

AMENDED IN ASSEMBLY APRIL 12, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2095

Introduced by Assembly Member Brownley

February 18, 2010

An act to amend ~~Section 60200~~ of Sections 60005, 60200, 60200.4, 60204, and 60400 of, and to add Sections 60602.5 and 99237.7 to, the Education Code, relating to instructional materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 2095, as amended, Brownley. Instructional materials: English language development.

Existing

(1) *Existing law requires the development of curriculum frameworks and adoption of instructional materials for use in elementary and secondary schools to be conducted in accordance with specified policies and procedures adopted by the State Board of Education.*

This bill would require that those state board policies ensure that the curriculum frameworks and instructional materials for kindergarten and grades 1 to 12, inclusive, include English language development standards and strategies in the 4 core subjects that address English language development and the needs of pupils with disabilities.

(2) *Existing law requires the State Board of Education to adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, and to ensure that basic instructional materials in mathematics and reading are based on fundamental skills required by those subjects. Among the categories of instructional materials that the board is required to adopt are bilingual or bicultural subjects.*

~~This bill would add English language development instructional materials as an alternative to the bilingual or bicultural subjects in that category materials that support English language development in the kinds of instructional materials that the board is required to adopt for kindergarten and grades 1 to 8, inclusive, and would require the materials in mathematics and reading also to be based on English language development for pupils for whom English is a 2nd language.~~

(3) The Curriculum Development and Supplemental Materials Commission is required to develop criteria for evaluating instructional materials submitted for adoption.

This bill would require the criteria to include directions to publishers to align lessons and teacher's editions to address the needs of English learners and pupils with disabilities.

(4) Existing law requires the governing board of a school district maintaining one or more high schools to adopt instructional materials for use in high schools under its control.

This bill would require those governing boards to ensure that English learners and pupils with disabilities are provided appropriate instructional materials in all 4 core subjects.

(5) Existing law establishes the Standardized Testing and Reporting Program and states legislative intent regarding this statewide testing program. Existing law requires each school district, charter school, and county office of education to administer to each of its pupils in grades 2 to 11, inclusive, a standards-based achievement test as part of the program.

This bill would state the intent of the Legislature that the reauthorized Standardized Testing and Reporting Program meet specified requirements regarding performance measures, the assessment of English learners and pupils with disabilities, and accommodations for the assessment of English learners and pupils with disabilities.

(6) Existing law establishes the Mathematics and Reading Professional Development Program, administered by the Superintendent of Public Instruction, under which a local educational agency is eligible to apply for and receive incentive funding to provide teachers, instructional aides, and paraprofessionals with instruction and training in the areas of mathematics and reading.

This bill would authorize eligible elementary and secondary teachers to participate in 40 hours of instruction in specified training and instructional strategies as an option for fulfilling a specified percentage of training hours under the program.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

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

1 SECTION 1. Section 60005 of the Education Code is amended
2 to read:
3 60005. (a) The Legislature finds and declares that it is in the
4 public interest for the State Board of Education to adopt policies
5 and procedures concerning the development of curriculum
6 frameworks and the adoption of instructional materials only after
7 public notice, comment by the public, and review by the Office of
8 Administrative Law and for these policies and procedures to be
9 published in the California Code of Regulations. Therefore, the
10 Legislature reaffirms that the policies and procedures concerning
11 the development of curriculum frameworks and the adoption of
12 instructional materials shall be adopted pursuant to Chapter 3.5
13 (commencing with Section 11340) of Part 1 of Division 3 of Title
14 2 of the Government Code. These policies and procedures include,
15 but are not limited to, the following:
16 (1) ~~Board~~ State board policies that define statutory terms.
17 (2) ~~Board~~ State board policies that prescribe the membership
18 of committees used in the development and adoption process.
19 (3) Procedures that regulate public participation in the
20 development of curriculum frameworks and the adoption of
21 instructional materials.
22 (b) The ~~board~~ state board shall adopt as regulations the policies
23 and procedures concerning the development of curriculum
24 frameworks and the adoption of instructional materials.
25 (c) State board policies shall ensure that curriculum frameworks
26 and instructional materials for kindergarten and grades 1 to 12,
27 inclusive, include the English language development standards as
28 adopted by the state board in 1997 and revised thereafter, and
29 English language development strategies in the four core subjects
30 of mathematics, science, history-social science, and
31 English/language arts.
32 (d) State board policies shall ensure that curriculum frameworks
33 and instructional materials for kindergarten and grades 1 to 12,
34 inclusive, include strategies to address the needs of pupils with

