

AMENDED IN SENATE JULY 6, 2012

AMENDED IN ASSEMBLY JANUARY 23, 2012

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AMENDED IN ASSEMBLY AUGUST 30, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1246**

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**Introduced by Assembly Member Brownley**

*(Coauthor: Senator Lowenthal)*

February 18, 2011

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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 Instructional Quality Commission (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 would prohibit the commission from performing certain functions unless funds are available in the Budget Act for the commission. 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:

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

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

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

6       (3) Science.

7       (4) Social science.

8       (5) Bilingual or bicultural subjects.

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

12     (b) The state board shall adopt procedures for the submission  
13 of basic instructional materials and for the review of submitted  
14 instructional materials by the Superintendent and school districts  
15 in order to comply with each of the following:

16     (1) The Superintendent shall, and school districts may, submit  
17 instructional materials for review in any of the subject areas  
18 pursuant to paragraphs (1) to (6), inclusive, of subdivision (a) every  
19 eight years. The state board shall ensure that curriculum  
20 frameworks are reviewed and adopted in each subject area and  
21 that the criteria for evaluating instructional materials developed  
22 pursuant to subdivision (b) of Section 60204 are consistent with  
23 subdivision (d). The state board may prescribe reasonable  
24 conditions to restrict the resubmission of materials that have been  
25 previously rejected if those resubmitted materials have no  
26 substantive changes.

27     (2) If a publisher or manufacturer submits an instructional  
28 material for review to the Superintendent after the timeframe  
29 specified by the state board, the department shall assess a fee on  
30 the submitting publisher or manufacturer in an amount that shall  
31 not exceed the reasonable costs to the department to conduct a  
32 review of the instructional material pursuant to this section.

33     (3) Instructional materials recommended by the Superintendent  
34 or a school district for adoption by the state board shall be adopted  
35 or rejected within six months of the date the materials are  
36 recommended by the Superintendent or a school district, unless  
37 the state board determines that a longer period of time, not to  
38 exceed an additional three months, is necessary due to the estimated  
39 volume or complexity of the materials for that subject in that year,

1 or due to other circumstances beyond the reasonable control of the  
2 state board.

3 (4) Instructional materials submitted by school districts may be  
4 developed by either a district or by publishers or manufacturers  
5 of instructional materials. Publishers or manufacturers of  
6 instructional materials may submit instructional materials to either  
7 a school district or to, the Superintendent, or both.

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

13 (6) The rules and procedures for adoption of instructional  
14 materials shall be transparent and consistently applicable regardless  
15 of the format of the instructional materials, which may include,  
16 but not be limited to, print, digital, and open-source instructional  
17 materials.

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

21 (2) The Superintendent or a school district may recommend  
22 only instructional materials that meet the criteria specified in  
23 paragraphs (1) to (5), inclusive, of subdivision (d) and any other  
24 criteria that the state board may establish as necessary to  
25 accomplish the intent of Section 7.5 of Article IX of the California  
26 Constitution.

27 (3) When the Superintendent and school districts recommend  
28 instructional materials to the state board, they shall include reports  
29 of findings that include information regarding alignment of  
30 standards, program organization, pupil assessments, teacher  
31 support, and support for English learners and pupils with  
32 disabilities.

33 (4) The governing board of a school district choosing to  
34 recommend instructional materials to the state board shall ensure  
35 that a majority of a review committee convened by the school  
36 district for the purpose of selecting the instructional materials is  
37 composed of classroom teachers who are assigned to teach the  
38 grade in which the instructional materials are to be used.

39 (d) In reviewing and adopting or recommending for adoption  
40 submitted basic instructional materials, the state board shall use

1 the following criteria, and ensure that, in its judgment, the  
2 submitted basic instructional materials meet all of the following  
3 criteria:

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

8     (2) Comply with the requirements of Sections 60040, 60041,  
9 60042, 60043, 60044, 60048, 60200.5, and 60200.6, and the state  
10 board's guidelines for social content.

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

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

16     (5) Do not contain materials, including illustrations, that provide  
17 unnecessary exposure to a commercial brand name, product, or  
18 corporate or company logo. Materials, including illustrations, that  
19 contain a commercial brand name, product, or corporate or  
20 company logo may not be used unless the state board determines  
21 that the use of the commercial brand name, product, or corporate  
22 or company logo is appropriate based on one of the following  
23 specific findings:

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

28         (B) If an illustration, the appearance of a commercial brand  
29 name, product, or corporate or company logo in an illustration in  
30 instructional materials is incidental to the general nature of the  
31 illustration.

