

AMENDED IN ASSEMBLY AUGUST 2, 2010

AMENDED IN SENATE JUNE 1, 2010

AMENDED IN SENATE MAY 11, 2010

AMENDED IN SENATE APRIL 27, 2010

AMENDED IN SENATE APRIL 7, 2010

SENATE BILL

No. 930

Introduced by Senator Ducheny
(Coauthors: Senators Alquist, Florez, and Romero)
(Coauthors: Assembly Members Coto and V. Manuel Perez)

February 2, 2010

An act to amend Sections 60640 and 60643 of, and to add Section 52052.7 to, the Education Code, relating to pupil assessments.

LEGISLATIVE COUNSEL'S DIGEST

SB 930, as amended, Ducheny. Pupil assessments.

(1) Existing law, the Public School Performance Accountability Program, provides a state assessment program for schools, an intervention program for low-performing schools, and a reward system for high-achieving schools, as specified.

This bill would require that any primary language assessment developed by the department and administered to ~~limited-English proficient~~ *limited-English-proficient* students, as defined, on or after July 1, 2013, to be included in ~~any successor measure to~~ the state's assessment system *or any successor system* and in ~~any successor measure to~~ the state's federal and state accountability system *and any successor system*. The bill would require the results of the primary language assessment to be used in any successor measure ~~to~~ *or results*

reported for the state's assessment systems and in any other successor measure, as specified. This bill would also require the results to be used in any measure, index, or results reported for the state's federal and state accountability system, or any successor system.

(2) Existing law establishes the Standardized Testing and Reporting Program, known as the STAR Program. Existing law requires each school district, charter school, and county office of education to administer a standards-based achievement test, known as the California Standards Tests, to all pupils in grades 2 to 11, inclusive. Existing law authorizes a school district to administer a 2nd test in the pupil's primary language to pupils with limited English proficiency who receive instruction in their primary language or have been enrolled in a school in the United States for less than 12 months.

The bill would require any successor state assessment system adopted on or after July 1, 2013, to include accommodations *and modifications* for ~~English learners~~ *limited-English-proficient pupils* that will allow meaningful participation in the assessments and that address the unique linguistic and sociocultural needs of the ~~English learner~~ *limited-English-proficient pupil* without altering the test construct. This bill would authorize a 2nd test in the pupil's primary language to be given to pupils with limited English proficiency, as specified. The bill would authorize schools providing dual immersion programs to use specified language tests to assess pupils who are ~~nonlimited-English proficient~~ *nonlimited-English-proficient status, as defined*. This bill would provide that the results of a primary language assessment given to ~~English learners~~ *limited English proficient pupils* shall also be used for the purposes of the Academic Performance Index, *or a measure or index used in any successor state accountability system*, beginning in the 2012–13 school year. The bill would require school districts to provide specified accommodations *and modifications* to pupils who are English learners while taking these tests, thereby imposing a state-mandated local program.

(3) Existing law requires test publishers ~~who~~ *that* wish to be considered for eligibility for the development of the California Standards Tests to adhere to specified requirements, including that the test publisher provide valid and reliable aggregate scores to school districts and county boards of education in specified forms and formats.

This bill would additionally require these test publishers to provide valid and reliable aggregate scores to school districts and county boards of education in a format that would show, for pupils who are English

learners, their program of instruction, time in the program of instruction, and their English proficiency level as determined by ~~the California English Language Development Test~~ *a test or test series, as specified.*

(4) This bill would become operative on *July 1, 2011, and would require that it apply to tests administered on or after January 1, 2012, unless otherwise specified.*

(5) 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.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

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

1 SECTION 1. (a) The Legislature finds and declares all of the
2 following:

3 (1) The federal No Child Left Behind Act of 2001 (20 U.S.C.
4 Sec. 6301 et seq.) requires states to test all pupils in a valid and
5 reliable manner and requires, to the extent practicable, that pupils
6 with limited English proficiency be tested in the language and
7 form most likely to yield accurate data on academic subject areas.

8 (2) Approximately one of every four pupils enrolled in
9 California's public schools is identified as a pupil with limited
10 English proficiency.

11 (3) The current academic assessment system does not allow
12 pupils with limited English proficiency to show academic ability
13 in academic subject areas.

