

Assembly Bill No. 1626

CHAPTER 742

An act to add Sections 48070.5 and 60648 to the Education Code, relating to education.

[Approved by Governor September 22, 1998. Filed
with Secretary of State September 23, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1626, Wayne. Pupil promotion and retention.

(1) Existing law requires the governing board of each school district and each county superintendent of schools to adopt policies regarding pupil promotion and retention, and requires a pupil to be promoted or retained only as provided according to those policies.

This bill would, in addition to the policies adopted pursuant to those provisions, require 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 would require 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. The bill would require the policy to be based on various other considerations. By imposing new duties on school districts regarding the adoption of this policy, the bill would impose a state-mandated local program.

(2) Existing law, known as the Leroy Greene California Assessment of Academic Achievement Act, requires the Superintendent of Public Instruction to design and implement a statewide pupil assessment program that includes, among other things, a plan for producing individual pupil scores based on both the achievement test that is part of the Standardized Testing and Reporting (STAR) Program and the statewide assessment of pupil performance in the core curriculum areas.

This bill would require the Superintendent of Public Instruction to recommend, and the State Board of Education to adopt, levels of pupil performance for the achievement tests administered under the STAR Program in reading, English language arts, and mathematics for each grade level, and would require that those performance levels identify and establish the level of performance that is deemed to be the minimum level required for satisfactory performance in the next grade.

(3) 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, including the creation of a State Mandates Claims

Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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.

The people of the State of California do enact as follows:

SECTION 1. The Legislature finds and declares all of the following:

(a) It is crucial for the success of the public school system and for the greatest achievement of each individual pupil that all educators hold, and act upon, high expectations for the academic achievement of every pupil.

(b) With the development of rigorous academic standards in each discipline for each grade level, it is the expectation of the Legislature and the Governor that all public school educators will do all that is necessary so that each pupil meets high academic standards.

(c) Therefore, the Legislature and the Governor declare that school districts must address the academic deficiencies of every pupil.

SEC. 2. Section 48070.5 is added to the Education Code, to read:

48070.5. (a) In addition to the policy adopted pursuant to Section 48070, the governing board of each school district and each county board of education shall, in those applicable grade levels, approve a policy regarding the promotion and retention of pupils between the following grades:

- (1) Between second grade and third grade.
- (2) Between third grade and fourth grade.
- (3) Between fourth and fifth grade.

(4) Between the end of the intermediate grades and the beginning of middle school grades which typically occurs between sixth grade and seventh grade, but may vary depending upon the grade configuration of the school or school district.

(5) Between the end of the middle school grades and the beginning of high school which typically occurs between eighth grade and ninth grade, but may vary depending upon the grade configuration of the school or school district.

(b) The policy shall provide for the identification of pupils who should be retained and who are at risk of being retained in their current grade level on the basis of either of the following:

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



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

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

(d) (1) If either measure identified in paragraph (1) or (2) of subdivision (b) identifies that a pupil is performing below the minimum standard for promotion, the pupil shall be retained in his or her current grade level unless the pupil's regular classroom teacher determines in writing that retention is not the appropriate intervention for the pupil's academic deficiencies. This written determination shall specify the reasons that retention is not appropriate for the pupil and shall include recommendations for interventions other than retention that in the opinion of the teacher are necessary to assist the pupil to attain acceptable levels of academic achievement. If the teacher's recommendation to promote is contingent upon the pupil's participation in a summer school or interim session remediation program, the pupil's academic performance shall be reassessed at the end of the remediation program, and the decision to retain or promote the pupil shall be reevaluated at that time. The teacher's evaluation shall be provided to and discussed with the pupil's parent or guardian and the school principal before any final determination of pupil retention or promotion.

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

(e) The policy shall provide for parental notification when a pupil is identified as being at risk of retention. This notice shall be provided as early in the school year as practicable. The policy shall provide a pupil's parent or guardian the opportunity to consult with the teacher or teachers responsible for the decision to promote or retain the pupil.

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

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

(h) The policy shall indicate the manner in which opportunities for remedial instruction will be provided to pupils who are



recommended for retention or who are identified as being at risk for retention.

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

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

SEC. 3. Section 60648 is added to the Education Code, to read:

60648. The Superintendent of Public Instruction shall recommend, and the State Board of Education shall adopt, levels of pupil performance on achievement tests administered pursuant to Article 4 (commencing with Section 60640) of Chapter 5 of Part 33 in reading, English language arts, and mathematics at each grade level. The performance levels shall identify and establish the level of performance that is deemed to be the minimum level required for satisfactory performance in the next grade. These levels of performance shall only be adopted after the achievement tests have been aligned, pursuant to paragraph (3) of subdivision (a) of Section 60643, to the content and performance standards adopted by the State Board of Education pursuant to subdivision (a) of Section 60605.

SEC. 4. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

