AB 1507 (Smith): Local Control at Charter Schools

Bill Summary:

- AB 1507 closes a loophole in current law which allows a charter school to operate outside of its authorizing district on an indefinite basis.
- The bill ends the practice of local school districts being forced to accept a charter school in their district if it was authorized by a different school district.

Key Message: The decades-old laws governing charter schools are broken and it’s clear that Californians want significant changes in the flawed laws that have allowed corporate charter schools to divert millions of dollars away from our neighborhood public schools at the expense of our students. AB 1507 closes a loophole that allows a charter school to operate in a district, where it has not been authorized. This practice undermines the ability of a local school board to determine the educational practices of its community. It is a commonsense solution that will help ensure charter schools are authorized and operated in their local districts.

Talking Points:

- **Current law undermines the practice of local control, wherein districts develop priorities and plans with input from all stakeholders including parents, students, teachers, and community members.** The local school board is elected to make decisions, with input from parents, educators, community members and students, in the best interest of the children living in their district and is most knowledgeable of the programs and needs of local students. This is why local school districts must have the authority to decide if a charter school opens and operates in their school district. A school board should not make decisions about locating a charter school in another school district.

- **The lack of oversight of charter schools has robbed students in neighborhood public schools of millions of dollars.** Forcing charter schools to operate within the school district that approves its petition means decision makers who represent the constituents in the community being served, would be able to access and monitor the expenditures of local dollars intended to be used on local students. Studies show that over the past 15 years, $2.5 billion of taxpayer money has been misspent on charter school facilities that were not needed or that delivered a low-quality education.
• The law is broken and charter schools in various parts of the state have abused loopholes for financial gains. Often, school districts faced with authorizing a charter school outside of its boundaries see an incentive in doing so because current law allows them to collect oversight fees, and in some cases have used these fees to stabilize their budget. Abuse of this loophole hurts students as the charter school operates without meaningful supervision and it diverts money away from student supports.

• A charter school operating outside its authorizing-district boundaries can have unexpected impacts on the host district, which has little to no authority over the school. Once the charter school has set up operations in a neighboring district, it often stays. With no real authority to ensure adequate safeguards and productive learning environments, the conditions of teaching and learning has, in many cases, deteriorated rapidly.
AN ACT TO AMEND Section 47605, Sections 47605.1, and 60640 of the Education Code, relating to charter schools.

LEGISLATIVE COUNSEL'S DIGEST

AB 1507, as amended, Smith. Charter schools: location:

Existing

(1) Existing law authorizes a charter school that is unable to locate within the jurisdiction or geographic boundaries of the chartering school district to establish one site outside the boundaries of the school district, but within the county in which that school district is located, if the school district where the charter school proposes to operate is notified in advance of the charter petition approval, the county superintendent of schools is notified of the location of the charter school before it commences operations, and either the charter school has attempted to locate a single site or facility to house the entire program, but such a site or facility is unavailable in the area in which the school chooses to locate, or the site is needed for temporary use during a construction or expansion project.

This bill would delete the authority of a charter school to locate outside the jurisdiction or geographic boundaries of the chartering school district because the charter school has attempted to locate a single site or facility to house the entire program, but a site or facility is unavailable
in the area in which the charter school chooses to locate, or the site is
needed for temporary use during a construction or expansion project.

(2) Existing law authorizes a charter school to establish a resource
center, meeting space, or other satellite facility located in a county
adjacent to the county in which the charter school is authorized if
specified conditions are met.

This bill instead would authorize a charter school to establish one
resource center within the jurisdiction of the school district where the
charter school is physically located if specified conditions are met.

This bill would make a conforming change.

State-mandated local program: no.

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

SECTION 1. Section 47605 of the Education Code is amended
to read:

47605. (a) (1) Except as set forth in paragraph (2), a petition
for the establishment of a charter school within a school district
may be circulated by one or more persons seeking to establish the
charter school. A petition for the establishment of a charter school
shall identify a single charter school that will operate within the
geographic boundaries of that school district. A charter school
may propose to operate at multiple sites within the school district
if each location is identified in the charter school petition. The
petition may be submitted to the governing board of the school
district for review after either of the following conditions is met:

(A) The petition is signed by a number of parents or legal
guardians of pupils that is equivalent to at least one-half of the
number of pupils that the charter school estimates will enroll in
the charter school for its first year of operation.