1 *disabilities in the four core subjects of mathematics, science,*
2 *history-social science, and English/language arts.*

3 (e)

4 (e) (1) The following shall not be subject to Chapter 3.5
5 (commencing with Section 11340) of Part 1 of Division 3 of Title
6 2 of the Government Code:

7 (A) The content of curriculum frameworks.

8 (B) Evaluation criteria and worksheets developed to supplement
9 curriculum frameworks.

10 (2) The board shall adopt the content of curriculum frameworks
11 and evaluation criteria and worksheets developed to supplement
12 curriculum frameworks in accordance with the regulations
13 established pursuant to subdivision (b) of this section.

14 **SECTION 1.**

15 *SEC. 2.* Section 60200 of the Education Code is amended to
16 read:

17 60200. The state board shall adopt basic instructional materials
18 for use in kindergarten and grades 1 to 8, inclusive, for governing
19 boards, subject to the following provisions:

20 (a) The state board shall adopt at least five basic instructional
21 materials for all applicable grade levels in each of the following
22 categories:

23 (1) Language arts, including, but not limited to, spelling and
24 reading. However, the state board ~~may~~ *shall* not adopt basic
25 instructional materials in this category or the category specified
26 by paragraph (2) in the year succeeding the year in which the state
27 board adopts basic instructional materials in this category for the
28 same grade level.

29 (2) Mathematics. However, the state board ~~may~~ *shall* not adopt
30 basic instructional materials in this category or the category
31 specified by paragraph (1) in the year succeeding the year in which
32 the state board adopts basic instructional materials in this category
33 for the same grade level.

34 (3) Science.

35 (4) Social science.

36 (5) Bilingual or bicultural subjects ~~or English language~~
37 ~~development.~~

38 (6) *Materials, including supplemental and ancillary materials,*
39 *supporting English language development.*

40 (6)

1 (7) Any other subject, discipline, or interdisciplinary areas for
2 which the state board determines the adoption of instructional
3 materials to be necessary or desirable, *including, but not limited*
4 *to, materials that support the instructional needs of pupils with*
5 *disabilities.*

6 (b) The state board shall adopt procedures for the submission
7 of basic instructional materials in order to comply with each of
8 the following:

9 (1) Instructional materials may be submitted for adoption in any
10 of the subject areas pursuant to paragraphs (1) to ~~(5)~~ (6), inclusive,
11 of subdivision (a) not less than two times every six years and in
12 any of the subject areas pursuant to paragraph ~~(6)~~ (7) of subdivision
13 (a) not less than two times every eight years. The state board shall
14 ensure that curriculum frameworks are reviewed and adopted in
15 each subject area consistent with the six- and eight-year submission
16 cycles and that the criteria for evaluating instructional materials
17 developed pursuant to subdivision (b) of Section 60204 are
18 consistent with subdivision (c). The state board may prescribe
19 reasonable conditions to restrict the resubmission of materials that
20 have been previously rejected if those resubmitted materials have
21 no substantive changes.

22 (2) Submitted instructional materials shall be adopted or rejected
23 within six months of the submission date of the materials pursuant
24 to paragraph (1), unless the state board determines that a longer
25 period of time, not to exceed an additional three months, is
26 necessary due to the estimated volume or complexity of the
27 materials for that subject in that year, or due to other circumstances
28 beyond the reasonable control of the state board.

