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CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 575

Introduced by Assembly Members O'Donnell and Atkins

February 24, 2015

~~An act to amend Section 33050 of, to amend and repeal Section 44661.5 of, to amend, repeal, and add Sections 44660, 44661, 44662, and 44664 of, to add Sections 35161.5, 44662.1, 44662.5, 44662.6, 44662.7, and 44672 to, and to repeal and add Article 13 (commencing with Section 44670) of Chapter 3 of Part 25 of Division 3 of Title 2 of, the Education Code, and to amend, repeal, and add Section 17581.6 of the Government Code, relating to teachers. An act to amend Section 60200 of, and to add Section 60227 to, the Education Code, relating to instructional materials.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 575, as amended, O'Donnell. ~~Teachers: best practices teacher evaluation system: school administrator evaluation. Instructional materials: follow up adoptions.~~

Existing law requires the State Board of Education to adopt instructional materials for kindergarten and grades 1 to 8, inclusive,

and to adopt procedures for the submission of instructional materials, and provides that instructional materials may be submitted for adoption in specified subject areas every 8 years.

This bill would instead provide that instructional materials may be submitted for adoption at least once but no more than twice every 8 years. The bill would require the State Department of Education, before conducting a follow up adoption, as defined, in a given subject area to post a notice on the department's Internet Web site and notify all publishers or manufacturers known to produce basic instructional materials in that subject area that each publisher and manufacturer choosing to participate in the follow up adoption shall be assessed a fee, as specified.

~~(1) Existing law states the intent of the Legislature that governing boards of school districts establish a uniform system of evaluation and assessment of the performance of all certificated personnel within each school district of the state. Existing law requires the governing board of each school district to establish standards of expected pupil achievement at each grade level in each area of study and to evaluate and assess certificated employee performance on a continuing basis as it reasonably relates to the progress of pupils toward the established standards and, if applicable, the state adopted academic content standards as measured by state adopted criterion referenced assessments, the instructional techniques and strategies used by the employee, the employee's adherence to curricular objectives, and the establishment and maintenance of a suitable learning environment, within the scope of the employee's responsibilities.~~

~~This bill would provide that the provisions described above would become inoperative on July 1, 2018. The bill would state findings and declarations of the Legislature regarding the nature of effective teachers and of the teaching profession. Commencing on July 1, 2018, the bill would require the governing board of each school district and each county board of education to adopt and implement a locally negotiated best practices teacher evaluation system, described as one in which each teacher is evaluated on a continuing basis on the degree to which he or she accomplishes specific objectives and multiple observations of instructional and other professional practices that are conducted by trained evaluators. The bill would authorize the State Board of Education, in consultation with the Superintendent of Public Instruction and appropriate education stakeholder groups, to adopt nonregulatory guidance to support the implementation of a best practices teacher~~

~~evaluation system by school districts and county offices of education, as specified. The bill would, on or before May 1, 2016, or May 1 of the year that precedes the year in which an existing collective bargaining contract will expire, whichever is later, require the governing board of each school district and each county board of education, at a regularly scheduled public hearing, to seek comment on the development and implementation of the best practices teacher evaluation system, and, on or before May 1 of each year before local negotiations required by law, to seek comment on the best practices teacher evaluation system. The bill would require if, by mutual agreement between the school district or county office of education and the collective bargaining unit, an intermediate mid-year agreement is reached regarding a best practices teacher evaluation system, the negotiation timeline to allow time for the governing board of the school district or county board of education to hold a public hearing to seek comment on the best practices teacher evaluation system. The bill also would require the governing board of each school district and each county board of education to disclose the provisions of the best practices teacher evaluation system at a regularly scheduled public hearing. The bill would also require the governing board of each school district and each county board of education to establish and define job responsibilities for certificated, noninstructional employees whose responsibilities cannot be evaluated appropriately under the best practices teacher evaluation system and to evaluate and assess their performance in relation to the fulfillment of those responsibilities. The bill would provide that these provisions do not apply to certificated personnel who are employed on an hourly basis in adult education classes. The bill would also provide that the provisions of the best practices teacher evaluation system do not supersede or invalidate a teacher evaluation system that is locally negotiated and that is in effect at the time the best practices teacher evaluation system becomes operative. By imposing additional duties on school districts and county offices of education, this bill would impose a state-mandated local program.~~

~~(2) Existing law requires that an evaluation and assessment of the performance of a certificated employee be made on a continuing basis, as provided, including at least every 5 years for personnel with permanent status who have been employed at least 10 years with the school district, are highly qualified, as specified, and whose previous evaluation rated the employee as meeting or exceeding standards, if the evaluator and certificated employee being evaluated agree.~~

~~This bill, commencing July 1, 2018, would require the evaluation and assessment of the above personnel at least every 3 years, except as locally negotiated and provided in the best practices teacher evaluation system. The bill would also require county offices of education to comply with these provisions. By imposing additional duties on school districts and county offices of education, this bill would impose a state-mandated local program.~~

~~(3) Existing law authorizes a school district to evaluate a principal annually for the principal's first and 2nd year of employment as a new principal and authorizes additional evaluations, as specified.~~

