

**ASSEMBLY BILL**

**No. 751**

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**Introduced by Assembly Member O'Donnell**  
**(Coauthors: Assembly Members Cervantes, Chen, and Medina)**  
(Coauthor: Senator Wiener)

February 19, 2019

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An act to amend Sections 60630 and 60641 of, and to add and repeal Section 60640.5 of, the Education Code, relating to pupil assessments.

LEGISLATIVE COUNSEL'S DIGEST

AB 751, as introduced, O'Donnell. Pupil assessments: Pathways to College Act.

Existing law establishes the California Assessment of Student Performance and Progress (CAASPP) as the statewide system of pupil assessments under which certain assessments are required or authorized to be administered in public schools, as specified, including a consortium summative assessment in English language arts and mathematics for grades 3 to 8, inclusive, and grade 11 that measures content standards adopted by the State Board of Education.

This bill would require, pursuant to specified provisions of the federal Elementary and Secondary Education Act, the Superintendent of Public Instruction to approve a nationally recognized high school assessment that a local educational agency, as defined, may, at its own discretion, administer, if the alternative assessment is approved by the local educational agency's governing board or body in a public meeting, commencing with the 2021–22 school year, and each school year thereafter, in lieu of the consortium summative assessment in English language arts and mathematics for grade 11.

The bill would require a nationally recognized high school assessment approved by the Superintendent to meet specified requirements, would authorize the Superintendent to require the publisher of that assessment to provide documentation that the assessment meets or exceeds these requirements, and would require the Superintendent, if he or she determines that the assessment does not meet these requirements, to inform the assessment's publisher in writing of specific deficiencies and changes needed to meet these requirements. The bill would authorize a governing board of a local educational agency that is part of a consortium of local educational agencies to enter into a cooperative contract with a publisher for purposes of providing an assessment, as provided. To the extent permitted by the United States Department of Education, the bill would deem certain nationally recognized high school assessments to meet these requirements, and would require the Superintendent to approve these assessments for selection by a local educational agency. The bill would require the state board to amend the state plan required pursuant to federal law to account for the authorization for local educational agencies to use an alternate assessment pursuant to the bill's provisions, if required by federal law.

The bill would require a local educational agency that administers a nationally recognized high school assessment to comply with specified requirements, would require the Superintendent to apportion to the local educational agency the lesser of the actual cost of administering the alternative assessment, as specified, and the amount that would have been apportioned to the local educational agency if it had administered the consortium summative assessment in English language arts and mathematics for grade 11. The bill would state that a local educational agency may administer only one nationally recognized high school assessment in lieu of the consortium summative assessment in English language arts and mathematics for grade 11.

The bill would make these provisions inoperative 5 years after the first school year in which a local educational agency is able to exercise the authority to administer the alternative assessment, as specified, and would repeal these provisions as of the following January 1. The bill would require the Superintendent to inform the Legislative Counsel within 30 days of when this 5 year condition has been satisfied and post that determination on its Internet Web site.

The bill would require the State Department of Education to ensure that local educational agencies comply with specified requirements concerning the alternative assessment that apply in connection with the

summative assessments under CAASPP, including that grade 11 pupils, or parents or legal guardians of those pupils, may request results from the alternative assessment.

Existing law requires the Superintendent to prepare and submit, and subsequently post on the Internet Web site of the department, an annual report to the state board containing an analysis of the results and test scores of the summative assessments administered under the CAASPP.

This bill would require the Superintendent to include the results and test scores of the alternative assessment in that annual report.

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 60630 of the Education Code is amended  
2 to read:

3 60630. (a) The Superintendent shall prepare and submit, and  
4 subsequently post on the Internet Web site of the department, an  
5 annual report to the state board containing an analysis of the results  
6 and test scores of the summative assessments administered pursuant  
7 to ~~Section 60640~~. *Sections 60640 and 60640.5*. The Superintendent  
8 shall notify the state board and the appropriate policy and fiscal  
9 committees of the Legislature that the annual report is available  
10 on the Internet Web site of the department.

11 (b) The Superintendent shall post a periodic update on the  
12 implementation of the California Assessment of Student  
13 Performance and Progress on the Internet Web site of the  
14 department, and notify the state board and the appropriate policy  
15 and fiscal committees of the Legislature that the update is available  
16 on the Internet Web site of the department.