29 (c) In reviewing and adopting or recommending for adoption
30 submitted basic instructional materials, the state board shall use
31 the following criteria, and ensure that, in its judgment, the
32 submitted basic instructional materials meet all of the following
33 criteria:

34 (1) Are consistent with the criteria and the standards of quality
35 prescribed in the state board's adopted curriculum framework. In
36 making this determination, the state board shall consider both the
37 framework and the submitted instructional materials as a whole.

38 (2) Comply with the requirements of Sections 60040, 60041,
39 60042, 60043, 60044, 60048, 60200.5, and 60200.6, and the state
40 board's guidelines for social content.

1 (3) Are factually accurate and incorporate principles of
2 instruction reflective of current and confirmed research.

3 (4) Adequately cover the subject area for the grade level or
4 levels for which they are submitted.

5 (5) Do not contain materials, including illustrations, that provide
6 unnecessary exposure to a commercial brand name, product, or
7 corporate or company logo. Materials, including illustrations, that
8 contain a commercial brand name, product, or corporate or
9 company logo may not be used unless the board determines that
10 the use of the commercial brand name, product, or corporate or
11 company logo is appropriate based on one of the following specific
12 findings:

13 (A) If text, the use of the commercial brand name, product, or
14 corporate or company logo in the instructional materials is
15 necessary for an educational purpose, as defined in the guidelines
16 or frameworks adopted by the state board.

17 (B) If an illustration, the appearance of a commercial brand
18 name, product, or corporate or company logo in an illustration in
19 instructional materials is incidental to the general nature of the
20 illustration.

21 (6) Meet other criteria as are established by the state board as
22 being necessary to accomplish the intent of Section 7.5 of Article
23 IX of the California Constitution and of Section 1 of Chapter 1181
24 of the Statutes of 1989, provided that the criteria are approved by
25 resolution at the time the resolution adopting the framework for
26 the current adoption is approved, or at least 30 months prior to the
27 date that the materials are to be approved for adoption.

28 (d) If basic instructional materials are rejected, the state board
29 shall provide a specific, written explanation of the reasons why
30 the submitted materials were not adopted, based upon one or more
31 of the criteria established under subdivision (c). In providing this
32 explanation, the state board may use, in whole or in part, materials
33 written by the commission or any other advisers to the state board.

34 (e) The state board may adopt fewer than five basic instructional
35 materials in each subject area for each grade level if either of the
36 following occurs:

37 (1) Fewer than five basic instructional materials are submitted.

38 (2) The state board specifically finds that fewer than five basic
39 instructional materials meet the criteria prescribed by paragraphs
40 (1) to (5), inclusive, of subdivision (c), or the materials fail to meet

1 the state board's adopted curriculum framework. If the state board
2 adopts fewer than five basic instructional materials in any subject
3 for any grade level, the state board shall conduct a review of the
4 degree to which the criteria and procedures used to evaluate the
5 submitted materials for that adoption were consistent with the state
6 board's adopted curriculum framework.

7 (f) This section does not limit the authority of the state board
8 to adopt materials that are not basic instructional materials.

9 (g) If a district board establishes to the satisfaction of the state
10 board that the state-adopted instructional materials do not promote
11 the maximum efficiency of pupil learning in the district, the state
12 board shall authorize that district governing board to use its
13 instructional materials allowances to purchase materials as
14 specified by the state board, in accordance with standards and
15 procedures established by the state board.

16 (h) Consistent with the quality criteria for the state board's
17 adopted curriculum framework, the state board shall prescribe
18 procedures to provide the most open and flexible materials
19 submission system and ensure that the adopted materials in each
20 subject, taken as a whole, provide for the educational needs of the
21 diverse pupil populations in the public schools, provide collections
22 of instructional materials that illustrate diverse points of view,
23 represent cultural pluralism, and provide a broad spectrum of
24 knowledge, information, and technology-based materials to meet
25 the goals of the program and the needs of pupils.

