

Introduced by Senator PriceFebruary 17, 2011

An act to amend Sections 42605 and 60119 of the Education Code, relating to instructional materials.

LEGISLATIVE COUNSEL'S DIGEST

SB 509, as introduced, Price. Instructional materials: funding.

Existing law establishes the Pupil Textbook and Instructional Materials Incentive Program and requires the governing board of a school district to take specified actions to be eligible to receive funds pursuant to the program, including, but not limited to, holding a public hearing or hearings to determine whether each pupil in each school in the district has sufficient textbooks or instructional materials, or both, that are aligned to specified content standards. Existing law defines sufficient textbooks or instructional materials for purposes of the program.

This bill would amend the definition of sufficient textbooks or instructional materials to require those materials to meet the most recently adopted standards and criteria for instructional materials and to include copyrights that are not more than 8 years old, unless the State Board of Education waives this requirement upon a finding that an instructional material with a copyright older than 8 years provides continuous improvement in pupil performance.

Existing law authorizes local educational agencies to use specified funding in a flexible manner for the 2008–09 to 2012–2013 fiscal years, inclusive. Existing law provides that agencies participating in this flexible funding provision are in compliance with associated statutory, regulatory, and provisional language, but are still required to comply with specified provisions, including, but not limited to, a requirement

that instructional materials purchased by a local educational agency meet certain criteria.

This bill would only allow a local educational agency to participate in that flexible funding provision if the agency provides sufficient textbooks or instructional materials, as that term is defined for purposes of the Pupil Textbook and Instructional Materials Incentive 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 42605 of the Education Code is amended
2 to read:

3 42605. (a) (1) Unless otherwise prohibited under federal law
4 or otherwise specified in subdivision (e), for the 2008–09 fiscal
5 year to the 2012–13 fiscal year, inclusive, recipients of funds from
6 the items listed in paragraph (2) may use funding received, pursuant
7 to subdivision (b), from any of these items listed in paragraph (2)
8 that are contained in an annual Budget Act, for any educational
9 purpose.

10 (2) Items 6110-104-0001, 6110-105-0001, 6110-108-0001,
11 6110-122-0001, 6110-123-0001, 6110-124-0001, 6110-137-0001,
12 6110-144-0001, 6110-150-0001, 6110-151-0001, 6110-156-0001,
13 6110-181-0001, 6110-188-0001, 6110-189-0001, 6110-190-0001,
14 6110-193-0001, 6110-195-0001, 6110-198-0001, 6110-204-0001,
15 6110-208-0001, 6110-209-0001, 6110-211-0001, 6110-227-0001,
16 6110-228-0001, 6110-232-0001, 6110-240-0001, 6110-242-0001,
17 6110-243-0001, 6110-244-0001, 6110-245-0001, 6110-246-0001,
18 6110-247-0001, 6110-248-0001, 6110-260-0001, 6110-265-0001,
19 6110-266-0001, 6110-267-0001, 6110-268-0001, and
20 6360-101-0001 of Section 2.00.

21 (b) (1) For the 2009–10 fiscal year to the 2012–13 fiscal year,
22 inclusive, the Superintendent or other administering state agency,
23 as appropriate, shall apportion from the amounts provided in the
24 annual Budget Act for the items enumerated in paragraph (2) of
25 subdivision (a) an amount to recipients based on the same relative
26 proportion that the recipient received in the 2008–09 fiscal year
27 for the programs funded through the items enumerated in paragraph
28 (2) of subdivision (a).

1 (2) This section and Section 42 of Chapter 12 of the 2009–10
2 Third Extraordinary Session do not authorize a school district that
3 receives funding on behalf of a charter school pursuant to Sections
4 47634.1 and 47651 to redirect this funding for another purpose
5 unless otherwise authorized in law or pursuant to an agreement
6 between a charter school and its chartering authority.
7 Notwithstanding paragraph (1), for the 2008–09 fiscal year to the
8 2012–13 fiscal year, inclusive, a school district that receives
9 funding on behalf of a charter school pursuant to Sections 47634.1
10 and 47651 shall continue to distribute the funds to those charter
11 schools based on the relative proportion that the school district
12 distributed in the 2007–08 fiscal year, and shall adjust those
13 amounts to reflect changes in charter school attendance in the
14 district. The amounts allocated shall be adjusted for any greater
15 or lesser amount appropriated for the items enumerated in
16 paragraph (2) of subdivision (a). For a charter school that began
17 operation in the 2008–09 fiscal year, if a school district received
18 funding on behalf of that charter school pursuant to Sections
19 47634.1 and 47651, the school district shall continue to distribute
20 the funds to that charter school based on the relative proportion
21 that the school district distributed in the 2008–09 fiscal year and
22 shall adjust the amount of those funds to reflect changes in charter
23 school attendance in the district. The amounts allocated shall be
24 adjusted for any greater or lesser amount appropriated for the items
25 enumerated in paragraph (2) of subdivision (a).

