

**Senate Bill No. 1446**

\_\_\_\_\_

Passed the Senate August 29, 2008

\_\_\_\_\_

*Secretary of the Senate*

\_\_\_\_\_

Passed the Assembly August 21, 2008

\_\_\_\_\_

*Chief Clerk of the Assembly*

\_\_\_\_\_

This bill was received by the Governor this \_\_\_\_\_ day  
of \_\_\_\_\_, 2008, 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 the high school exit examination, and declaring the urgency thereof, to take effect immediately.

## LEGISLATIVE COUNSEL'S DIGEST

SB 1446, Romero. High school exit examination: pupils with disabilities.

(1) Former law, which was repealed on December 31, 2007, required a school district or state special school to grant a high school diploma to a pupil with a disability who was scheduled to graduate from high school, did not pass the high school exit examination, did not receive a high school exit examination waiver, and met other specified criteria. The repealed provisions required a school district or state special school that failed to grant a high school diploma to the pupil to submit certain documentation to the State Board of Education, and required the state board to review the failure to grant a high school diploma. The school district and state special school were required to report certain information to the Superintendent of Public Instruction, including the number of pupils granted diplomas in this manner.

This bill would reenact those provisions for pupils with disabilities who are scheduled to graduate from high school on or before December 31, 2010. The bill would repeal those provisions on January 1, 2011. The bill would declare the intent of the Legislature that those provisions apply retroactively to pupils with disabilities who are scheduled to graduate in the 2007–08 school year. By reenacting the provisions requiring school districts and state special schools to comply with those requirements, the bill would impose a state-mandated local program.

(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. 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 Section 59000 or 59100, shall grant a high school diploma to a pupil with a disability who is scheduled to graduate from high school on or before December 31, 2010, 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 pupil's individualized education program or Section 504 plan that is dated on or before July 1, 2008, indicates that the pupil has an anticipated graduation date, and is scheduled to receive a high school diploma, on or before December 31, 2010.

(3) The school district or state special school certifies that the pupil has satisfied or will satisfy all other state requirements for the receipt of a high school diploma on or before December 31, 2010.

(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 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 after receiving remedial or supplemental instruction. This subparagraph shall not apply if, after receiving remedial or supplemental instruction, there is no further administration of the examination on or before December 31, 2010.

(6) No later than 30 days prior to receiving a diploma in 2008, 2009, or 2010, the pupil, or the parent or 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 a 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 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, 2010, 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 2008, 2009, or 2010 does not meet the criteria specified in subdivision (a). The state board shall review a 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 receiving the documentation from the school district or state special school. If the state board finds that the pupil meets the criteria specified 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 of Public Instruction, 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) Neither a school district nor a state special school shall adopt an individualized education program pursuant to the federal Individuals with Disabilities Education Act or adopt a plan pursuant to Section 504 of the federal Rehabilitation Act of 1973 for a pupil for the sole purpose of exempting the pupil from the requirement to pass the high school exit examination as a condition of receiving a high school diploma.

(e) It is the intent of the Legislature that this section apply retroactively to pupils with disabilities described in subdivision (a) who are scheduled to graduate in the 2007–08 school year.

(f) This section shall remain in effect only until January 1, 2011, and as of that date is repealed, unless a later enacted statute, that is enacted on or before January 1, 2011, deletes or extends that date.

SEC. 2. 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. 3. 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, it is necessary that this act take effect immediately.





Approved \_\_\_\_\_, 2008

---

*Governor*