26 (i) Upon making an adoption, the state board shall make
27 available to listed publishers and manufacturers and all school
28 interests a listing of instructional materials, including the most
29 current unit cost of those materials as computed pursuant to existing
30 law. Items placed upon lists shall remain thereon, and be available
31 for procurement through the state's systems of financing, from the
32 date of the adoption of the item and until a date established by the
33 state board. The date established by the board for continuing items
34 on that list shall be the date on which the state board adopts
35 instructional materials based upon a new or revised curriculum
36 framework. Lists of adopted materials shall be made available by
37 subject and grade level. The lists shall terminate and shall no longer
38 be effective on the date prescribed by the state board pursuant to
39 this subdivision.

(j) The state board may approve multiple lists of instructional materials, without designating a grade or subject, and the state board may designate more than one grade or subject whenever it determines that a single subject designation or a single grade designation would not promote the maximum efficiency of pupil learning. Any materials so designated may be placed on single grade or single subject lists, or multigrade or interdisciplinary lists, or may be placed on separate lists including other materials with similar grade or subject designations.

(k) A composite listing in the format of an order form may be used to meet the requirements of this section.

(l) The lists maintained pursuant to this section shall not be deemed to control the use period by any school district.

(m) The state board shall give publishers the opportunity to modify instructional materials, in a manner provided for in regulations adopted by the state board, if the state board finds that the instructional materials do not comply with paragraph (5) of subdivision (c).

(n) This section does not prohibit the publisher of instructional materials from including whatever corporate name or logo on the instructional materials that is necessary to provide basic information about the publisher, to protect its copyright, or to identify third-party sources of content.

(o) The state board may adopt regulations that provide for other exceptions to this section, as determined by the board.

(p) The Superintendent shall develop, and the state board shall adopt, guidelines to implement this section.

SEC. 3. Section 60200.4 of the Education Code is amended to read:

~~60200.4. (a) The State Board of Education~~ *state board* shall ensure that the basic instructional materials that it adopts for mathematics and reading in grades 1 to 8, inclusive, are based on the fundamental skills required by these subjects, including, but not limited to, systematic, explicit phonics, spelling, and basic computational skills, *and English language development for pupils for whom English is a second language.*

(b) It is the intent of the Legislature that the fundamental skills of all subject areas, including systematic, explicit phonics, spelling, and basic computational skills, be included in the adopted curriculum frameworks and that these skills and related tasks

1 increase in depth and complexity from year to year. It is the intent
2 of the Legislature that the instructional materials adopted by the
3 ~~State Board of Education~~ *state board* meet the provisions of this
4 section.

5 *SEC. 4. Section 60204 of the Education Code is amended to*
6 *read:*

7 60204. The commission shall *do all of the following*:

8 (a) Recommend curriculum frameworks to the state board.

9 (b) Develop criteria for evaluating instructional materials
10 submitted for adoption so that the materials adopted shall
11 adequately cover the subjects in the indicated grade or grades and
12 comply with the provisions of Article 3 (commencing with Section
13 60040) of Chapter 1. The criteria developed by the commission
14 shall be consistent with the duties of the state board pursuant to
15 Section 60200. The criteria shall be public information and shall
16 be provided in written or printed form to any person requesting
17 ~~such~~ *that* information. *The criteria shall include directions to*
18 *publishers to align both lessons and teacher's editions, as*
19 *appropriate, with English language development standards and*
20 *incorporate strategies to address the needs of English learners at*
21 *every grade level and subject. The criteria also shall include*
22 *direction to publishers to incorporate instructional strategies to*
23 *address the needs of pupils with disabilities in both lessons and*
24 *teacher's editions, as appropriate, at every grade level and subject.*

25 (c) Study and evaluate instructional materials submitted for
26 adoption.

27 (d) Recommend to the state board instructional materials that
28 it approves for adoption.

29 (e) Review and have the authority to adopt the educational films
30 or video recordings produced in accordance with Article 3
31 (commencing with Section 52740) of Chapter 11 of Part 28.

32 (f) Recommend to the state board policies and activities to assist
33 the department and school districts in the use of the curriculum
34 framework and other available model curriculum materials for the
35 purpose of guiding and strengthening the quality of instruction in
36 the public schools.