17 SEC. 2. Section 60640.5 is added to the Education Code, to  
18 read:

19 60640.5. (a) This section shall be known, and may be cited,  
20 as the Pathways to College Act.

21 (b) (1) Pursuant to Section 1111(b)(2)(H) of the federal  
22 Elementary and Secondary Education Act (20 U.S.C. Sec.  
23 6311(b)(2)(H)), no later than 30 days after the Superintendent  
24 determines that a nationally recognized high school assessment  
25 satisfies the requirements of subdivision (c), the Superintendent  
26 shall approve one or more nationally recognized high school

1 assessments that a local educational agency may, at its own  
2 discretion, administer, pursuant to subdivision (f), commencing  
3 with the 2021–22 school year, and each school year thereafter, in  
4 lieu of the assessment required pursuant to paragraph (1) of  
5 subdivision (b) of Section 60640.

6 (2) (A) A governing board of a local educational agency that  
7 is part of a consortium of local educational agencies may enter  
8 into a cooperative contract with a publisher for purposes of  
9 providing an assessment pursuant to paragraph (1).

10 (B) A local educational agency that chooses to administer an  
11 assessment pursuant to paragraph (1) may use the terms of a  
12 contract with a publisher that has been entered into by another  
13 district for purposes of providing the assessment.

14 (c) A nationally recognized high school assessment approved  
15 by the Superintendent pursuant to paragraph (1) of subdivision (b)  
16 shall meet all of the following requirements:

17 (1) Align with the academic content standards adopted by the  
18 state board pursuant to Section 60605, and address the depth and  
19 breadth of those standards.

20 (2) Be at least as rigorous as the assessment required pursuant  
21 to paragraph (1) of subdivision (b) of Section 60640.

22 (3) Meet the requirements of Sections 200.2(b), 200.5(a), and  
23 200.6 of Title 34 of the Code of Federal Regulations, to ensure  
24 appropriate accommodations for English learners and pupils with  
25 disabilities, including pupils identified pursuant to Section 602 of  
26 the federal Individuals with Disabilities Education Act (20 U.S.C.  
27 Sec. 1401), Section 504 of the federal Rehabilitation Act of 1973  
28 (29 U.S.C. Sec. 794), and Title II of the federal Americans with  
29 Disabilities Act of 1990 (42 U.S.C. Sec. 12131 et seq.).

30 (4) Produce valid and reliable data on pupil academic  
31 achievement with respect to all high school pupils and each  
32 subgroup of high school pupils in the local educational agency.

33 (5) Produce disaggregated scores based on English proficiency  
34 status, gender, ethnicity, socioeconomic disadvantage, foster care  
35 status, and special education designation.

36 (6) Produce individual pupil scores that can be linked to scores  
37 from the California Assessment of Student Performance and  
38 Progress (CAASPP) assessments.

39 (7) Ensure that the use of appropriate accommodations by a  
40 pupil with disabilities or an English learner does not deny the

1 opportunity of any pupil to participate in the assessment or deny  
2 any pupil of any benefit from participating in the assessment that  
3 is afforded to pupils without disabilities or pupils who are not  
4 English learners.

5 (8) Satisfy the peer review requirements specified in Section  
6 1111(a)(4) of the federal Elementary and Secondary Education  
7 Act (20 U.S.C. Sec. 6311(a)(4)), as required by Section  
8 1111(b)(2)(H)(iii)(II) of the federal Elementary and Secondary  
9 Education Act (20 U.S.C. Sec. 6311(b)(2)(H)(iii)(II)).

10 (d) (1) The Superintendent may require a publisher of a  
11 nationally recognized high school assessment that is being  
12 considered for his or her approval pursuant to subdivision (b) to  
13 provide documentation that the assessment meets or exceeds the  
14 requirements of subdivision (c).

15 (2) If the Superintendent determines that a nationally recognized  
16 high school assessment being considered for his or her approval  
17 pursuant to subdivision (b) does not meet the requirements of  
18 subdivision (c), the Superintendent shall inform the publisher of  
19 the assessment in writing of the specific deficiencies and changes  
20 needed to meet the requirements of subdivision (c).

21 (e) Only to the extent permitted by the United States Department  
22 of Education, a nationally recognized high school assessment that  
23 has been approved for use by any state that has adopted the  
24 Common Core State Standards and that meets federal requirements  
25 under Section 1111(b)(2)(H) of the federal Elementary and  
26 Secondary Education Act (20 U.S.C. Sec. 6311(b)(2)(H)) shall be  
27 deemed to have met the requirements of subdivisions (c) and (d)  
28 and shall be approved by the Superintendent pursuant to  
29 subdivision (b).