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

39     (e) If basic instructional materials are rejected, the state board  
40 shall provide a specific, written explanation of the reasons why

1 the submitted materials were not adopted, based upon one or more  
2 of the criteria established under subdivision (d). In providing this  
3 explanation, the state board may use, in whole or in part, materials  
4 written by the Superintendent, school districts, or any other advisers  
5 to the state board.

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

9 (1) Fewer than five basic instructional materials are submitted.  
10 (2) The state board specifically finds that fewer than five basic  
11 instructional materials meet the criteria prescribed by paragraphs  
12 (1) to (5), inclusive, of subdivision (d), or the materials fail to meet  
13 the state board's adopted curriculum framework. If the state board  
14 adopts fewer than five basic instructional materials in any subject  
15 for any grade level, the state board shall conduct a review of the  
16 degree to which the criteria and procedures used to evaluate the  
17 submitted materials for that adoption were consistent with the state  
18 board's adopted curriculum framework.

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

21 (h) If the governing board of a school district establishes to the  
22 satisfaction of the state board that the state-adopted instructional  
23 materials do not promote the maximum efficiency of pupil learning  
24 in the school district, the state board shall authorize that governing  
25 board of the school district to use its instructional materials  
26 allowances to purchase materials as specified by the state board,  
27 in accordance with standards and procedures established by the  
28 state board.

29 (i) Consistent with the quality criteria for the state board's  
30 adopted curriculum framework, the state board shall prescribe  
31 procedures to provide the most open and flexible materials  
32 submission system and ensure that the adopted materials in each  
33 subject, taken as a whole, provide for the educational needs of the  
34 diverse pupil populations in the public schools, provide collections  
35 of instructional materials that illustrate diverse points of view,  
36 represent cultural pluralism, and provide a broad spectrum of  
37 knowledge, information, and technology-based materials to meet  
38 the goals of the program and the needs of pupils.

39 (j) Upon making an adoption, the state board shall make  
40 available to listed publishers and manufacturers and all school

1 interests a listing of instructional materials, including the most  
2 current unit cost of those materials as computed pursuant to existing  
3 law. Items placed upon lists shall remain thereon, and be available  
4 for procurement through the state's systems of financing, from the  
5 date of the adoption of the item and until a date established by the  
6 state board. The date established by the state board for continuing  
7 items on that list shall be the date on which the state board adopts  
8 instructional materials based upon a new or revised curriculum  
9 framework. Lists of adopted instructional materials shall be made  
10 available by subject and grade level to school districts and posted  
11 on the department's Internet Web site, and shall include  
12 information from the reports of findings pursuant to paragraph (3)  
13 of subdivision (c). The lists shall terminate and shall no longer be  
14 effective on the date prescribed by the state board pursuant to this  
15 subdivision.

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

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

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

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

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

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

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

3       SEC. 2. Section 60203 of the Education Code is amended to  
4 read:

5       60203. The state board shall hold a public hearing before  
6 adopting instructional materials for use in the elementary schools  
7 of the state.

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

10      60204. The Instructional Quality Commission established  
11 pursuant to Section 33530 shall do all of the following:

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

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

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

34      (c) *Review reports Upon request of the state board, review both  
35 of the following:*

36      (1) *Reports* of findings made by the Superintendent or by school  
37 districts pursuant to paragraph (3) of subdivision (c) of Section  
38 60200, ~~at the request of the state board, and review instructional~~.

39      (2) *Instructional materials, as necessary.*

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

1     (e) *Give Upon request of the state board, give independent*  
2 *advice to the state board about whether instructional materials*  
3 *meet the evaluation criteria developed 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     (g) Advise and make recommendations to the state board,  
10 including, but not limited to, what policies and activities are needed  
11 to implement the state's academic content standards, and bring the  
12 state's curriculum frameworks, instructional materials, professional  
13 development programs, pupil assessments, and academic  
14 accountability systems into alignment with those standards.

15     (h) Subdivisions (c), (d), and (e) of this section shall not be  
16 implemented unless funds are available in the Budget Act for the  
17 Instructional Quality Commission.