~~This bill would make those provisions inoperative on July 1, 2018, and, commencing July 1, 2018, would instead require the governing board of each school district and each county board of education to establish a system of evaluation for school administrators to guide their growth and performance with the purpose of supporting them as instructional leaders in order to raise pupil achievement. The bill would require the evaluation system to include certain attributes, including, but not limited to, promoting the success of all pupils, advocating and supporting a safe, nurturing school culture that sustains a quality instructional program conducive to pupil learning and staff professional growth, and ensuring the management, organization, and operation of a safe and successful learning environment as evidenced by the establishment of effective practices for personnel and resource management, campus safety, and school climate. The bill would require the governing board of the school district and the county board of education to identify who will conduct the evaluation of each school administrator. By imposing additional duties on school districts and county offices of education, the bill would impose a state-mandated local program.~~

~~(4) Existing law authorizes the governing board of a school district or a county board of education, as specified, after a public hearing on the matter, to request the state board to waive all or part of any section of the Education Code or any regulation adopted by the state board that implements a provision of the Education Code that may be waived, except for specified provisions:~~

~~This bill would add the above-mentioned provisions relating to teacher and school administrator evaluation to the list of provisions that may not be waived.~~

~~(5) This bill also would state the intent of the Legislature to provide adequate resources to train evaluators, continue robust beginning teacher induction programs, and support struggling educators.~~

~~(6) Under the California Constitution, whenever the Legislature or a state agency mandates a new program or higher level of service on any local government, including a school district and a community college district, the state is required to provide a subvention of funds to reimburse the local government, with specified exceptions. Existing law requires certain funds appropriated in the annual Budget Act for reimbursement of the cost of a new program or increased level of service of an existing program mandated by statute or executive order to be available as a block grant to school districts, county offices of education, and charter schools to support specified state-mandated local programs and permits those entities to elect to receive that block grant funding in lieu of claiming mandated costs pursuant to the state claims process.~~

~~This bill would, as of July 1, 2018, add the best practices teacher evaluation system and the school administrator evaluation system to the state-mandated local programs supported by the block grant funding.~~

~~(7) This bill would update cross-references and would make other nonsubstantive changes.~~

~~(8) 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-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:

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

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

12 (3) Science.

13 (4) Social science.

14 (5) Bilingual or bicultural subjects.

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

18 (b) The state board shall adopt procedures for the submission
19 of basic instructional materials in order to comply with each of
20 the following:

21 (1) Instructional materials may be submitted for adoption in any
22 of the subject areas pursuant to paragraphs (1) to (6), inclusive, of
23 subdivision (a) *at least once but not more than twice* every eight
24 years. The state board shall ensure that curriculum frameworks
25 are reviewed and adopted in each subject area and that the criteria
26 for evaluating instructional materials developed pursuant to
27 subdivision (b) of Section 60204 are consistent with subdivision
28 (c). The state board may prescribe reasonable conditions to restrict
29 the resubmission of materials that have been previously rejected
30 if those resubmitted materials have no substantive changes.

31 (2) If a publisher or manufacturer submits revisions to currently
32 adopted instructional material for review after the timeframe
33 specified by the state board, the department shall assess a fee on
34 the submitting publisher or manufacturer in an amount that shall
35 not exceed the reasonable costs to the department to conduct a
36 review of the instructional material pursuant to this section.

37 (3) Submitted instructional materials shall be adopted or rejected
38 within six months of the submission date of the materials pursuant
39 to paragraph (1) unless the state board determines that a longer
40 period of time, not to exceed an additional three months, is

1 necessary due to the estimated volume or complexity of the
2 materials for that subject in that year, or due to other circumstances
3 beyond the reasonable control of the state board.

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

9 (5) The rules and procedures for adoption of instructional
10 materials shall be transparent and consistently applicable regardless
11 of the format of the instructional materials, which may include,
12 but not be limited to, print, digital, and open-source instructional
13 materials.

14 (c) In reviewing and adopting or recommending for adoption
15 submitted basic instructional materials, the state board shall use
16 the following criteria, and ensure that, in its judgment, the
17 submitted basic instructional materials meet all of the following
18 criteria:

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

23 (2) Comply with the requirements of Sections 60040, 60041,
24 60042, 60043, 60044, 60048, 60200.5, and 60200.6, and the state
25 board's guidelines for social content.

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

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

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

39 (A) If text, the use of the commercial brand name, product, or
40 corporate or company logo in the instructional materials is

1 necessary for an educational purpose, as defined in the guidelines
2 or frameworks adopted by the state board.

3 (B) If an illustration, the appearance of a commercial brand
4 name, product, or corporate or company logo in an illustration in
5 instructional materials is incidental to the general nature of the
6 illustration.

7 (6) Meet other criteria as are established by the state board as
8 being necessary to accomplish the intent of Section 7.5 of Article
9 IX of the California Constitution and of Section 1 of Chapter 1181
10 of the Statutes of 1989, provided that the criteria are approved by
11 resolution at the time the resolution adopting the framework for
12 the current adoption is approved, or at least 12 months before the
13 date that the materials are to be approved for adoption.