30 (f) (1) A local educational agency may administer an assessment  
31 approved pursuant to paragraph (1) of subdivision (b), instead of  
32 the assessment required pursuant to paragraph (1) of subdivision  
33 (b) of Section 60640, only if use of the alternative assessment has  
34 been approved by the local educational agency's governing board  
35 or body at a public meeting.

36 (2) Before a local educational agency may administer an  
37 assessment pursuant to paragraph (1), the state board shall amend  
38 the state plan required pursuant to Section 1111 of the federal  
39 Elementary and Secondary Education Act (20 U.S.C. Sec. 6311)  
40 to account for the authorization for local educational agencies to

1 use an alternate assessment pursuant to this section, if required by  
2 federal law.

3 (g) A local educational agency that administers a nationally  
4 recognized high school assessment pursuant to subdivision (b)  
5 shall do all of the following:

6 (1) Notify the Superintendent, and the parents and legal  
7 guardians of its pupils entering grade 11, at the beginning of each  
8 school year during which the assessment will be administered to  
9 those pupils, that it will be administering an assessment that is  
10 different from the assessment required pursuant to paragraph (1)  
11 of subdivision (b) of Section 60640.

12 (2) Administer the assessment free of charge to all pupils in  
13 grade 11, except for those pupils who opt out pursuant to Section  
14 60615, and as provided in paragraph (3).

15 (3) Pursuant to Section 1412(a)(16) of Title 20 of the United  
16 States Code, administer the assessment to individuals with  
17 exceptional needs, as defined in Section 56026, with appropriate  
18 accommodations, where necessary, and provide an alternate  
19 assessment to individuals with exceptional needs who are unable  
20 to participate in testing, even with accommodations.

21 (4) Administer the assessment to English learner pupils with  
22 appropriate accommodations, where necessary. To the extent  
23 permissible under federal law, recently arrived English learner  
24 pupils shall be exempt from taking the alternative assessment in  
25 English language arts.

26 (5) Report scores and pupil participation data to the department  
27 in a manner prescribed by the Superintendent.

28 (h) The Superintendent shall apportion to a local educational  
29 agency that administers a nationally recognized high school  
30 assessment pursuant to subdivision (b), in lieu of the assessment  
31 required pursuant to paragraph (1) of subdivision (b) of Section  
32 60640, the lesser of the following:

33 (1) The actual cost of administering the nationally recognized  
34 high school assessment, including, but not necessarily limited to,  
35 administering and scoring the assessment and reporting results of  
36 the assessment to the Superintendent.

37 (2) The amount that would have been apportioned to the local  
38 educational agency if it had administered the assessment required  
39 pursuant to paragraph (1) of subdivision (b) of Section 60640.

1 (i) A local educational agency may administer only one  
2 nationally recognized high school assessment in lieu of the  
3 assessment required pursuant to paragraph (1) of subdivision (b)  
4 of Section 60640. This subdivision does not prohibit a local  
5 educational agency that does not administer a nationally recognized  
6 high school assessment pursuant to this section from administering  
7 one or more assessments in addition to the assessment required  
8 pursuant to paragraph (1) of subdivision (b) of Section 60640.

9 (j) For purposes of this section, a “local educational agency”  
10 means a school district, county office of education, or charter  
11 school.

12 (k) (1) This section shall become inoperative five years after  
13 the first school year in which a local educational agency is able to  
14 exercise the authority granted to it pursuant to subdivision (b), and  
15 as of the following January 1, is repealed.

16 (2) The Superintendent shall inform the Legislative Counsel  
17 within 30 days of when the conditions of paragraph (1) have been  
18 satisfied, and post that determination on the department’s Internet  
19 Web site.

20 SEC. 3. Section 60641 of the Education Code is amended to  
21 read:

22 60641. (a) The department shall ensure that local educational  
23 agencies comply with each of the following requirements:

24 (1) The achievement tests provided for in Section 60640 *or*  
25 *60640.5* are scheduled to be administered to all pupils, inclusive  
26 of pupils enrolled in charter schools and exclusive of pupils  
27 exempted pursuant to Section 60640, during the period prescribed  
28 in subdivision (b) of Section 60640.