14 (4) Exclusive reliance on academic assessments designed for
15 native English speakers to gauge the academic progress of pupils
16 with limited English proficiency violates standards for educational
17 testing established by recognized national educational institutions,
18 including the American Educational Research Association, the
19 American Psychological Association, and the National Council
20 on Measurement in Education.

21 (5) Valid and reliable academic assessment data is critical to
22 the education accountability system.

1 (6) An accountability system that would yield more accurate
2 data on the academic ability of pupils with limited English
3 proficiency is needed.

4 (7) Local educational agencies should not experience negative
5 consequences solely based on the scores of recent immigrant pupils
6 on tests that do not provide valid and reliable diagnostic
7 information about what these pupils know and can do in academic
8 subject areas.

9 (b) It is therefore the intent of the Legislature to bring the system
10 of assessing the academic progress of pupils with limited English
11 proficiency into alignment with the requirements of the federal
12 No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.),
13 including the requirement that states test all pupils in a valid and
14 reliable manner and, to the extent practicable, in the language and
15 form most likely to yield accurate data on academic ability in
16 academic subject areas. It is also the intent of the Legislature that
17 California's state assessments be valid and reliable assessments
18 for pupils who are English learners and for pupils with
19 developmental disabilities and that the provision of
20 accommodations enable their participation in these state
21 assessments pursuant to the core assurances of the American
22 Recovery and Reinvestment Act of 2009 (Public Law 111-5).

23 SEC. 2. Section 52052.7 is added to the Education Code, to
24 read:

25 52052.7. (a) Any primary language assessment developed by
26 the department and administered to pupils identified as limited
27 English proficient pursuant to Section 60810 and as defined in
28 subdivision (g) of Section 60640 on or after July 1, 2013, shall be
29 included in ~~any successor measure to~~ the state's assessment system
30 *or in any successor system* and shall be included in ~~any successor~~
31 ~~measure to measure or index that is developed or used for the~~
32 *purposes of the state's federal and state accountability system or*
33 *any successor system*. The results of the primary language
34 assessment shall be used in ~~any successor measure to measure or~~
35 *results reported for the state's assessment systems system or any*
36 *successor system*, and shall be used in ~~any successor measure to~~
37 *measure, index, or results reported for the state's federal and state*
38 *accountability system or any successor system*.

39 (b) Any ~~successor-measure system~~ to the state's assessment
40 system adopted on or after July 1, 2013, shall modify the

1 achievement test administered pursuant to Section 60642.5 in order
2 to eliminate linguistic complexity, to the extent practicable. The
3 modifications shall be based upon research *and be* designed to
4 maintain the rigor of the test.

5 (c) Any successor *system to the* state assessment system adopted
6 on or after July 1, 2013, shall include accommodations *and*
7 *modifications* for English learners that will allow for meaningful
8 participation in the assessments and that address the unique
9 linguistic and sociocultural needs of the English learner without
10 altering the test construct. The accommodations *and modifications*
11 shall include:

12 (1) A word-to-word glossary, without definitions, in English
13 and in the top 10 languages indicated by the language census
14 submitted to the department by the districts. The glossary shall
15 include frequently used general academic words as well as
16 discipline-specific words used in the assessments.

17 (2) The repetition of test directions at the request of a pupil.

18 (3) Translations of the test directions in the top 10 languages
19 indicated by the Language Census submitted to the department by
20 the districts.

21 ~~(4)~~

22 (d) The department shall provide to the districts the bilingual
23 glossaries prepared pursuant to paragraph (1) *of subdivision (c)*
24 and the translations of test directions prepared pursuant to
25 paragraph (3) *of subdivision (c)*.

26 ~~(e)~~

27 (e) (1) The Superintendent of ~~Public Instruction~~ shall establish
28 an advisory committee for the purpose of providing
29 recommendations to the Superintendent and the state board on all
30 of the following:

31 (A) How to include primary language assessments and their
32 scores in the state's assessment system and ~~in any successor~~
33 ~~assessment system and the successor in the state and federal~~
34 ~~accountability system and any successor accountability system.~~

35 (B) How to modify the state's successor assessment system as
36 specified in subdivision (b).

37 (C) How to include the accommodations *and modifications* in
38 the state's successor assessment system as specified in subdivision
39 (c).

1 (2) The majority of the advisory committee shall be comprised
2 of persons with demonstrated expertise in developing academic
3 assessments specific to English learners and persons with
4 demonstrated experience in research and data specific to English
5 learners.