26 (3) Notwithstanding paragraph (1), for the 2008–09 fiscal year
27 to the 2012–13 fiscal year, inclusive, the Superintendent shall
28 apportion from the amounts appropriated by Item 6110-211-0001
29 of Section 2.00 of the annual Budget Act an amount to a charter
30 school in accordance with the per-pupil methodology prescribed
31 in subdivision (c) of Section 47634.1.

32 (4) Notwithstanding paragraph (1), for the 2008–09 fiscal year
33 to the 2012–13 fiscal year, inclusive, the Superintendent shall
34 apportion from the amounts provided in the annual Budget Act an
35 amount to a school district, charter school, and county office of
36 education based on the same relative proportion that the local
37 educational agency received in the 2007–08 fiscal year for the
38 programs funded through the following items contained in the
39 annual Budget Act: 6110-104-0001, 6110-105-0001,
40 6110-156-0001, 6110-190-0001, Schedule (3) of 6110-193-0001,

1 6110-198-0001, 6110-232-0001, and Schedule (2) of
2 6110-240-0001.

3 (5) For purposes of paragraph (4), if a direct-funded charter
4 school began operation in the 2008–09 fiscal year, the amount that
5 the charter school was entitled to receive from the items
6 enumerated in paragraph (4) for the 2008–09 fiscal year, as certified
7 by the Superintendent in March 2009, is deemed to have been
8 received in the 2007–08 fiscal year.

9 (c) (1) This section does not obligate the state to refund or repay
10 reductions made pursuant to this section. A decision by a school
11 district to reduce funding pursuant to this section for a
12 state-mandated local program shall constitute a waiver of the
13 subvention of funds that the school district is otherwise entitled to
14 pursuant to Section 6 of Article XIII B of the California
15 Constitution on the amount so reduced.

16 (2) As a condition of receipt of funds, the governing board of
17 the school district or board of the county office of education, as
18 appropriate, at a regularly scheduled open public hearing shall take
19 testimony from the public, discuss, approve or disapprove the
20 proposed use of funding, and make explicit for each of the budget
21 items in paragraph (2) of subdivision (a) the purposes for which
22 the funds will be used.

23 (3) Using the Standardized Account Code Structure reporting
24 process, a local educational agency shall report expenditures of
25 funds pursuant to the authority of this section by using the
26 appropriate function codes to indicate the activities for which these
27 funds are expended. The department shall collect and provide this
28 information to the Department of Finance and the appropriate
29 policy and budget committees of the Legislature by April 15, 2010,
30 and annually thereafter on April 15 until, and including, April 15,
31 2014.

32 (d) For the 2008–09 fiscal year to the 2012–13 fiscal year,
33 inclusive, local educational agencies that use the flexibility
34 provision of this section shall be deemed to be in compliance with
35 the program and funding requirements contained in statutory,
36 regulatory, and provisional language, associated with the items
37 enumerated in subdivision (a).

38 ~~(e) Notwithstanding subdivision~~

39 ~~(e) (1) Notwithstanding subdivision (d), the flexibility provision~~
40 ~~of this section shall only be available to local educational agencies~~

1 *that provide sufficient textbooks or instructional materials, as that*
2 *term is defined in subdivision (c) of Section 60119.*

3 (2) *Notwithstanding subdivision (d), the following requirements*
4 *shall continue to apply:*

5 ~~(1)~~

6 (A) For Items 6110-105-0001 and 6110-156-0001, the amount
7 authorized for flexibility shall exclude the funding provided for
8 instruction of CalWORKS-eligible students pursuant to Schedules
9 (2) and (3) and Provisions 2 and 4.

10 ~~(2)(A)~~

11 (B) (i) Any instructional materials purchased by a local
12 educational agency shall be the materials adopted by the state
13 board for kindergarten and grades 1 to 8, inclusive, and for grades
14 9 to 12, inclusive, the materials purchased shall be aligned with
15 state standards as defined by Section 60605, and shall also meet
16 the reporting and sufficiency requirements contained in Section
17 60119.

18 ~~(B)~~

19 (ii) For purposes of this section, “sufficiency” means that each
20 pupil has sufficient textbooks and instructional materials in the
21 four core areas as defined by Section 60119 and that all pupils
22 within the local educational agency who are enrolled in the same
23 course shall have identical textbooks and instructional materials,
24 as specified in Section 1240.3.

25 ~~(3)~~

26 (C) For Item 6110-195-0001, the item shall exclude moneys
27 that are required to fund awards for teachers that have previously
28 met the requirements necessary to obtain these awards, until the
29 award is paid in full.

30 ~~(4)~~

31 (D) For Item 6110-266-0001, a county office of education shall
32 conduct at least one site visit to each of the required schoolsites
33 pursuant to Section 1240 and shall fulfill all of the duties set forth
34 in Sections 1240 and 44258.9.

35 ~~(5)~~

36 (E) For Item 6110-198-0001, a school district or county office
37 of education that operates the child care component of the
38 Cal-SAFE program shall comply with paragraphs (5) and (6) of
39 subdivision (c) of Section 54746.