(B) The petition is signed by a number of teachers that is
equivalent to at least one-half of the number of teachers that the
charter school estimates will be employed at the charter school
during its first year of operation.

(2) A petition that proposes to convert an existing public school
to a charter school that would not be eligible for a loan pursuant
to subdivision (c) of Section 41365 may be circulated by one or
more persons seeking to establish the charter school. The petition
may be submitted to the governing board of the school district for
review after the petition is signed by not less than 50 percent of
the permanent status teachers currently employed at the public
school to be converted.

(3) A petition shall include a prominent statement that a
signature on the petition means that the parent or legal guardian
is meaningfully interested in having their child or ward attend the
charter school, or in the case of a teacher’s signature, means that
the teacher is meaningfully interested in teaching at the charter
school. The proposed charter shall be attached to the petition.

(4) After receiving approval of its petition, a charter school that
proposes to establish operations at one or more additional sites
shall request a material revision to its charter and shall notify the
authority that granted its charter of those additional locations. The
authority that granted its charter shall consider whether to approve
those additional locations at an open, public meeting. If the
additional locations are approved, they shall be a material revision
to the charter school’s charter.

(5) Commencing January 1, 2003, a petition to establish a charter
school shall not be approved to serve pupils in a grade level that
is not served by the school district of the governing board
considering the petition, unless the petition proposes to serve pupils
in all of the grade levels served by that school district.

(b) No later than 30 days after receiving a petition, in accordance
with subdivision (a), the governing board of the school district
shall hold a public hearing on the provisions of the charter, at
which time the governing board of the school district shall consider
the level of support for the petition by teachers employed by the
school district, other employees of the school district, and parents.
Following review of the petition and the public hearing, the
governing board of the school district shall either grant or deny
the charter within 60 days of receipt of the petition, provided,
however, that the date may be extended by an additional 30 days
if both parties agree to the extension. In reviewing petitions for
the establishment of charter schools pursuant to this section, the
chartering authority shall be guided by the intent of the Legislature
that charter schools are and should become an integral part of the
California educational system and that the establishment of charter
schools should be encouraged. The governing board of the school
district shall grant a charter for the operation of a school under this
part if it is satisfied that granting the charter is consistent with
sound educational practice. The governing board of the school district shall not deny a petition for the establishment of a charter school unless it makes written factual findings, specific to the particular petition, setting forth specific facts to support one or more of the following findings:

(1) The charter school presents an unsound educational program for the pupils to be enrolled in the charter school.

(2) The petitioners are demonstrably unlikely to successfully implement the program set forth in the petition.

(3) The petition does not contain the number of signatures required by subdivision (a).

(4) The petition does not contain an affirmation of each of the conditions described in subdivision (d).

(5) The petition does not contain reasonably comprehensive descriptions of all of the following:

(A) (i) The educational program of the charter school, designed, among other things, to identify those whom the charter school is attempting to educate, what it means to be an “educated person” in the 21st century, and how learning best occurs. The goals identified in that program shall include the objective of enabling pupils to become self-motivated, competent, and lifelong learners.

(ii) The annual goals for the charter school for all pupils and for each subgroup of pupils identified pursuant to Section 52052, to be achieved in the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school, and specific annual actions to achieve those goals. A charter petition may identify additional school priorities, the goals for the school priorities, and the specific annual actions to achieve those goals.