14 (d) If basic instructional materials are rejected, the state board
15 shall provide a specific, written explanation of the reasons why
16 the submitted materials were not adopted, based on one or more
17 of the criteria established under subdivision (c). In providing this
18 explanation, the state board may use, in whole or in part, materials
19 written by the Superintendent or any other advisers to the state
20 board.

21 (e) The state board may adopt fewer than five basic instructional
22 materials in each subject area for each grade level if either of the
23 following occurs:

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

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

34 (f) This section does not limit the authority of the state board
35 to adopt materials that are not basic instructional materials.

36 (g) Consistent with the quality criteria for the state board's
37 adopted curriculum framework, the state board shall prescribe
38 procedures to provide the most open and flexible materials
39 submission system and ensure that the adopted materials in each
40 subject, taken as a whole, provide for the educational needs of the

1 diverse pupil populations in the public schools, provide collections
2 of instructional materials that illustrate diverse points of view,
3 represent cultural pluralism, and provide a broad spectrum of
4 knowledge, information, and technology-based materials to meet
5 the goals of the program and the needs of pupils.

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

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

32 (j) A composite listing in the format of an order form may be
33 used to meet the requirements of this section.

34 (k) The lists maintained pursuant to this section shall not be
35 deemed to control the use period by any school district.

36 (l) The state board shall give publishers the opportunity to
37 modify instructional materials, in a manner provided for in
38 regulations adopted by the state board, if the state board finds that
39 the instructional materials do not comply with paragraph (5) of
40 subdivision (c).

1 (m) This section does not prohibit the publisher of instructional
2 materials from including whatever corporate name or logo on the
3 instructional materials that is necessary to provide basic
4 information about the publisher, to protect its copyright, or to
5 identify third-party sources of content.

6 (n) The state board may adopt regulations that provide for other
7 exceptions to this section, as determined by the state board.

8 (o) The Superintendent shall develop, and the state board shall
9 adopt, guidelines to implement this section.

10 *SEC. 2. Section 60227 is added to the Education Code, to read:*

11 *60227. (a) For purposes of this section, a follow up adoption*
12 *is any adoption other than the primary adoption that occurs within*
13 *the eight-year cycle established pursuant to subdivision (b) of*
14 *Section 60200.*

15 *(b) Before conducting a follow up adoption in a given subject*
16 *area, the department shall post an appropriate notice on the*
17 *department's Internet Web site pursuant to subdivision (c) and*
18 *notify all publishers or manufacturers known to produce basic*
19 *instructional materials in that subject area.*

20 *(c) The notice shall specify that each publisher or manufacturer*
21 *choosing to participate in the follow up adoption shall be assessed*
22 *a fee based on the number of programs the publisher or*
23 *manufacturer indicates will be submitted for review and the number*
24 *of grade levels proposed to be covered by each program.*

25 *(d) The fee shall offset the cost of conducting the follow up*
26 *adoption process and shall reflect the department's best estimate*
27 *of the cost. The department shall take reasonable steps to limit*
28 *costs of the follow up adoption and to keep the fee modest,*
29 *recognizing that some of the work necessary for the primary*
30 *adoption need not be duplicated.*

31 *(e) The department, before incurring substantial costs for the*
32 *follow up adoption, shall require that a publisher or manufacturer*
33 *who wishes to participate in the follow up adoption first declare*
34 *the intent to submit one or more specific programs for the follow*
35 *up adoption and specify the specific grade levels to be covered by*
36 *each program. After a publisher or manufacturer has declared the*
37 *intent to submit one or more programs and the grade levels to be*
38 *covered by each program, the department shall assess a fee. The*
39 *fee shall be payable by the publisher or manufacturer even if the*
40 *publisher or manufacturer subsequently chooses to withdraw a*

1 *program or reduce the number of grade levels covered. A*
2 *submission by a publisher or manufacturer shall not be reviewed*
3 *for purposes of adoption, either in a follow up adoption or in any*
4 *other primary or follow up adoption conducted thereafter, until*
5 *the fee assessed has been paid in full.*

6 *(f) (1) It is the intent of the Legislature that the fee not be so*
7 *substantial that it prevents small publishers or manufacturers from*
8 *participating in a follow up adoption.*

9 *(2) Upon the request of a small publisher or manufacturer, the*
10 *state board may reduce the fee for participation in the follow up*
11 *adoption.*

12 *(3) For purposes of this section, “small publisher” and “small*
13 *manufacturer” mean an independently owned or operated*
14 *publisher or manufacturer who is not dominant in its field of*
15 *operation, and who, together with its affiliates, has 100 or fewer*
16 *employees, and has average annual gross receipts of ten million*
17 *dollars (\$10,000,000) or less over the previous three years.*

18 *(g) Revenue derived from fees charged pursuant to subdivision*
19 *(e) shall be budgeted as reimbursements and subject to review*
20 *through the annual budget process and may be used to pay costs*
21 *associated with any adoption and any costs associated with the*
22 *review of instructional materials.*

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**All matter omitted in this version of the bill
appears in the bill as amended in the
Assembly, June 2, 2016. (JR11)**