1 (f) This section does not invalidate any state law pertaining to
2 teacher credentialing requirements or the functions that require
3 credentials.

4 SEC. 2. Section 60119 of the Education Code is amended to
5 read:

6 60119. (a) In order to be eligible to receive funds available
7 for the purposes of this article, the governing board of a school
8 district shall take the following actions:

9 (1) (A) The governing board shall hold a public hearing or
10 hearings at which the governing board shall encourage participation
11 by parents, teachers, members of the community interested in the
12 affairs of the school district, and bargaining unit leaders, and shall
13 make a determination, through a resolution, as to whether each
14 pupil in each school in the district has sufficient textbooks or
15 instructional materials, or both, that are aligned to the content
16 standards adopted pursuant to Section 60605 in each of the
17 following subjects, as appropriate, that are consistent with the
18 content and cycles of the curriculum framework adopted by the
19 state board:

20 (i) Mathematics.

21 (ii) Science.

22 (iii) History-social science.

23 (iv) English/language arts, including the English language
24 development component of an adopted program.

25 (B) The public hearing shall take place on or before the end of
26 the eighth week from the first day pupils attend school for that
27 year. A school district that operates schools on a multitrack,
28 year-round calendar shall hold the hearing on or before the end of
29 the eighth week from the first day pupils attend school for that
30 year on any tracks that begin a school year in August or September.
31 For purposes of the 2004–05 fiscal year only, the governing board
32 of a school district shall make a diligent effort to hold a public
33 hearing pursuant to this section on or before December 1, 2004.

34 (C) As part of the hearing required pursuant to this section, the
35 governing board also shall make a written determination as to
36 whether each pupil enrolled in a foreign language or health course
37 has sufficient textbooks or instructional materials that are consistent
38 with the content and cycles of the curriculum frameworks adopted
39 by the state board for those subjects. The governing board also
40 shall determine the availability of laboratory science equipment

1 as applicable to science laboratory courses offered in grades 9 to
2 12, inclusive. The provision of the textbooks, instructional
3 materials, or science equipment specified in this subparagraph is
4 not a condition of receipt of funds provided by this subdivision.

5 (2) (A) If the governing board determines that there are
6 insufficient textbooks or instructional materials, or both, the
7 governing board shall provide information to classroom teachers
8 and to the public setting forth, in the resolution, for each school
9 in which an insufficiency exists, the percentage of pupils who lack
10 sufficient standards-aligned textbooks or instructional materials
11 in each subject area and the reasons that each pupil does not have
12 sufficient textbooks or instructional materials, or both, and take
13 any action, except an action that would require reimbursement by
14 the Commission on State Mandates, to ensure that each pupil has
15 sufficient textbooks or instructional materials, or both, within two
16 months of the beginning of the school year in which the
17 determination is made.

18 (B) In carrying out subparagraph (A), the governing board may
19 use money in any of the following funds:

20 (i) Any funds available for textbooks or instructional materials,
21 or both, from categorical programs, including any funds allocated
22 to school districts that have been appropriated in the annual Budget
23 Act.

24 (ii) Any funds of the school district that are in excess of the
25 amount available for each pupil during the prior fiscal year to
26 purchase textbooks or instructional materials, or both.

27 (iii) Any other funds available to the school district for textbooks
28 or instructional materials, or both.

29 (b) The governing board shall provide 10 days' notice of the
30 public hearing or hearings set forth in subdivision (a). The notice
31 shall contain the time, place, and purpose of the hearing and shall
32 be posted in three public places in the school district. The hearing
33 shall be held at a time that will encourage the attendance of teachers
34 and parents and guardians of pupils who attend the schools in the
35 district and shall not take place during or immediately following
36 school hours.

37 (c) (1) For purposes of this section, "sufficient textbooks or
38 instructional materials" means that each pupil, including English
39 learners, has a standards-aligned textbook or instructional materials,
40 or both, to use in class and to take home. This paragraph does not

1 require two sets of textbooks or instructional materials for each
2 pupil. The materials may be in a digital format as long as each
3 pupil, at a minimum, has and can access the same materials in the
4 class and to take home, as all other pupils in the same class or
5 course in the district and has the ability to use and access them at
6 home. *Sufficient textbooks or instructional materials, whether*
7 *digital or print, shall meet the most recently adopted standards*
8 *and criteria for instructional materials and shall not include a*
9 *copyright that is more than eight years old, unless the state board*
10 *waives this requirement upon a finding that instructional materials*
11 *with copyrights older than eight years provide continuous*
12 *improvement in pupil performance.*

13 (2) Sufficient textbooks or instructional materials as defined in
14 paragraph (1), does not include photocopied sheets from only a
15 portion of a textbook or instructional materials copied to address
16 a shortage.

17 (d) The governing board of a school district that receives funds
18 for instructional materials from any state source is subject to the
19 requirements of this section.