6 SEC. 3. Section 60640 of the Education Code is amended to
7 read:

8 60640. (a) There is hereby established the Standardized Testing
9 and Reporting Program, to be known as the STAR Program.

10 (b) From the funds available for that purpose, each school
11 district, charter school, and county office of education shall
12 administer to each of its pupils in grades 2 to 11, inclusive, the
13 standards-based achievement test provided for in Section 60642.5.
14 The state board shall establish a testing period to provide that all
15 schools administer these tests to pupils at approximately the same
16 time during the instructional year, except as necessary to ensure
17 test security and to meet the final filing date.

18 (c) The publisher and the school district shall provide two
19 makeup days for the testing of previously absent pupils within the
20 testing period established by the state board in subdivision (b).

21 (d) The governing board of the school district may administer
22 achievement tests in grades other than those required by
23 subdivision (b) as it deems appropriate.

24 (e) Pursuant to Section 1412(a)(17) of Title 20 of the United
25 States Code, individuals with exceptional needs, as defined in
26 Section 56026, shall be included in the testing requirement of
27 subdivision (b) with appropriate accommodations in administration,
28 where necessary, and those individuals with exceptional needs
29 who are unable to participate in the testing, even with
30 accommodations, shall be given an alternate assessment.

31 (f) (1) Primary language tests administered pursuant to this
32 subdivision and subdivision (g) shall be subject to the requirements
33 of subdivision (a) of Section 60641. These primary language tests
34 shall produce individual pupil scores that are valid and reliable.

35 (2) Notwithstanding any other law, the state board shall
36 designate for use, as part of this program, a single primary language
37 test in each language for which a test is available for grades 2 to
38 11, inclusive, pursuant to the process used for designation of the
39 assessment chosen in the 1997–98 fiscal year, as specified in
40 Section 60643, as applicable.

1 (3) The primary language assessments developed pursuant to
2 this subdivision and subdivision (g) shall be developed to satisfy
3 all the requirements of the federal No Child Left Behind Act of
4 2001 (20 U.S.C. Sec. 6301 et seq.) *or any successor act*, including
5 the requirements regarding validity, reliability, and comparability.
6 The testing contractor chosen for the purpose of developing the
7 primary language assessments shall report to the state board as to
8 how these requirements have been met. The primary language
9 assessments developed pursuant to this subdivision and subdivision
10 (g) are subject to the requirements of subdivision (a) of Section
11 60641.

12 (4) (A) The department shall use funds made available pursuant
13 to Title VI of the federal No Child Left Behind Act of 2001 (20
14 U.S.C. Sec. 6301 et seq.) and appropriated by the annual Budget
15 Act for the purpose of developing and adopting primary language
16 assessments that are aligned to the state academic content
17 standards. Subject to the availability of funds, primary language
18 assessments shall be developed and adopted for reading/language
19 arts and mathematics in the dominant primary language of
20 limited-English-proficient pupils. The dominant primary language
21 shall be determined by the count in the annual language census of
22 the primary language of each limited-English-proficient pupil
23 enrolled in the California public schools.

24 (B) Once a dominant primary language assessment is available
25 for use for a specific grade level, it shall be administered in place
26 of the assessment designated pursuant to paragraph (1) for that
27 grade level.

28 (C) In choosing a contractor to develop a primary language
29 assessment the state board shall consider the criteria for choosing
30 a contractor or test publisher as specified by Section 60643, and
31 as specified by Section 60642.5, as applicable. The contractor shall
32 have expertise and experience in developing primary language
33 *tests and* test items.

34 (D) Subject to the availability of funds, the assessments shall
35 be developed in grade order starting with the lowest grade subject
36 to the STAR Program.

37 (E) If the state board contracts for the development of primary
38 language assessments or test items to augment an existing
39 assessment, the state shall retain ownership rights to the assessment
40 and the test items. With the approval of the state board, the

1 department may license the test for use in other states subject to a
2 compensation agreement approved by the Department of Finance.

3 (F) On or before January 1, 2006, the department shall submit
4 to the Legislature a report on the development and implementation
5 of the initial primary language assessments and recommendations
6 on the development and implementation of future assessments and
7 funding requirements.