29 (2) For assessments that produce valid individual pupil results,  
30 the individual results of each pupil tested pursuant to ~~Section~~  
31 *Sections 60640 and 60640.5* shall be reported, in writing, to the  
32 parent or guardian of the pupil. The report shall include a clear  
33 explanation of the purpose of the test, the score of the pupil, and  
34 the intended use by the local educational agency of the test score.  
35 This subdivision does not require teachers or other local  
36 educational agency personnel to prepare individualized  
37 explanations of the test score of each pupil. It is the intent of the  
38 Legislature that nothing in this section shall preclude a school or  
39 school district from meeting the reporting requirement by the use  
40 of electronic media formats that secure the confidentiality of the

1 pupil and the pupil’s results. State agencies or local educational  
 2 agencies shall not use a comparison resulting from the scores and  
 3 results of the California Assessment of Student Performance and  
 4 Progress (CAASPP) ~~assessments~~ *assessments, or the alternative*  
 5 *assessment administered pursuant to Section 60640.5*, and the  
 6 assessment scores and results from assessments that measured  
 7 previously adopted content standards.

8 (3) (A) For assessments that produce valid individual pupil  
 9 results, the individual results of each pupil tested pursuant to  
 10 ~~Section Sections~~ *Sections 60640 and 60640.5* also shall be reported to the  
 11 school and teachers of a pupil. The local educational agency shall  
 12 include the test results of a pupil in his or her pupil records.  
 13 However, except as provided in this section and Section 60607,  
 14 personally identifiable pupil test results only may be released with  
 15 the permission of either the pupil’s parent or guardian if the pupil  
 16 is a minor, or the pupil if the pupil has reached the age of majority  
 17 or is emancipated.

18 (B) Notwithstanding subparagraph (A) and pursuant to  
 19 subdivision (c) of Section 60607, a pupil or his or her parent or  
 20 guardian may authorize the release of individual pupil results to a  
 21 postsecondary educational institution for the purpose of credit,  
 22 placement, determination of readiness for college-level coursework,  
 23 or admission.

24 (4) The districtwide, school-level, and grade-level results of the  
 25 CAASPP in each of the grades designated pursuant to Section  
 26 60640, *and the districtwide and school-level results of the*  
 27 *alternative assessment administered pursuant to Section 60640.5*,  
 28 but not the score or relative position of any individually  
 29 ascertainable pupil, shall be reported to the governing board of the  
 30 school district at a regularly scheduled meeting, and the  
 31 countywide, school-level, and grade-level results for classes and  
 32 programs under the jurisdiction of the county office of education  
 33 shall be similarly reported to the county board of education at a  
 34 regularly scheduled meeting.

35 (b) The state board shall adopt regulations that outline a calendar  
 36 for delivery and receipt of summative assessment results at the  
 37 pupil, school, grade, district, county, and state levels. The calendar  
 38 shall include delivery dates to the department and to local  
 39 educational agencies. The calendar for delivery shall provide for  
 40 the timely return of assessment results, and consider the amount

1 of paper-and-pencil administered assessments and number of items  
2 requiring hand scoring. The calendar shall also ensure that  
3 individual assessment results are reported to local educational  
4 agencies within eight weeks of receipt by the contractor for scoring.

5 (c) Aggregated, disaggregated, or group scores or reports that  
6 include the results of the CAASPP ~~assessments~~, *assessments or*  
7 *the alternate assessment administered pursuant to Section 60640.5*  
8 inclusive of the reports developed pursuant to Section 60630, shall  
9 not be publicly reported to any party other than the school or local  
10 educational agency where the pupils were tested, if the aggregated,  
11 disaggregated, or group scores or reports are comprised of 10 or  
12 fewer individual pupil assessment results. Exclusive of the reports  
13 developed pursuant to Section 60630, in no case shall any group  
14 score or report be displayed that would deliberately or inadvertently  
15 make the score or performance of any individual pupil or teacher  
16 identifiable.

17 (d) The department shall ensure that pupils in grade 11, or  
18 parents or legal guardians of those pupils, may request results from  
19 grade 11 assessments administered as part of the CAASPP *or the*  
20 *alternative assessment administered pursuant to Section 60640.5*  
21 for the purpose of determining credit, placement, or readiness for  
22 college-level coursework be released to a postsecondary  
23 educational institution.