

AMENDED IN ASSEMBLY JANUARY 4, 2012

AMENDED IN ASSEMBLY AUGUST 30, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1246

Introduced by Assembly Member Brownley

February 18, 2011

An act to amend Sections 60200, 60203, and 60204 of the Education Code, relating to instructional materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 1246, as amended, Brownley. Instructional materials.

(1) Existing law requires the State Board of Education to adopt basic instructional materials for use in kindergarten and grades 1 to 8, inclusive, for governing boards, as defined, subject to specified provisions. Existing law authorizes instructional materials to be submitted for adoption in certain subject areas according to 6- and 8-year submission cycles.

This bill would require the Superintendent of Public Instruction, and authorize school districts, to submit instructional materials for review to the state board, which would be required to adopt procedures for the review of those submitted instructional materials. The bill would add additional requirements for the review and adoption of instructional materials, including, but not limited to, changing the submission cycles to 8 years for all subject areas and requiring the State Department of Education to assess a reasonable fee on a publisher or manufacturer if it submits instructional materials for review after the applicable timeframe. The bill also would authorize the Superintendent and school

districts to recommend to the state board instructional materials for its adoption, as specified.

~~(2) Existing law requires the Curriculum Development and Supplemental Materials Commission to recommend curriculum frameworks for adoption by the state board, develop criteria for evaluating instructional materials, study and evaluate instructional materials submitted for adoption, recommend to the state board instructional materials that it approves for adoption, and review specified educational films or video recordings. Existing law requires the state board to give the commission a public hearing before making any adoption of instructional materials for use in elementary schools.~~

~~This bill would delete the requirement that the commission study and evaluate instructional materials, recommend instructional materials, and review specified educational films or video recordings. The bill would require the commission to perform additional prescribed functions. The bill would instead require the state board to hold a public hearing before adopting instructional materials for use in elementary schools.~~

(2) Existing law requires the Instructional Quality Commission to perform specified duties related to instructional materials for use in elementary schools, including the recommendation of instructional materials for adoption to the state board. Existing law also requires the state board to give the commission a public hearing before making any adoption of instructional materials for use in elementary schools.

This bill would delete the requirement that the commission recommend instructional materials for adoption to the state board and would require the commission to perform additional prescribed functions, as specified. The bill also would require the state board to hold a public hearing before adopting instructional materials for use in elementary schools.

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 60200 of the Education Code is amended
- 2 to read:
- 3 60200. The state board shall adopt basic instructional materials
- 4 for use in kindergarten and grades 1 to 8, inclusive, for governing
- 5 boards, subject to the following provisions:

1 (a) The state board shall adopt at least five basic instructional
2 materials for all applicable grade levels in each of the following
3 subject areas:

4 (1) Language arts, including, but not limited to, spelling and
5 reading. The state board may not adopt basic instructional materials
6 in this subject area or the subject area specified by paragraph (2)
7 in the year succeeding the year in which the state board adopts
8 basic instructional materials in this subject area for the same grade
9 level.

10 (2) Mathematics. The state board may not adopt basic
11 instructional materials in this subject area or the subject area
12 specified by paragraph (1) in the year succeeding the year in which
13 the state board adopts basic instructional materials in this subject
14 area for the same grade level.

15 (3) Science.

16 (4) Social science.

17 (5) Bilingual or bicultural subjects.

18 (6) Any other subject, discipline, or interdisciplinary areas for
19 which the state board determines the adoption of instructional
20 materials to be necessary or desirable.

21 (b) The state board shall adopt procedures for the submission
22 of basic instructional materials and for the review of submitted
23 instructional materials by the Superintendent and school districts
24 in order to comply with each of the following:

25 (1) The Superintendent shall, and school districts may, submit
26 instructional materials for review in any of the subject areas
27 pursuant to paragraphs (1) to (6), inclusive, of subdivision (a) every
28 eight years. The state board shall ensure that curriculum
29 frameworks are reviewed and adopted in each subject area and
30 that the criteria for evaluating instructional materials developed
31 pursuant to subdivision (b) of Section 60204 are consistent with
32 subdivision (d). The state board may prescribe reasonable
33 conditions to restrict the resubmission of materials that have been
34 previously rejected if those resubmitted materials have no
35 substantive changes.

36 (2) If a publisher or manufacturer submits an instructional
37 material for review to the Superintendent after the timeframe
38 specified by the state board, the department shall assess a fee on
39 the submitting publisher or manufacturer in an amount that shall

1 not exceed the reasonable costs to the department to conduct a
2 review of the instructional material pursuant to this section.

3 (3) Instructional materials recommended by the Superintendent
4 or a school district for adoption by the state board shall be adopted
5 or rejected within six months of the date the materials are
6 recommended by the Superintendent or a school district, unless
7 the state board determines that a longer period of time, not to
8 exceed an additional three months, is necessary due to the estimated
9 volume or complexity of the materials for that subject in that year,
10 or due to other circumstances beyond the reasonable control of the
11 state board.

