

AMENDED IN ASSEMBLY AUGUST 15, 2011

AMENDED IN ASSEMBLY JULY 13, 2011

AMENDED IN SENATE MAY 31, 2011

AMENDED IN SENATE APRIL 26, 2011

SENATE BILL

No. 753

Introduced by Senator Padilla
(Coauthors: Senators Steinberg and De León)
(Coauthor: Assembly Member Blumenfield)

February 18, 2011

An act to amend ~~Section 313~~ *Sections 313 and 60810* of the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

SB 753, as amended, Padilla. Pupils: English learners: assessment.

Existing law requires each school district that has one or more pupils who are English learners to assess the English language development of each of those pupils in order to determine the level of proficiency of those pupils. The assessment primarily consists of the administration of the California English Language Development Test (CELDT) that assesses pupils in grades 2 to 12, inclusive, in English listening, speaking, reading, and writing skills, and pupils in kindergarten and grade 1 in English listening and speaking. Existing law requires that the assessment be conducted upon initial enrollment, and annually thereafter during a period of time determined by the Superintendent of Public Instruction and the State Board of Education, until the pupil is redesignated as English proficient.

This bill, commencing with the 2013–14 school year, would require a school district ~~and county office of education~~ to annually conduct the

assessment during a ~~3-month test period commencing with~~ *period that commences on the day upon which 65% 55% of the instructional year is completed; through July 1 of that calender year*, and would require the assessment to be conducted upon the initial enrollment of a pupil in order to provide information to be used to determine if the pupil is an English learner. The bill would apply these provisions, to the extent required by federal law, to a county office of education and a charter school, *thereby imposing a state-mandated local program.*

This bill would prohibit a pupil in any of grades 3 to 12, inclusive, to the extent permitted by federal law, from being required to retake those portions of the CELDT that measure English language skills for which he or she has previously tested as advanced within the appropriate grade span, as determined by the State Department of Education in accordance with specified law. Notwithstanding the above prohibition, and to the extent permitted by federal law, the bill would also prohibit a pupil in any of grades 10 to 12, inclusive, from being required to retake those portions of the CELDT that measure English language skills for which he or she has previously tested as early advanced or advanced. These prohibitions would not become effective until the CELDT publisher's contract that is in effect on January 1, 2012, expires.

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 no reimbursement is required by this act for a specified reason.

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 313 of the Education Code is amended
- 2 to read:
- 3 313. (a) Each school district that has one or more pupils who
- 4 are English learners and, to the extent required by federal law,
- 5 each county office of education and each charter school shall assess
- 6 the English language development of each pupil in order to
- 7 determine the level of proficiency for purposes of this chapter.
- 8 (b) The department, with the approval of the state board, shall
- 9 establish procedures for conducting the assessment required

1 pursuant to subdivision (a) and for the reclassification of a pupil
2 from English learner to English proficient.

3 (c) Commencing with the 2000–01 school year to the 2012–13
4 school year, inclusive, the assessment shall be conducted upon
5 initial enrollment, and annually, thereafter, during a period of time
6 determined by the Superintendent and the state board. The annual
7 assessments shall continue until the pupil is redesignated as English
8 proficient. The assessment shall primarily utilize the English
9 language development test identified or developed by the
10 Superintendent pursuant to Chapter 7 (commencing with Section
11 60810) of Part 33 of Division 4 of Title 2.

12 (d) (1) Commencing with the 2013–14 school year, the
13 assessment shall be conducted annually during a ~~three-month test~~
14 ~~period commencing with~~ *period that commences on* the day upon
15 which ~~65~~ 55 percent of the instructional year is completed *through*
16 *July 1 of that calendar year*. Annual assessments shall continue
17 until the pupil is redesignated as English proficient. The annual
18 assessment shall primarily utilize the English language
19 development test identified or developed by the Superintendent
20 pursuant to Chapter 7 (commencing with Section 60810) of Part
21 33 of Division 4 of Title 2.

22 (2) Commencing with the 2013–14 school year, the assessment
23 shall be conducted upon the initial enrollment of a pupil in order
24 to provide information to be used to determine if the pupil is an
25 English learner.

26 (A) If the initial enrollment of a pupil occurs on a date outside
27 of the testing period identified pursuant to paragraph (1), the prior
28 year’s annual assessment for the grade in which the pupil is
29 enrolling shall be used for this purpose.

30 (B) If the initial enrollment of a pupil occurs on a date within
31 the testing period identified pursuant to paragraph (1), the initial
32 assessment of the pupil shall be conducted as part of the annual
33 assessment conducted pursuant to paragraph (1).

34 (e) The assessments conducted pursuant to subdivision (d) shall
35 be conducted in a manner consistent with federal statutes and
36 regulations.

37 (f) The reclassification procedures developed by the department
38 shall utilize multiple criteria in determining whether to reclassify
39 a pupil as proficient in English, including, but not limited to, all
40 of the following:

1 (1) Assessment of language proficiency using an objective
2 assessment instrument, including, but not limited to, the English
3 language development test that is developed or acquired pursuant
4 to Section 60810.

5 (2) Teacher evaluation, including, but not limited to, a review
6 of the pupil's curriculum mastery.

7 (3) Parental opinion and consultation.

8 (4) Comparison of the performance of the pupil in basic skills
9 against an empirically established range of performance in basic
10 skills based upon the performance of English proficient pupils of
11 the same age, that demonstrates whether the pupil is sufficiently
12 proficient in English to participate effectively in a curriculum
13 designed for pupils of the same age whose native language is
14 English.

15 (g) This section does not preclude a school district or county
16 office of education from testing English learners more than once
17 in a school year if the school district or county office of education
18 chooses to do so.

