



# CALIFORNIA STATE BOARD OF EDUCATION

## MAY 2004 AGENDA

<b>SUBJECT</b>  Legislative Update: Including, but not limited to, information on legislation.	<input checked="" type="checkbox"/> <b>Action</b>
	<input checked="" type="checkbox"/> <b>Information</b>
	<input type="checkbox"/> <b>Public Hearing</b>

### RECOMMENDATION

The following items are presented to the State Board of Education (SBE) for information and action as deemed necessary and appropriate.

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### SUMMARY OF PREVIOUS STATE BOARD OF EDUCATION DISCUSSION AND ACTION

In the April 2004 informational memorandum an update of legislative measures that fall under the six core principals adopted by the board at the November 2003 meeting was provided.

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### SUMMARY OF KEY ISSUES

The legislative measures presented to the board include only bills that fall under the six SBE adopted principals. The status of each measure is included in the legislative update. The first attachment is an update of legislative measures provided to the SBE in the April memorandum. The second attachment is an analysis of Assembly Bill 1897 authored by Assemblywoman Reyes to assist the board in determining its position on a resolution presented by student member Brent Godfrey. This analysis was prepared by the California Department of Education (CDE) Government Affairs staff. The third attachment is the text of AB 1897. April 23, 2004 was the last day for policy committees to hear and report Assembly fiscal bills for referral to fiscal committees and we will continue to update the board as the second half of the 2003-2004 legislative session progresses.

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### FISCAL ANALYSIS (AS APPROPRIATE)

The fiscal impact is noted in the attached legislative update.

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### ATTACHMENT

- [Attachment 1](#): Legislative update (5 pages)
- [Attachment 2](#): Analysis of AB 1897 (1 page)
- [Attachment 3](#): Text of AB 1897 (2 pages)

## Legislative Update

### 1. **Preserve the existing assessment system including the Standardized Testing and Reporting (STAR) Program, the California High School Exit Exam (CAHSEE), and the California English Language Development Test (CELDT).**

#### **SB 1448 (Alpert): reauthorizes the STAR program.**

In its current form, this bill, sponsored by the Superintendent of Public Instruction, extends the repeal date of the act to January 1, 2011; adds that the results of the California Standardized Testing (CST) be correlated and predictive of National Assessment of Educational Progress (NAEP) at grades 4 and 8; includes intent for CST at high school to be more aligned to courses that meet A-G; and directs that results from high school CST be used for higher education placement purposes.

Proposed amendments would:

- delete the NAEP amendment
- clarify with intent language, standards-based assessments vs. diagnostic tests and the function of each
- change the Norm Referenced Test from grades 3 and 8 to grades 3 and 7
- include authority for a pupil or pupil's parent or guardian to release test scores to a postsecondary institution
- release 25% of CST items each year and provide added flexibility for primary language assessments.

This bill passed the Assembly education Committee on April 21, 2004.

#### **AB 2413 (Diaz): English Learners: Testing**

This bill would require CDE, beginning on January 1, 2005, to develop the California Standards Tests of language arts and mathematics in the 2 primary written languages of limited-English-proficient pupils, as identified in the annual language census. It would:

- require that the primary language assessments be administered to limited-English-proficient pupils who receive instruction in their primary language or who enroll in public school;
- require the assessments to be phased in by specified grade levels beginning on July 1, 2006, and require pupil data from those assessments be included in the Academic Performance Index. The bill would require CDE to use Title VI federal funds for this purpose;
- provide for the development of other primary language assessments if additional funds become available.
- Provide that the tests only be administered if sufficient funding is available for that purpose
- specify that a limited-English-proficient pupil who has attended public school in the United States for 3 or more consecutive years be administered the assessments in English, beginning on July 1, 2006
- This bill was heard in the Assembly Education Committee on April 21, 2004, and passed out on Special Consent.

**2. Maintain the accountability system, making only those minor conforming changes necessary to comply with the No Child Left Behind (NCLB) Act.**

**SB 1419 (Vasconcellos): School accountability: Opportunity to Learn Index:**

This bill creates the Opportunities for Teaching and Learning (OTL) index as a component of the Public School Performance Accountability Program (E.C.52051). The OTL index would:

- measure the access to high-quality learning resources, conditions, and opportunities, based on specified criteria.
- include criteria such as the number of fully and properly credentialed teachers employed at the school, the availability of adequate and appropriate instructional materials, and the physical condition and maintenance of school facilities, among other things.