(iii) If the proposed charter school will serve high school pupils, the manner in which the charter school will inform parents about the transferability of courses to other public high schools and the eligibility of courses to meet college entrance requirements. Courses offered by the charter school that are accredited by the Western Association of Schools and Colleges may be considered transferable and courses approved by the University of California or the California State University as creditable under the “A to G” admissions criteria may be considered to meet college entrance requirements.
(B) The measurable pupil outcomes identified for use by the charter school. “Pupil outcomes,” for purposes of this part, means the extent to which all pupils of the charter school demonstrate that they have attained the skills, knowledge, and attitudes specified as goals in the charter school’s educational program. Pupil outcomes shall include outcomes that address increases in pupil academic achievement both schoolwide and for all groups of pupils served by the charter school, as that term is defined in subparagraph (B) of paragraph (3) of subdivision (a) of Section 47607. The pupil outcomes shall align with the state priorities, as described in subdivision (d) of Section 52060, that apply for the grade levels served, or the nature of the program operated, by the charter school.

(C) The method by which pupil progress in meeting those pupil outcomes is to be measured. To the extent practicable, the method for measuring pupil outcomes for state priorities shall be consistent with the way information is reported on a school accountability report card.

(D) The governance structure of the charter school, including, but not limited to, the process to be followed by the charter school to ensure parental involvement.

(E) The qualifications to be met by individuals to be employed by the charter school.

(F) The procedures that the charter school will follow to ensure the health and safety of pupils and staff. These procedures shall require all of the following:

(i) That each employee of the charter school furnish the charter school with a criminal record summary as described in Section 44237.

(ii) The development of a school safety plan, which shall include the safety topics listed in subparagraphs (A) to (H), inclusive, of paragraph (2) of subdivision (a) of Section 32282 and procedures for conducting tactical responses to criminal incidents.

(iii) That the school safety plan be reviewed and updated by March 1 of every year by the charter school.

(G) The means by which the charter school will achieve a racial and ethnic balance among its pupils that is reflective of the general population residing within the territorial jurisdiction of the school district to which the charter petition is submitted.

(H) Admission policies and procedures, consistent with subdivision (d).
(I) The manner in which annual, independent financial audits shall be conducted, which shall employ generally accepted accounting principles, and the manner in which audit exceptions and deficiencies shall be resolved to the satisfaction of the chartering authority.

(J) The procedures by which pupils can be suspended or expelled from the charter school for disciplinary reasons or otherwise involuntarily removed from the charter school for any reason. These procedures, at a minimum, shall include an explanation of how the charter school will comply with federal and state constitutional procedural and substantive due process requirements that is consistent with all of the following:

(i) For suspensions of fewer than 10 days, provide oral or written notice of the charges against the pupil and, if the pupil denies the charges, an explanation of the evidence that supports the charges and an opportunity for the pupil to present their side of the story.

(ii) For suspensions of 10 days or more and all other expulsions for disciplinary reasons, both of the following:

(I) Provide timely, written notice of the charges against the pupil and an explanation of the pupil’s basic rights.

(II) Provide a hearing adjudicated by a neutral officer within a reasonable number of days at which the pupil has a fair opportunity to present testimony, evidence, and witnesses and confront and cross-examine adverse witnesses, and at which the pupil has the right to bring legal counsel or an advocate.

(iii) Contain a clear statement that no pupil shall be involuntarily removed by the charter school for any reason unless the parent or guardian of the pupil has been provided written notice of intent to remove the pupil no less than five schooldays before the effective date of the action. The written notice shall be in the native language of the pupil or the pupil’s parent or guardian or, if the pupil is a foster child or youth or a homeless child or youth, the pupil’s educational rights holder, and shall inform them of the right to initiate the procedures specified in clause (ii) before the effective date of the action. If the pupil’s parent, guardian, or educational rights holder initiates the procedures specified in clause (ii), the pupil shall remain enrolled and shall not be removed until the charter school issues a final decision. For purposes of this clause, “involuntarily removed” includes disenrolled, dismissed,
transferred, or terminated, but does not include suspensions
specified in clauses (i) and (ii).

(K) The manner by which staff members of the charter schools
will be covered by the State Teachers’ Retirement System, the
Public Employees’ Retirement System, or federal social security.

(L) The public school attendance alternatives for pupils residing
within the school district who choose not to attend charter schools.

(M) The rights of an employee of the school district upon
leaving the employment of the school district to work in a charter
school, and of any rights of return to the school district after
employment at a charter school.