19 *SEC. 2. Section 60810 of the Education Code is amended to*
20 *read:*

21 60810. (a) (1) The Superintendent shall review existing tests
22 that assess the English language development of pupils whose
23 primary language is a language other than English. The tests shall
24 include, but not be limited to, an assessment of achievement of
25 these pupils in English reading, speaking, and written skills. The
26 Superintendent shall determine which tests, if any, meet the
27 requirements of subdivisions (b) and (c). If any existing test or
28 series of tests meets these criteria, the Superintendent, with
29 approval of the state board, shall report to the Legislature on its
30 findings and recommendations.

31 (2) If no suitable test exists, the Superintendent shall explore
32 the option of a collaborative effort with other states to develop a
33 test or series of tests and share test development costs. If no suitable
34 test exists, the Superintendent, with approval of the state board,
35 may contract to develop a test or series of tests that meets the
36 criteria of subdivisions (b) and (c) or may contract to modify an
37 existing test or series of tests so that it will meet the requirements
38 of subdivisions (b) and (c).

39 (3) The Superintendent and the state board shall release a request
40 for proposals for the development of the test or series of tests

1 required by this subdivision. The state board shall select a
2 contractor or contractors for the development of the test or series
3 of tests required by this subdivision, to be available for
4 administration during the 2000–01 school year.

5 (4) The Superintendent shall apportion funds appropriated to
6 enable school districts to meet the requirements of subdivision (d).
7 The state board shall establish the amount of funding to be
8 apportioned per test administered, based on a review of the cost
9 per test.

10 (5) An adjustment to the amount of funding to be apportioned
11 per test is not valid without the approval of the Director of Finance.
12 A request for approval of an adjustment to the amount of funding
13 to be apportioned per test shall be submitted in writing to the
14 Director of Finance and the chairpersons of the fiscal committees
15 of both houses of the Legislature with accompanying material
16 justifying the proposed adjustment. The Director of Finance is
17 authorized to approve only those adjustments related to activities
18 required by statute. The Director of Finance shall approve or
19 disapprove the amount within 30 days of receipt of the request and
20 shall notify the chairpersons of the fiscal committees of both houses
21 of the Legislature of the decision.

22 (b) (1) The test or series of tests developed or acquired pursuant
23 to subdivision (a) shall have sufficient range to assess pupils in
24 grades 2 to 12, inclusive, in English listening, speaking, reading,
25 and writing skills. Pupils in kindergarten and grade 1 shall be
26 assessed in English listening and speaking, and, once an assessment
27 is developed, early literacy skills. The early literacy assessment
28 shall be administered for a period of three years beginning after
29 the initial administration of the assessment or until July 1, 2012,
30 whichever occurs first. Six months after the results of the last
31 administered assessment are collected, but no later than January
32 1, 2013, the department shall report to the Legislature on the
33 administration of the kindergarten and grade 1 early literacy
34 assessment results, as well as on the administrative process, in
35 order to determine whether reauthorization of the early literacy
36 assessment is appropriate.

37 (2) In the development and administration of the assessment
38 for pupils in kindergarten and grade 1, the department shall
39 minimize any additional assessment time, to the extent possible.
40 To the extent that it is technically possible, items that are used to

1 assess listening and speaking shall be used to measure early literacy
2 skills. The department shall ensure that the test and procedures for
3 its administration are age and developmentally appropriate. Age
4 and developmentally appropriate procedures for administration
5 may include, but are not limited to, one-on-one administration, a
6 small group setting, and orally responding or circling a response
7 to a question.

8 (c) The test or series of tests shall meet all of the following
9 requirements:

10 (1) Provide sufficient information about pupils at each grade
11 level to determine levels of proficiency ranging from no English
12 proficiency to fluent English proficiency with at least two
13 intermediate levels.

14 (2) Have psychometric properties of reliability and validity
15 deemed adequate by technical experts.

16 (3) Be capable of administration to pupils with any primary
17 language other than English.

18 (4) Be capable of administration by classroom teachers.

19 (5) Yield scores that allow comparison of the growth of a pupil
20 over time, can be tied to readiness for various instructional options,
21 and can be aggregated for use in the evaluation of program
22 effectiveness.

23 (6) Not discriminate on the basis of race, ethnicity, or gender.

24 (7) Be aligned with the standards for English language
25 development adopted by the state board pursuant to Section 60811.

26 (8) Be age and developmentally appropriate for pupils.

27 (d) The test shall be used for the following purposes:

28 (1) To identify pupils who are limited English proficient.

29 (2) To determine the level of English language proficiency of
30 pupils who are limited English proficient.

31 (3) To assess the progress of limited-English-proficient pupils
32 in acquiring the skills of listening, reading, speaking, and writing
33 in English.

34 (e) (1) *To the extent permitted by federal law, a pupil in any of*
35 *grades 3 to 12, inclusive, shall not be required to retake those*
36 *portions of the test that measure English language skills for which*
37 *he or she has previously tested as advanced within each*
38 *appropriate grade span, as determined by the department in*
39 *accordance with paragraph (8) of subdivision (c).*

1 (2) *Notwithstanding paragraph (1), and to the extent permitted*
2 *by federal law, a pupil in any of grades 10 to 12, inclusive, shall*
3 *not be required to retake those portions of the test that measure*
4 *English language skills for which he or she has previously tested*
5 *as early advanced or advanced.*

6 (3) *This subdivision shall not become effective until the test*
7 *publisher's contract that is in effect on January 1, 2012, expires.*

8 ~~SEC. 2.~~

9 SEC. 3. No reimbursement is required by this act pursuant to
10 Section 6 of Article XIII B of the California Constitution because
11 this act implements a federal law or regulation and results only in
12 costs mandated by the federal government, within the meaning of
13 Section 17556 of the Government Code.