Scheduled to be heard on April 21, 2004, in the Senate Education Committee.

**Note:** SB 1419 is the same bill as SB 495 that was vetoed by Governor Davis in 2003.

**AB 2360 (Daucher): Special Education: Progress**

This bill would require that an interagency contract between a school district, a county office of education and/or a special education local plan area and a non-public non-sectarian school (NPS), for special education and related services to include specified provisions. The contract should include a requirement that the NPS shall test each of its pupils, placed by a school district, special education local plan area or county office of education, in accordance with the Public School Performance Accountability Program. (The provision to require the NPS to report the progress made towards pupils' individualized education plan (IEP) goals as a condition of its services being continued was deleted). The bill specifies that:

- the assessments used to determine the progress shall be the same as those used by the public schools;
- the school shall participate in the Public School Performance Accountability Program (E.C. 52051), just like the public school;
- the NPS shall test each of its pupils in accordance with the accountability program and would further be required to report the scores to the district in which it is located, in order that the results can be included in that district's reports.
- The school shall prepare a school accountability report card in accordance with E.C. Section 33126. (new provision)
- The author agreed in committee on April 21, 2004, to limit the education code reference to the testing and reporting components of the Public School Performance Accountability Program, as she only intended the bill to require certain NPSs to provide and report testing for specified students.

The bill passed out of the Assembly Education Committee with a 11-0 vote on April 21, 2004, with technical amendments. The bill will be referred to the Assembly Appropriations Committee.

**3. Encourage more submission of instructional materials by publishers that will meet California's rigorous requirements.**

**SB 1405 (Karnette): High School Reform: high school instructional materials:** This bill, sponsored by the Superintendent of Public Instruction, would improve high school instructional materials by creating a State of California “seal of approval” to identify materials aligned to California’s world-class standards.

The bill was heard in the Senate Education Committee on April 21, 2004, and placed on suspense. The bill was released from the suspense file on April 22, 2004, after the author agreed to accept the following amendments:

- The State Superintendent of Public Instruction shall commence the advisory review of instructional materials for grades 9 through 12, inclusive, by soliciting recommendations from local education agencies which include high schools. The State Superintendent of Public Instruction shall present and make these recommendations available throughout the review process.
- In the development of advisory recommendations, the State Superintendent of Public Instruction shall consider that high schools use multiple instructional media and sources in the development of instructional materials that provide a standards-based program in the various content areas. The published list shall include, where appropriate, both individual and bundled instructional materials that provide the basis for rigorous standards-based instruction and learning.

**4. Safeguard the academic content standards as the foundation of California's K-12 educational system.**

**AB 2744 (Goldberg): Testing: Content Standards.** This bill would remove the authority of the State Board of Education to modify proposed content and performance standards and instead would require the Superintendent of Public Instruction to appoint content standards review panels in each subject area to review content standards every 3 years.

- Members of each panel shall consist of public school teachers, of diverse grade levels, geographic areas and diverse teaching backgrounds, i.e. special education and English language,
- Members shall be appointed based upon their nomination by subject area professional organizations (need not be a member),
- Member’s shall revise these standards as they deem necessary,
- Member's term expires upon completion of review of content standards.

Upon the establishment of content standards the Superintendent of Public Instruction shall also appoint a content standards panel. The adoption of these standards is subject to the rulemaking requirements and procedures set forth in the Administrative Procedure Act.

This was heard in the Assembly Education Committee on April 21, 2004, and was passed out on Special Consent.

**AB 1922 (Nation): Instructional Materials: funding:** This bill authorizes a school district to expend 30 percent of its IMF allowance to purchase instructional materials that are not adopted by the state board of education.

Not yet scheduled to be heard in the Assembly Education Committee.

#### 5. Strengthen coordination between K-12 and higher education.

**SB 905 (Chesbro): Educational Enrichment:** As introduced, January 26, 2004, this bill revises current law on educational enrichment as it relates to concurrent enrollment of pupils in high school and community college. This bill makes changes to current law by eliminating specified requirements for and restrictions upon the admission of K-12 students to a community college summer session as special part-time or full-time students. Specifically, SB 905 would:

- delete the requirement that a student recommended for admission by the principal of a school must demonstrate adequate preparation in the discipline to be studied.
- eliminate the restriction, currently 5% of the total number of students who completed a particular grade level, on the number of students a principal may recommend for a community college summer session.