12 (4) Instructional materials submitted by school districts may be
13 developed by either a district or by publishers or manufacturers
14 of instructional materials. Publishers or manufacturers of
15 instructional materials may submit instructional materials to either
16 a school district or to the Superintendent.

17 (5) The process for review of instructional materials shall
18 involve review committees, which shall include, but not be limited
19 to, volunteer content experts and instructional material reviewers,
20 and shall be composed of a majority of classroom teachers from
21 a wide variety of affected grade levels and subject areas.

22 (6) The rules and procedures for adoption of instructional
23 materials shall be transparent and consistently applicable regardless
24 of the format of the instructional materials, which may include,
25 but not be limited to, print, digital, and open-source instructional
26 materials.

27 (c) (1) The Superintendent and school districts may recommend
28 to the state board instructional materials for its adoption and use
29 in kindergarten and grades 1 to 8, inclusive.

30 (2) The Superintendent or a school district may recommend
31 only instructional materials that meet the criteria specified in
32 paragraphs (1) to (5), inclusive, of subdivision (d) and any other
33 criteria that the state board may establish as necessary to
34 accomplish the intent of Section 7.5 of Article IX of the California
35 Constitution.

36 (3) When the Superintendent and school districts recommend
37 instructional materials to the state board, they shall include reports
38 of findings that include information regarding alignment of
39 standards, program organization, pupil assessments, teacher

1 support, and support for English learners and pupils with
2 disabilities.

3 (4) The governing board of a school district choosing to
4 recommend instructional materials to the state board shall ensure
5 that a majority of a review committee convened by the school
6 district for the purpose of selecting the instructional materials is
7 composed of classroom teachers who are assigned to teach the
8 grade in which the instructional materials are to be used.

9 (d) In reviewing and adopting or recommending for adoption
10 submitted basic instructional materials, the state board shall use
11 the following criteria, and ensure that, in its judgment, the
12 submitted basic instructional materials meet all of the following
13 criteria:

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

18 (2) Comply with the requirements of Sections 60040, 60041,
19 60042, 60043, 60044, 60048, 60200.5, and 60200.6, and the state
20 board's guidelines for social content.

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

23 (4) Are aligned to the content standards adopted by the state
24 board in the subject area and the grade level or levels for which
25 they are submitted.

26 (5) Do not contain materials, including illustrations, that provide
27 unnecessary exposure to a commercial brand name, product, or
28 corporate or company logo. Materials, including illustrations, that
29 contain a commercial brand name, product, or corporate or
30 company logo may not be used unless the state board determines
31 that the use of the commercial brand name, product, or corporate
32 or company logo is appropriate based on one of the following
33 specific findings:

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

38 (B) If an illustration, the appearance of a commercial brand
39 name, product, or corporate or company logo in an illustration in

1 instructional materials is incidental to the general nature of the
2 illustration.

3 (6) Meet other criteria as are established by the state board as
4 being necessary to accomplish the intent of Section 7.5 of Article
5 IX of the California Constitution and of Section 1 of Chapter 1181
6 of the Statutes of 1989, provided that the criteria are approved by
7 resolution at the time the resolution adopting the framework for
8 the current adoption is approved, or at least 30 months before the
9 date that the materials are to be approved for adoption.

10 (e) If basic instructional materials are rejected, the state board
11 shall provide a specific, written explanation of the reasons why
12 the submitted materials were not adopted, based upon one or more
13 of the criteria established under subdivision (d). In providing this
14 explanation, the state board may use, in whole or in part, materials
15 written by the Superintendent, school districts, or any other advisers
16 to the state board.

17 (f) The state board may adopt fewer than five basic instructional
18 materials in each subject area for each grade level if either of the
19 following occurs:

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

21 (2) The state board specifically finds that fewer than five basic
22 instructional materials meet the criteria prescribed by paragraphs
23 (1) to (5), inclusive, of subdivision (d), or the materials fail to meet
24 the state board's adopted curriculum framework. If the state board
25 adopts fewer than five basic instructional materials in any subject
26 for any grade level, the state board shall conduct a review of the
27 degree to which the criteria and procedures used to evaluate the
28 submitted materials for that adoption were consistent with the state
29 board's adopted curriculum framework.

30 (g) This section does not limit the authority of the state board
31 to adopt materials that are not basic instructional materials.

32 (h) If the governing board of a school district establishes to the
33 satisfaction of the state board that the state-adopted instructional
34 materials do not promote the maximum efficiency of pupil learning
35 in the school district, the state board shall authorize that governing
36 board of the school district to use its instructional materials
37 allowances to purchase materials as specified by the state board,
38 in accordance with standards and procedures established by the
39 state board.

1 (i) Consistent with the quality criteria for the state board's
2 adopted curriculum framework, the state board shall prescribe
3 procedures to provide the most open and flexible materials
4 submission system and ensure that the adopted materials in each
5 subject, taken as a whole, provide for the educational needs of the
6 diverse pupil populations in the public schools, provide collections
7 of instructional materials that illustrate diverse points of view,
8 represent cultural pluralism, and provide a broad spectrum of
9 knowledge, information, and technology-based materials to meet
10 the goals of the program and the needs of pupils.