(N) The procedures to be followed by the charter school and
the entity granting the charter to resolve disputes relating to
provisions of the charter.

(O) The procedures to be used if the charter school closes. The
procedures shall ensure a final audit of the charter school to
determine the disposition of all assets and liabilities of the charter
school, including plans for disposing of any net assets and for the
maintenance and transfer of pupil records.

(6) The petition does not contain a declaration of whether or
not the charter school shall be deemed the exclusive public
employer of the employees of the charter school for purposes of
Chapter 10.7 (commencing with Section 3540) of Division 4 of
Title 1 of the Government Code.

(c) (1) Charter schools shall meet all statewide standards and
conduct the pupil assessments required pursuant to Section 60605
and any other statewide standards authorized in statute or pupil
assessments applicable to pupils in noncharter public schools.

(2) Charter schools shall, on a regular basis, consult with their
parents, legal guardians, and teachers regarding the charter school’s
educational programs.

(d) (1) In addition to any other requirement imposed under this
part, a charter school shall be nonsectarian in its programs,
admission policies, employment practices, and all other operations,
shall not charge tuition, and shall not discriminate against a pupil
on the basis of the characteristics listed in Section 220. Except as
provided in paragraph (2), admission to a charter school shall not
be determined according to the place of residence of the pupil, or
of their parent or legal guardian, within this state, except that an
existing public school converting partially or entirely to a charter
school under this part shall adopt and maintain a policy giving
admission preference to pupils who reside within the former
attendance area of that public school.

(2) (A) A charter school shall admit all pupils who wish to
attend the charter school.

(B) If the number of pupils who wish to attend the charter school
exceeds the charter school’s capacity, attendance, except for
existing pupils of the charter school, shall be determined by a
public random drawing. Preference shall be extended to pupils
currently attending the charter school and pupils who reside in the
school district except as provided for in Section 47614.5.
Preferences, including, but not limited to, siblings of pupils
admitted or attending the charter school and children of the charter
school’s teachers, staff, and founders identified in the initial charter,
may also be permitted by the chartering authority on an individual
charter school basis. Priority order for any preference shall be
determined in the charter petition in accordance with all of the
following:

(i) Each type of preference shall be approved by the chartering
authority at a public hearing.

(ii) Preferences shall be consistent with federal law, the
California Constitution, and Section 200.

(iii) Preferences shall not result in limiting enrollment access
for pupils with disabilities, academically low-achieving pupils,
English learners, neglected or delinquent pupils, homeless pupils,
or pupils who are economically disadvantaged, as determined by
eligibility for any free or reduced-price meal program, foster youth,
or pupils based on nationality, race, ethnicity, or sexual orientation.

(iv) In accordance with Section 49011, preferences shall not
require mandatory parental volunteer hours as a criterion for
admission or continued enrollment.

(C) In the event of a drawing, the chartering authority shall
make reasonable efforts to accommodate the growth of the charter
school and shall not take any action to impede the charter school
from expanding enrollment to meet pupil demand.

(3) If a pupil is expelled or leaves the charter school without
graduating or completing the school year for any reason, the charter
school shall notify the superintendent of the school district of the
pupil’s last known address within 30 days, and shall, upon request,
provide that school district with a copy of the cumulative record
of the pupil, including report cards or a transcript of grades, and
health information. If the pupil is subsequently expelled or leaves
the school district without graduating or completing the school
year for any reason, the school district shall provide this
information to the charter school within 30 days if the charter
school demonstrates that the pupil had been enrolled in the charter
school. This paragraph applies only to pupils subject to compulsory
full-time education pursuant to Section 48200.

(e) The governing board of a school district shall not require an
employee of the school district to be employed in a charter school.

(f) The governing board of a school district shall not require a
pupil enrolled in the school district to attend a charter school.

(g) The governing board of a school district shall require that
the petitioner or petitioners provide information regarding the
proposed operation and potential effects of the charter school,
including, but not limited to, the facilities to be used by the charter
school, the manner in which administrative services of the charter
school are to be provided, and potential civil liability effects, if
any, upon the charter school and upon the school district. The
description of the facilities to be used by the charter school shall
specify where the charter school intends to locate. The petitioner
or petitioners also shall be required to provide financial statements
that include a proposed first-year operational budget, including
startup costs, and cashflow and financial projections for the first
three years of operation.