Funding may be an issue if the bill results in the redirection of fiscal resources to support increased summer concurrent enrollment

On January 27, 2004, the Senate passed this measure 35-1. Currently, the bill is awaiting action on the Assembly floor.

**AB 1819 (La Malfa): Concurrent Enrollment:** This bill would remove enrollment caps on the number of high school students who may enroll in community colleges as special admit students.

- This bill would delete current limitations on the authority of a principal to recommend a pupil for community college summer session.
- This bill would delete the 5% cap on the number of special admit students who may be recommended by a principal for a community college summer session attendance.
- This bill would delete the 10% cap on the enrollment of special admit students in physical education classes.
- This bill would delete the 5% cap on the amount of state apportionment that a community college district may claim for total reported full-time equivalent (FTE) enrollment of special admit students in physical education classes.
- This bill is an urgency measure and will require a 2/3 floor vote for passage.

CDE recommends that a task force consisting of Community College Chancellor's Office, California Department of Education, Office of the Secretary of Education be formed to review all of the issues involved with concurrent enrollment and establish a comprehensive set of standards and policies.

This bill recently passed the Assembly Higher Education Committee 7-0. Amendments included the removal of the section relating to the physical education cap and the measure is scheduled to be heard in the Assembly Education Committee on May 5, 2004.

## 6. Encourage only high-quality charter schools

About 16 charter school bills have been introduced, many of which are spot bills. They cover various issues recommended by the Legislative Analyst, such as:

- specifying categorical programs included in the charter school block grant
- removing the cap on the number of charter schools in the state
- clarifying and capping the oversight fees that a charter authorizer may charge a charter school.

A few charter schools bills of interest are:

**AB 1860 (Reyes): Charter Schools:** A spot bill for now, but the author intends to address many of the Legislative Analyst's recommendations, including requirements for charter authorizers.

Currently, this bill is awaiting a hearing date in Assembly Education Committee.

**AB 2764 (Bates, co-author Alpert): Charter Schools:** Ms. Bates' second attempt to expand the types of charter authorizers. This bill would expand authorizers to include community colleges, California State Universities and Universities of California.

The measure was heard in the Assembly Education Committee on April 14, 2004, where the bill received sufficient votes to pass out of committee, however, some committee members stated that they did not know if they will vote for the bill went it reaches the Assembly Floor. One concern is that provisions in AB 2764 (i.e., to expand the pool of charter school authorizers) conflict with provisions of AB 1994 (Reyes, Chapter 1058, Statutes of 2002), which specified which entities may authorize a charter school (primarily local school districts) under specified conditions.

On April 21, 2004, the bill passed the Assembly Higher Education Committee. In the Higher Education Committee, Ms. Bates accepted amendments to her bill to create a pilot program under which each university system would be allowed to authorize a total of 10 charter schools.

**AB 1726 (Ashburn):** This bill, sponsored by the California Association of Charter Schools, would expand charter schools' eligibility for facility funds.

The bill will be heard in Senate Education Committee on April 21, 2004.

**SB 1531 (Knight):** This bill would remove the restriction on the number of charter schools that are authorized to operate in California each year, pursuant to recommendations made recently by the Rand Report and the Legislative Analyst's

Office. The measure failed passage in Senate Education Committee on April 14, 2004. Dissenting members commented that there's no need to remove the cap since the number of charter schools has never come close to meeting the statutory number, and charter schools are still "experimental" since they have not (collectively) proven to be superior to traditional public schools.

### **CDE Government Affairs Analysis of Assembly Bill 1897 (Reyes)**

*Prepared by: Mary Ann Goodwin, Education Program Consultant, School Improvement Division*

Existing law requires the governing board of a school district to appoint to its membership one or more non-voting or preferential voting pupil members, as defined, *if pupils petition the governing board* to make those appointments. High school students must submit a petition to the local school board to request representation.

AB 1897 would require school district governing boards that maintain one or more high schools to appoint to its membership one or more preferential voting pupil members. The measure would delete the non-voting option and the requirement for high school students to petition for their representation.