8 (g) A pupil identified as limited English proficient pursuant to
9 the administration of ~~a test made available~~ *the test or test series*
10 *developed or acquired* pursuant to Section 60810 who is enrolled
11 in any of grades 2 to 11, inclusive, shall be required to take a test
12 in his or her primary language if a test is available. ~~English learners~~
13 *Limited-English-proficient pupils* required to take this test include
14 either:

15 (1) ~~Those~~ *Pupils* who receive instruction in their primary
16 language.

17 (2) ~~Those~~ *Pupils* who are literate in their primary language as
18 determined by the results of the first administration of the primary
19 language assessment and have been enrolled in a school in the
20 United States for less than three consecutive years.

21 (h) Public schools providing dual immersion programs may use
22 the primary language assessments pursuant to subdivision (g) for
23 the purpose of assessing pupils who are enrolled in dual immersion
24 programs and who are ~~nonlimited English proficient, as described~~
25 *nonlimited-English-proficient status, as defined in paragraph (6)*
26 *of subdivision (a) of Section 60643*. This assessment shall be
27 administered at the school district's expense, and only if the school
28 district enters into an agreement for that purpose with the ~~state~~
29 *state's* testing contractor.

30 (i) The results of a primary language assessment administered
31 to ~~English learners~~ *limited-English-proficient pupils* pursuant to
32 subdivision (g) shall be used to determine adequate yearly progress
33 pursuant to the federal No Child Left Behind Act of 2001 (20
34 U.S.C. Sec. 6301 et seq.), *or a measure or index used in any*
35 *successor federal accountability system*, and shall begin in the
36 2012–13 school year. However, for pupils to whom the high school
37 exit examination *adopted pursuant to Section 60850* is
38 administered, the high school exit examination shall be used to
39 determine adequate yearly progress rather than as an achievement
40 test administered pursuant to this section.

1 (j) The results of a primary language assessment administered
2 to ~~English learners~~ *limited-English-proficient pupils* pursuant to
3 subdivision (g) shall also be used for purposes of the Academic
4 Performance Index (API) *or a measure or index used in any*
5 *successor state accountability system*, and shall begin in the
6 2012–13 school year.

7 (k) For purposes of subdivisions (i) and (j), only the highest test
8 score results of the primary language standards test or the English
9 standards test shall be included.

10 (l) (1) The Superintendent shall apportion funds to school
11 districts to enable school districts to meet the requirements of
12 subdivisions (b), (e), (f), and (g).

13 (2) The state board annually shall establish the amount of
14 funding to be apportioned to school districts for each test
15 administered and annually shall establish the amount that each
16 publisher shall be paid for each test administered under the
17 agreements required pursuant to Section 60643. The amounts to
18 be paid to the publishers shall be determined by considering the
19 cost estimates submitted by each publisher each September and
20 the amount included in the annual Budget Act, and by making
21 allowance for the estimated costs to school districts for compliance
22 with the requirements of subdivisions (b), (e), (f), and (g).

23 (3) An adjustment to the amount of funding to be apportioned
24 per test shall not be valid without the approval of the Director of
25 Finance. A request for approval of an adjustment to the amount
26 of funding to be apportioned per test shall be submitted in writing
27 to the Director of Finance and the chairpersons of the fiscal
28 committees of both houses of the Legislature with accompanying
29 material justifying the proposed adjustment. The Director of
30 Finance is authorized to approve only those adjustments related
31 to activities required by statute. The Director of Finance shall
32 approve or disapprove the amount within 30 days of receipt of the
33 request and shall notify the chairpersons of the fiscal committees
34 of both houses of the Legislature of the decision.

35 (m) For purposes of making the computations required by
36 Section 8 of Article XVI of the California Constitution, the
37 appropriation for the apportionments made pursuant to paragraph
38 (1) of subdivision (l), and the payments made to the publishers
39 under the contracts required pursuant to Section 60643 or
40 subparagraph (C) of paragraph (1) of subdivision (a) of Section

1 60605 between the department and the contractor, are “General
2 Fund revenues appropriated for school districts,” as defined in
3 subdivision (c) of Section 41202, for the applicable fiscal year,
4 and included within the “total allocations to school districts and
5 community college districts from General Fund proceeds of taxes
6 appropriated pursuant to Article XIII B,” as defined in subdivision
7 (e) of Section 41202, for that fiscal year.

8 (n) As a condition for receiving an apportionment pursuant to
9 subdivision (l), a school district shall report to the Superintendent
10 all of the following:

11 (1) The number of pupils enrolled in the school district in grades
12 2 to 11, inclusive.