37 *SEC. 5. Section 60400 of the Education Code is amended to*
38 *read:*

39 60400. (a) The governing board of ~~each~~ *a* school district
40 maintaining one or more high schools shall adopt instructional

1 materials for use in the high schools under its control. Only
2 instruction materials of those publishers who comply with the
3 requirements of Article 3 (commencing with Section 60040) and
4 Article 4 (commencing with Section 60060) of Chapter 1 of this
5 part and of Section 60226 may be adopted by the ~~district~~ governing
6 board.

7 *(b) The governing board of a school district maintaining one*
8 *or more high schools shall ensure that English learners and pupils*
9 *with disabilities are provided appropriate instructional materials*
10 *in all four core subjects. The governing board shall certify pursuant*
11 *to Section 60119 the steps that have been taken to ensure*
12 *availability of textbook and instructional materials.*

13 SEC. 6. Section 60602.5 is added to the Education Code, to
14 read:

15 60602.5. Upon the reauthorization of the Standardized Testing
16 and Reporting Program and commencing in the 2013–14 school
17 year, it is the intent of the Legislature that the Standardized Testing
18 and Reporting Program meet the following requirements:

19 *(a) Performance measures shall meet the highest standards of*
20 *educational measurement to ensure that they are valid and reliable*
21 *measures of pupil achievement and be developed according to the*
22 *principles of universal design.*

23 *(b) English learners shall be assessed in a manner that*
24 *distinguishes content knowledge from linguistic proficiency in*
25 *English and in accordance with the number of years of instruction*
26 *in English. Primary and secondary language assessments should*
27 *be an integral component of the reauthorized Standardized Testing*
28 *and Reporting Program.*

29 *(c) Accommodations of assessments for English learners shall*
30 *be based upon research on high stakes testing accommodations*
31 *for English learners.*

32 *(d) Assessments for pupils with disabilities shall incorporate*
33 *the individualized education program requirements for*
34 *accommodations and modifications and other testing requirements,*
35 *and the state shall not invalidate the scores of pupils who use an*
36 *accommodation or modification for purposes of accountability.*

37 *(e) Performance measures shall be balanced and require*
38 *evidence of the ability of pupils to reason, analyze, and evaluate*
39 *multiple sources of information, and solve challenging, real-world*
40 *problems.*

1 SEC. 7. Section 99237.7 is added to the Education Code, to
2 read:

3 99237.7. (a) As an option for fulfilling up to 50 percent of the
4 80 hours of followup training required pursuant to Section 99237,
5 eligible elementary and secondary teachers may participate in 40
6 hours of instruction in areas including, but not limited to, the
7 following:

8 (1) Training in the application of the response to intervention
9 model to provide for a systemic method for evaluating the needs
10 of all pupils and for fostering positive pupil outcomes through
11 carefully selected and implemented interventions and to assist
12 teachers in identifying pupils who may require more intensive
13 instructional services.

14 (2) Training to reduce racial disproportionality of pupils placed
15 in special education who have learning needs but who should not
16 be placed in a special education program.

17 (3) Instructional strategies, to teach essential content in ways
18 that address the varied learning needs of pupils with disabilities
19 or exceptional needs including, but not limited to, the effective use
20 of pupil achievement data, differentiating instruction through
21 pacing and complexity, impact on pupil success through diagnostic
22 teaching and effective application of accommodations and
23 modifications to support pupil achievement.

24 (b) In order to be eligible to participate in the training described
25 pursuant to this section, a teacher shall have completed 40 hours
26 of professional development training pursuant to Section 99237.

27 (c) If a local educational agency chooses to offer the option
28 provided for in subdivision (a), the local educational agency shall
29 contract with a training provider that is approved by the state
30 board and whose training curriculum meets the criteria established
31 by the state board and is based on the areas listed in paragraphs
32 (1) to (3), inclusive, of subdivision (a).

33 (d) The Superintendent may appoint an advisory committee to
34 ensure the quality and effectiveness of the training provided
35 pursuant to this section. If an advisory committee is established,
36 the majority of the committee shall be made up of professionals
37 with expertise in addressing the needs of pupils with disabilities

- 1 *or expertise in implementing effective response to intervention*
- 2 *strategies and programs.*

O