- The governing board would be required to continue to grant each pupil member "preferential voting privileges," meaning a formal expression of opinion that is recorded in the minutes and cast prior to the official vote of the governing board. A preferential vote will not serve in determining the final numerical outcome of a vote or be made on matters subject to closed session discussion.
- The governing board may adopt a resolution authorizing the non-voting pupil member or members to make motions that may be acted upon by the governing board, except on matters dealing with employer-employee relations.
- Each pupil member shall have the right to attend all meetings of the governing board, except executive sessions. The pupil member must be chosen by the pupils enrolled in the high school or high schools of the district in accordance with procedures prescribed by the governing board.

#### **Pros:**

- This bill would strengthen the voice of the high school students, in that an opinion would be sought before each vote.
- High school students would not have to petition to be represented on the board.
- The high school representative would have a "preferential vote" allowing him or her to express the student body's needs or concerns.

#### **Cons:**

- School districts may incur new costs associated with notifying the high school(s) student bodies of board representation opportunity, such as letters to homes.
- 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.



BILL NUMBER: AB 1897 AMENDED BILL TEXT  
AMENDED IN ASSEMBLY MARCH 24, 2004  
INTRODUCED BY Assembly Member Reyes  
FEBRUARY 9, 2004

An act to amend Section 35012 of the Education Code, relating to school districts.

LEGISLATIVE COUNSEL'S DIGEST

AB 1897, as amended, Reyes. School district governing boards: pupil members.

Existing law requires the governing board of a school district to appoint to its membership one or more nonvoting or preferential voting pupil members, as defined, if pupils petition the governing board to make those appointments.

This bill would delete those provisions and would instead require the governing board of a school district to appoint to its membership one or more preferential voting pupil members, as defined.

*This bill would make that duty operative commencing on July 1, 2005.*

By imposing additional duties on school districts, this bill would impose a state-mandated local program.

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.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 35012 of the Education Code is amended to read:

35012. (a) Except as otherwise provided, the governing board of a school district shall consist of five members elected at large by the qualified voters of the district. The terms of the members shall, except as otherwise provided, be for four years and staggered so that as nearly as practicable one-half of the members shall be elected in each odd-numbered year.

(b) A unified school district may have a governing board of seven members in the event the proposal for unification has specified a governing board of seven members. The members of the board shall be elected at large or by trustee areas as designated in the proposal for unification and shall serve four-year terms of office.

(c) Notwithstanding subdivision (a), and except as provided in this subdivision and Section 5018, the governing board of an elementary school district, other than a union or joint union elementary school district, shall consist of three members selected at large from the territory comprising the district. If, in that elementary school district the average daily attendance during the preceding fiscal year is 300 or more, the procedures prescribed by Section 5018 shall be undertaken.

(d) (1) ~~Each~~ *Commencing July 1, 2005, each* governing board of a school district maintaining one or more high schools shall appoint one or more preferential voting pupil members to the governing board of the school district. The pupil shall be included within the membership of the governing board, in addition to the number of members otherwise prescribed.

(2) The governing board shall grant each pupil member preferential voting privileges as defined in paragraph (3).

(3) "Preferential voting," as used in the section, means a formal expression of opinion that is recorded in the minutes and cast prior to the official vote of the governing board. A preferential vote will not serve in determining the final numerical outcome of a vote. No preferential vote will be solicited on matters subject to closed session discussion.

(4) The governing board may adopt a resolution authorizing each preferential voting pupil member to make motions that may be acted upon by the governing board, except on matters dealing with employer-employee relations pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

(5) Each pupil member shall have the right to attend each and all meetings of the governing board, except executive sessions.

(6) Each pupil selected to serve as a preferential voting member of the governing board shall be enrolled in a high school of the district, may be less than 18 years of age, and shall be chosen by the pupils enrolled in the high school or high schools of the district in accordance with procedures prescribed by the governing board. *The procedures shall ensure that each high school within the school district has one pupil member on the board at least once every two years.* The term of each pupil member shall be one year commencing on July 1 of each year.

(7) ~~Each~~ A preferential voting pupil member ~~shall be~~ *is not* entitled to the mileage allowance to the same extent as regular members, ~~but~~ *and* is not entitled to the compensation prescribed by Section 35120.

(8) Each preferential voting pupil member shall be seated with the members of the governing board and shall be recognized as a full member of the board at the meetings, including receiving all materials presented to the board members and participating in the questioning of witnesses and the discussion of issues.

(9) The preferential voting pupil member shall not be included in determining the vote required to carry any measure before the board.

(10) The preferential voting pupil member is not liable for any acts of the governing board.

SEC. 2. 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.