13 (2) The number of pupils to whom an achievement test was
14 administered in grades 2 to 11, inclusive, in the school district.

15 (3) The number of pupils in paragraph (1) who were exempted
16 from the test at the request of their parents or guardians.

17 (4) The number of pupils to whom a primary language
18 assessment was administered in grades 2 to 11, inclusive, in the
19 school district.

20 (o) The Superintendent and the state board are authorized and
21 encouraged to assist postsecondary educational institutions to use
22 the assessment results of the California Standards Tests, including,
23 but not limited to, the augmented California Standards Tests, for
24 academic credit, placement, or admissions processes.

25 (p) The Superintendent, with the approval of the state board,
26 annually shall release to the public test items from the
27 standards-based achievement tests pursuant to Section 60642.5
28 administered in previous years. The minimum number of test items
29 released per year shall be equal to 25 percent of the total number
30 of test items on the test administered in the previous year.

31 SEC. 4. Section 60643 of the Education Code is amended to
32 read:

33 60643. (a) To be eligible for consideration under Section
34 60642.5 by the state board, test publishers shall agree in writing
35 each year to meet the following requirements, as applicable, if
36 selected:

37 (1) Enter into an agreement, pursuant to subdivision (e) or (f),
38 with the department by October 15 of that year.

- 1 (2) Align the standards-based achievement test provided for in
2 Section 60642.5 to the academically rigorous content and
3 performance standards adopted by the state board.
- 4 (3) Comply with subdivisions (c) and (d) of Section 60645.
- 5 (4) Provide valid and reliable individual pupil scores to parents
6 or guardians, teachers, and school administrators.
- 7 (5) Provide valid and reliable aggregate scores to school districts
8 and county boards of education in all of the following forms and
9 formats:
- 10 (A) Grade level.
 - 11 (B) School level.
 - 12 (C) District level.
 - 13 (D) Countywide.
 - 14 (E) Statewide.
 - 15 (F) Comparison of statewide scores relative to other states.
 - 16 (G) For pupils who are English learners, their program of
17 instruction, time in the program of instruction, and ~~their~~ English
18 proficiency level as determined by the ~~California English Language~~
19 ~~Development Test~~. *test or test series developed or acquired*
20 *pursuant to Section 60810.*
- 21 (6) Provide disaggregated scores, based on
22 limited-English-proficient status and nonlimited-English-proficient
23 status. For purposes of this section, pupils with
24 “nonlimited-English-proficient status” shall include the total of
25 those pupils who are English-only pupils, fluent-English-proficient
26 pupils, and redesignated fluent-English-proficient pupils. These
27 scores shall be provided to school districts and county boards of
28 education in the same forms and formats listed in paragraph (5).
- 29 (7) Provide disaggregated scores by pupil gender and ethnicity
30 and provide disaggregated scores based on whether pupils are
31 economically disadvantaged or not. These disaggregated scores
32 shall be in the same forms and formats as listed in paragraph (5).
33 In any one year, the disaggregation shall entail information already
34 being collected by school districts, county offices of education, or
35 charter schools.
- 36 (8) Provide disaggregated scores for pupils who have
37 individualized education programs and have enrolled in special
38 education, to the extent required by federal law. These scores shall
39 be provided in the same forms and formats listed in paragraph (5).

1 This section shall not be construed to exclude the scores of special
2 education pupils from any state or federal accountability system.

3 (9) Provide information listed in paragraphs (5), (6), (7), and
4 (8) to the department and the state board in the medium requested
5 by each entity, respectively.

6 (b) It is the intent of the Legislature that the publisher work with
7 the Superintendent and the state board in developing a methodology
8 to disaggregate statewide scores as required in paragraphs (6) and
9 (7) of subdivision (a), and in determining which variable indicated
10 on the STAR testing document shall serve as a proxy for
11 “economically disadvantaged” status pursuant to paragraph (7) of
12 subdivision (a).

13 (c) Access to information about individual pupils or their
14 families shall be granted to the publisher only for purposes of
15 correctly associating test results with the pupils who produced
16 those results or for reporting and disaggregating test results as
17 required by this section. School districts are prohibited from
18 excluding a pupil from the test if a parent or parents decline to
19 disclose income. This chapter does not abridge or deny rights to
20 confidentiality contained in the federal Family Educational Rights
21 and Privacy Act of 1974 (20 U.S.C. Sec. 1232g) or other applicable
22 state and federal law that protect the confidentiality of information
23 collected by educational institutions.

