superintendent, in a manner and by a date determined by the Superintendent, all of the following information:

(1) Documentation of the procedure used to implement this section.

(2) The number of pupils granted diplomas pursuant to this section.

(3) Any additional information determined to be in furtherance of this section.

(d) This section shall remain in effect only until December 31, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before December 31, 2007, deletes or extends that date.

SEC. 3. By June 1, 2007, the Superintendent of Public Instruction, with the approval of the state board, shall recommend to the Legislature a course of action to adopt regarding pupils with disabilities who have met all other state and local graduation requirements, but who are unable to satisfy the California High School Exit Exam requirement or obtain a waiver of the requirement under Section 60851 (c) of the Education Code.

SEC. 4. If the Commission on State Mandates determines that this act contains 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.

SEC. 5. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety

within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that certain pupils with disabilities are able to graduate from high school in 2007, it is necessary that this act take effect immediately.

Approved _____, 2006

Governor