(h) In reviewing petitions for the establishment of charter
schools within the school district, the governing board of the school
district shall give preference to petitions that demonstrate the
capability to provide comprehensive learning experiences to pupils
identified by the petitioner or petitioners as academically low
achieving pursuant to the standards established by the department
under Section 54032, as that section read before July 19, 2006.

(i) Upon the approval of the petition by the governing board of
the school district, the petitioner or petitioners shall provide written
notice of that approval, including a copy of the petition, to the
applicable county superintendent of schools, the department, and
the state board.

(j) (1) If the governing board of a school district denies a
petition, the petitioner may elect to submit the petition for the
establishment of a charter school to the county board of education.
The county board of education shall review the petition pursuant to subdivision (b). If the petitioner elects to submit a petition for establishment of a charter school to the county board of education and the county board of education denies the petition, the petitioner may file a petition for establishment of a charter school with the state board, and the state board may approve the petition, in accordance with subdivision (b). A charter school that receives approval of its petition from a county board of education or from the state board on appeal shall be subject to the same requirements concerning geographic location to which it would otherwise be subject if it received approval from the entity to which it originally submitted its petition. A charter petition that is submitted to either a county board of education or to the state board shall meet all otherwise applicable petition requirements, including the identification of the proposed site or sites where the charter school will operate.

(2) In assuming its role as a chartering authority, the state board shall develop criteria to be used for the review and approval of charter school petitions presented to the state board. The criteria shall address all elements required for charter approval, as identified in subdivision (b), and shall define “reasonably comprehensive,” as used in paragraph (5) of subdivision (b), in a way that is consistent with the intent of this part. Upon satisfactory completion of the criteria, the state board shall adopt the criteria on or before June 30, 2001.

(3) A charter school for which a charter is granted by either the county board of education or the state board based on an appeal pursuant to this subdivision shall qualify fully as a charter school for all funding and other purposes of this part.

(4) If either the county board of education or the state board fails to act on a petition within 120 days of receipt, the decision of the governing board of the school district to deny the petition shall be subject to judicial review.

(5) The state board shall adopt regulations implementing this subdivision.

(6) Upon the approval of the petition by the county board of education, the petitioner or petitioners shall provide written notice of that approval, including a copy of the petition, to the department and the state board.
(k) (1) The state board may, by mutual agreement, designate
its supervisory and oversight responsibilities for a charter school
approved by the state board to any local educational agency in the
county in which the charter school is located or to the governing
board of the school district that first denied the petition.
(2) The designated local educational agency shall have all
monitoring and supervising authority of a chartering authority,
including, but not limited to, powers and duties set forth in Section
47607, except the power of revocation, which shall remain with
the state board.
(3) A charter school that is granted its charter through an appeal
to the state board and elects to seek renewal of its charter shall,
before expiration of the charter, submit its petition for renewal to
the governing board of the school district that initially denied the
charter. If the governing board of the school district denies the
charter school’s petition for renewal, the charter school may
petition the state board for renewal of its charter.
(l) Teachers in charter schools shall hold a Commission on
Teacher Credentialing certificate, permit, or other document
equivalent to that which a teacher in other public schools would
be required to hold. These documents shall be maintained on file
at the charter school and are subject to periodic inspection by the
chartering authority. It is the intent of the Legislature that charter
schools be given flexibility with regard to noncore, noncollege
preparatory courses.
(m) A charter school shall transmit a copy of its annual,
independent financial audit report for the preceding fiscal year, as
described in subparagraph (I) of paragraph (5) of subdivision (b),
to its chartering authority, the Controller, the county superintendent
of schools of the county in which the charter school is sited, unless
the county board of education of the county in which the charter
school is sited is the chartering authority, and the department by
December 15 of each year. This subdivision does not apply if the
audit of the charter school is encompassed in the audit of the
chartering authority pursuant to Section 41020.
(n) A charter school may encourage parental involvement, but
shall notify the parents and guardians of applicant pupils and
currently enrolled pupils that parental involvement is not a
requirement for acceptance to, or continued enrollment at, the
charter school.
SEC. 2. Section 47605.1 of the Education Code is amended to read:

47605.1. (a) (1) Notwithstanding any other law, a charter school that is granted a charter from the governing board of a school district or county office of education after July 1, 2002, and commences providing educational services to pupils on or after July 1, 2002, shall locate in accordance with the geographic and site limitations of this part.