24 (d) Notwithstanding any other law, the publisher of the
25 standards-based achievement test provided for in Section 60642.5
26 or any contractor under subdivision (f) shall comply with all of
27 the conditions and requirements enumerated in subdivision (a), as
28 applicable, to the satisfaction of the state board.

29 (e) (1) A publisher shall not provide a test described in Section
30 60642.5 or 60650 or in subdivision (f) of Section 60640 for use
31 in California public schools, unless the publisher enters into a
32 written contract with the department as set forth in this subdivision.

33 (2) The department shall develop, and the state board shall
34 approve, a contract to be entered into with a publisher pursuant to
35 paragraph (1). The department may develop the contract through
36 negotiations with the publisher.

37 (3) For purposes of the contracts authorized pursuant to this
38 subdivision, the department is exempt from the requirements of
39 Part 2 (commencing with Section 10100) of Division 2 of the
40 Public Contract Code and from the requirements of Article 6

1 (commencing with Section 999) of Chapter 6 of Division 4 of the
2 Military and Veterans Code.

3 (4) The contracts shall include provisions for progress payments
4 to the publisher for work performed or costs incurred in the
5 performance of the contract. Not less than 10 percent of the amount
6 budgeted for each separate and distinct component task provided
7 for in each contract shall be withheld pending final completion of
8 all component tasks by that publisher. The total amount withheld
9 pending final completion shall not exceed 10 percent of the total
10 contract price.

11 (5) The contracts shall require liquidated damages to be paid
12 by the publisher in the amount of up to 10 percent of the total cost
13 of the contract for any component task that the publisher through
14 its own fault or that of its subcontractors fails to substantially
15 perform by the date specified in the agreement.

16 (6) The contracts shall establish the process and criteria by
17 which the successful completion of each component task shall be
18 recommended by the department and approved by the state board.

19 (7) The publishers shall submit, as part of the contract
20 negotiation process, a proposed budget and invoice schedule, that
21 includes a detailed listing of the costs for each component task
22 and the expected date of the invoice for each completed component
23 task.

24 (8) The contracts shall specify the following component tasks,
25 as applicable, that are separate and distinct:

26 (A) Development of new tests or test items as required by
27 paragraph (2) of subdivision (a).

28 (B) Test materials production or publication.

29 (C) Delivery of test materials to school districts.

30 (D) Test processing, scoring, and analyses.

31 (E) Reporting of test results to the school districts, including,
32 but not limited to, all reports specified in this section.

33 (F) Reporting of test results to the department, including, but
34 not limited to, the electronic files required pursuant to this section.

35 (G) All other analyses or reports required by the Superintendent
36 to meet the requirements of state and federal law and set forth in
37 the agreement.

38 (9) The contracts shall specify the specific reports and data files,
39 if any, that are to be provided to school districts by the publisher
40 and the number of copies of each report or file to be provided.

1 (10) The contracts shall specify the means by which any delivery
2 date for materials to each school district shall be verified by the
3 publisher and the school district.

4 (11) School districts may negotiate a separate agreement with
5 the publisher for any additional materials or services not within
6 the contracts specified in this subdivision, including, but not limited
7 to, the administration of the tests to pupils in grade levels other
8 than grades 2 to 11, inclusive. Any separate agreement is not within
9 the scope of the contract specified in this subdivision.

10 (f) The department, with approval of the state board, may enter
11 into a separate contract for the development or administration of
12 a test authorized pursuant to this part, including, but not limited
13 to, item development, coordination of tests, assemblage of tests
14 or test items, scoring, or reporting. The liquidated damages
15 provision set forth in paragraph (5) of subdivision (e) shall apply
16 to a contract entered into pursuant to this subdivision.

17 SEC. 5. This act shall become operative on ~~January 1, 2012~~
18 *July 1, 2011, and shall apply to tests administered on or after*
19 *January 1, 2012, unless otherwise specified in this act.*

20 SEC. 6. If the Commission on State Mandates determines that
21 this act contains costs mandated by the state, reimbursement to
22 local agencies and school districts for those costs shall be made
23 pursuant to Part 7 (commencing with Section 17500) of Division
24 4 of Title 2 of the Government Code.