11 (j) Upon making an adoption, the state board shall make
12 available to listed publishers and manufacturers and all school
13 interests a listing of instructional materials, including the most
14 current unit cost of those materials as computed pursuant to existing
15 law. Items placed upon lists shall remain thereon, and be available
16 for procurement through the state's systems of financing, from the
17 date of the adoption of the item and until a date established by the
18 state board. The date established by the state board for continuing
19 items on that list shall be the date on which the state board adopts
20 instructional materials based upon a new or revised curriculum
21 framework. Lists of adopted instructional materials shall be made
22 available by subject and grade level to school districts and posted
23 on the department's Internet Web site, and shall include
24 information from the reports of findings pursuant to paragraph (3)
25 of subdivision (c). The lists shall terminate and shall no longer be
26 effective on the date prescribed by the state board pursuant to this
27 subdivision.

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

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

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

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

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

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

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

15 SEC. 2. Section 60203 of the Education Code is amended to
16 read:

17 60203. The state board shall hold a public hearing before
18 adopting instructional materials for use in the elementary schools
19 of the state.

20 ~~SEC. 3. Section 60204 of the Education Code is amended to~~
21 ~~read:~~

22 ~~60204. The commission established pursuant to Section 33530~~
23 ~~shall do all of the following:~~

24 ~~(a) Recommend curriculum frameworks to the state board.~~

25 ~~(b) Develop criteria for evaluating instructional materials~~
26 ~~submitted for adoption so that the materials adopted shall~~
27 ~~adequately cover the subjects in the indicated grade or grades and~~
28 ~~comply with the provisions of Article 3 (commencing with Section~~
29 ~~60040) of Chapter 1. The criteria developed by the commission~~
30 ~~shall be consistent with the duties of the state board pursuant to~~
31 ~~Section 60200. The criteria shall be public information and shall~~
32 ~~be provided in written or printed form to any person requesting~~
33 ~~that information.~~

34 ~~(c) Review reports of findings made by the Superintendent or~~
35 ~~by school districts pursuant to paragraph (3) of subdivision (c) of~~
36 ~~Section 60200, at the request of the state board, and review~~
37 ~~instructional materials, as necessary.~~

38 ~~(d) Hear appeals at the request of the state board.~~

1 ~~(e) Give independent advice to the state board about whether~~
2 ~~instructional materials meet the evaluation criteria developed~~
3 ~~pursuant to subdivision (b).~~

4 ~~(f) Recommend to the state board policies and activities to assist~~
5 ~~the department and school districts in the use of the curriculum~~
6 ~~framework and other available model curriculum materials for the~~
7 ~~purpose of guiding and strengthening the quality of instruction in~~
8 ~~the public schools.~~

9 *SEC. 3. Section 60204 of the Education Code is amended to*
10 *read:*

11 60204. The Instructional Quality Commission established
12 pursuant to Section 33530 shall do all of the following:

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

14 (b) Develop criteria for evaluating instructional materials
15 submitted for adoption so that the materials adopted shall
16 adequately cover the subjects in the indicated grade or grades and
17 comply with the provisions of Article 3 (commencing with Section
18 60040) of Chapter 1. The criteria developed by the commission
19 shall be consistent with the duties of the state board pursuant to
20 Section 60200. The criteria shall be public information, and shall
21 be provided in written or printed form to any person requesting
22 that information.

23 (1) The criteria for English language arts instructional materials
24 shall include directions to publishers to align both lessons and
25 teacher's editions, as appropriate, with English language
26 development standards and incorporate strategies to address, at
27 every grade level, the needs of all English learners. The criteria
28 for other subject areas shall include directions to publishers to
29 incorporate strategies for English learners that are consistent with
30 the English language development standards.

31 (2) The criteria also shall include directions to publishers to
32 incorporate instructional strategies to address the needs of pupils
33 with disabilities in both lessons and teacher's editions, as
34 appropriate, at every grade level and subject.

35 ~~(e) Study and evaluate instructional materials submitted for~~
36 ~~adoption.~~

37 *(c) Review reports of findings made by the Superintendent or*
38 *by school districts pursuant to paragraph (3) of subdivision (c) of*
39 *Section 60200, at the request of the state board, and review*
40 *instructional materials, as necessary.*

1 (d) ~~Recommend instructional materials for adoption to~~*Hear*
2 *appeals at the request of the state board.*

3 (e) *Give independent advice to the state board about whether*
4 *instructional materials meet the evaluation criteria developed*
5 *pursuant to subdivision (b).*

6 ~~(e)~~

7 (f) Recommend to the state board policies and activities to assist
8 the department and school districts in the use of the curriculum
9 framework and other available model curriculum materials for the
10 purpose of guiding and strengthening the quality of instruction in
11 the public schools.

12 ~~(f)~~

13 (g) Advise and make recommendations to the state board,
14 including, but not limited to, what policies and activities are needed
15 to implement the state’s academic content standards, and bring the
16 state’s curriculum frameworks, instructional materials, professional
17 development programs, pupil assessments, and academic
18 accountability systems into alignment with those standards.