

ASSEMBLY BILL

No. 2662

**Introduced by Committee on Education (Brownley (Chair),
Ammiano, Buchanan, Butler, Carter, Eng, Beth Gaines,
Halderman, Wagner, and Williams)**

February 29, 2012

An act to amend Section 48070.5 of the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 2662, as introduced, Committee on Education. Pupil promotion and retention.

Existing law requires the governing board of each school district and each county board of education to approve a policy regarding the promotion and retention of pupils between specified grades, and requires that policy to provide for the identification of pupils who should be retained or who are at risk of being retained in their current grade level on the basis of specified factors. Existing law requires that the policy provide for parental notification when a pupil is identified as being at risk of retention, and that the policy provide the pupil's parent or guardian the opportunity to consult with the teacher or teachers responsible for the decision to promote or retain the pupil. Existing law also requires, under specified circumstances, that the pupil's parent or guardian be provided the opportunity to discuss a teacher's recommendation with the teacher and the principal before any final determination of pupil retention or promotion is made.

This bill would additionally require that the policy provide to a person holding the right to make educational decisions for the pupil, as specified, an opportunity to consult with the teacher or teachers

responsible for the decision to promote or retain the pupil, and would require that this person have an opportunity, under certain circumstances, to discuss a teacher’s recommendation with the teacher and the principal before any final determination of pupil retention or promotion is made. By imposing additional duties on the governing board of a school district or a county board of education, this bill would impose a state-mandated local program.

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. Section 48070.5 of the Education Code is
- 2 amended to read:
- 3 48070.5. (a) In addition to the policy adopted pursuant to
- 4 Section 48070, the governing board of each school district and
- 5 each county board of education shall, in those applicable grade
- 6 levels, approve a policy regarding the promotion and retention of
- 7 pupils between the following grades:
- 8 (1) Between second grade and third grade.
- 9 (2) Between third grade and fourth grade.
- 10 (3) Between fourth and fifth grade.
- 11 (4) Between the end of the intermediate grades and the beginning
- 12 of middle school grades which typically occurs between sixth
- 13 grade and seventh grade, but may vary depending upon the grade
- 14 configuration of the school or school district.
- 15 (5) Between the end of the middle school grades and the
- 16 beginning of high school which typically occurs between eighth
- 17 grade and ninth grade, but may vary depending upon the grade
- 18 configuration of the school or school district.
- 19 (b) The policy shall provide for the identification of pupils who
- 20 should be retained and who are at risk of being retained in their
- 21 current grade level on the basis of either of the following:

1 (1) The results of the assessments administered pursuant to
2 Article 4 (commencing with Section 60640) of Chapter 5 of Part
3 33 and the minimum levels of proficiency recommended by the
4 ~~State Board of Education~~ *state board* pursuant to Section 60648.

5 (2) The pupil's grades and other indicators of academic
6 achievement designated by the district.

7 (c) The policy shall base the identification of pupils pursuant
8 to subdivision (b) at the grade levels identified pursuant to
9 paragraph (1) and (2) of subdivision (a) primarily on the basis of
10 the pupil's level of proficiency in reading. The policy shall base
11 the identification of pupils pursuant to subdivision (b) at the grade
12 levels identified pursuant to paragraphs (3) through (5) of
13 subdivision (a) on the basis of the pupil's level of proficiency in
14 reading, English language arts, and mathematics.

15 (d) (1) If either measure identified in paragraph (1) or (2) of
16 subdivision (b) identifies that a pupil is performing below the
17 minimum standard for promotion, the pupil shall be retained in
18 his or her current grade level unless the pupil's regular classroom
19 teacher determines in writing that retention is not the appropriate
20 intervention for the pupil's academic deficiencies. This written
21 determination shall specify the reasons that retention is not
22 appropriate for the pupil and shall include recommendations for
23 interventions other than retention that in the opinion of the teacher
24 are necessary to assist the pupil to attain acceptable levels of
25 academic achievement. If the teacher's recommendation to promote
26 is contingent upon the pupil's participation in a summer school or
27 interim session remediation program, the pupil's academic
28 performance shall be reassessed at the end of the remediation
29 program, and the decision to retain or promote the pupil shall be
30 reevaluated at that time. The teacher's evaluation shall be provided
31 to and discussed with ~~the pupil's parent or guardian~~ and the school
32 principal *and the pupil's parent, guardian, or other person holding*
33 *the right to make educational decisions for the pupil pursuant to*
34 *Section 361 or 727 of the Welfare and Institutions Code or Section*
35 *56055*, before any final determination of pupil retention or
36 promotion.

37 (2) If the pupil does not have a single regular classroom teacher,
38 the policy adopted by the school district shall specify the teacher
39 or teachers responsible for the promotion or retention decision.

1 (e) The policy shall provide for parental notification when a
 2 pupil is identified as being at risk of retention. This notice shall
 3 be provided as early in the school year as practicable. The policy
 4 shall provide ~~a pupil's parent or guardian~~ *the pupil's parent,*
 5 *guardian, or other person holding the right to make educational*
 6 *decisions for the pupil pursuant to Section 361 or 727 of the*
 7 *Welfare and Institutions Code or Section 56055* the opportunity
 8 to consult with the teacher or teachers responsible for the decision
 9 to promote or retain the pupil.

10 (f) The policy shall provide a process whereby the decision of
 11 the teacher to retain or promote a pupil may be appealed. If an
 12 appeal is made, the burden shall be on the appealing party to show
 13 why the decision of the teacher should be overruled.

14 (g) The policy shall provide that pupils who are at-risk of being
 15 retained in their current grade be identified as early in the school
 16 year, and as early in their school careers, as practicable.

17 (h) The policy shall indicate the manner in which opportunities
 18 for remedial instruction will be provided to pupils who are
 19 recommended for retention or who are identified as being at risk
 20 for retention.

21 (i) The policy adopted pursuant to this section shall be adopted
 22 at a public meeting of the governing board of the school district.

23 (j) Nothing in this section shall be construed to prohibit the
 24 retention of a pupil not included in grade levels identified pursuant
 25 to subdivision (a), or for reasons other than those specified in
 26 subdivision (b), if such retention is determined to be appropriate
 27 for that pupil. Nothing in this section shall be construed to prohibit
 28 a governing board from adopting promotion and retention policies
 29 that exceed the criteria established in this section.

30 SEC. 2. If the Commission on State Mandates determines that
 31 this act contains costs mandated by the state, reimbursement to
 32 local agencies and school districts for those costs shall be made
 33 pursuant to Part 7 (commencing with Section 17500) of Division
 34 4 of Title 2 of the Government Code.