(2) Notwithstanding any other law, a charter school that is granted a charter by the state board after July 1, 2002, and commences providing educational services to pupils on or after July 1, 2002, based on the denial of a petition by the governing board of a school district or county board of education, as described in paragraphs (1) and (2) of subdivision (j) of Section 47605, may locate only within the geographic boundaries of the chartering entity that initially denied the petition for the charter.

(3) A charter school that receives approval of its charter from a governing board of a school district, a county office of education, or the state board before July 1, 2002, but does not commence operations until after January 1, 2003, shall be subject to the geographic limitations of this part, in accordance with subdivision (d).

(b) This section is not intended to affect the admission requirements contained in subdivision (d) of Section 47605.

(c) Notwithstanding any other law, a charter school may establish a resource center, meeting space, or other satellite facility located in a county adjacent to that in which the charter school is authorized within the jurisdiction of the school district where the charter school is physically located if the following conditions are met:

(1) The facility is used exclusively for the educational support of pupils who are enrolled in nonclassroom-based independent study of the charter school.

(2) The charter school provides its primary educational services in, and a majority of the pupils it serves are residents of, the county in which the charter school is authorized.

(d) Notwithstanding subdivision (a) or subdivision (a) of Section 47605, a charter school that is unable to locate within the geographic boundaries of the chartering school district may establish one site outside the boundaries of the school district, but
within the county within which that school district is located, if
the school district in which the charter school proposes to operate
is notified in advance of the charter petition approval, the county
superintendent of schools is notified of the location of the charter
school before it commences operations, and either of the following
circumstances exist:
(1) The charter school has attempted to locate a single site or
facility to house the entire program, but such a facility or site is
unavailable in the area in which the charter school chooses to
locate:
(2) The site is needed for temporary use during a construction
or expansion project.
(e)
(d) (1) For a charter school that was granted approval of its
charter before July 1, 2002, and provided educational services to
pupils before July 1, 2002, this section only applies to new
educational services or schoolsites established or acquired by the
charter school on or after July 1, 2002.
(2) For a charter school that was granted approval of its charter
before July 1, 2002, but did not provide educational services to
pupils before July 1, 2002, this section only applies upon the
expiration of a charter that is in existence on January 1, 2003.
(3) Notwithstanding other implementation timelines in this
section, by June 30, 2005, or upon the expiration of a charter that
is in existence on January 1, 2003, whichever is later, all charter
schools shall be required to comply with this section for schoolsites
at which educational services are provided to pupils before or after
July 1, 2002, regardless of whether the charter school initially
received approval of its charter school petition before July 1, 2002.
To achieve compliance with this section, a charter school shall be
required to receive approval of a charter petition in accordance
with this section and Section 47605.
(4) This section is not intended to affect the authority of a
governmental entity to revoke a charter that is granted on or before
the effective date of this section.
(†)
(e) A charter school that submits its petition directly to a county
board of education, as authorized by Section 47605.5 or 47605.6,
may establish charter school operations only within the
geographical boundaries of the county in which that county board of education has jurisdiction.

(f) Notwithstanding any other law, the jurisdictional limitations set forth in this section do not apply to a charter school that provides instruction exclusively in partnership with any of the following:

(1) The federal Workforce Innovation and Opportunity Act (29 U.S.C. Sec. 3101 et seq.).
(2) Federally affiliated Youth Build programs.
(3) Federal job corps training or instruction provided pursuant to a memorandum of understanding with the federal provider.
(4) The California Conservation Corps or local conservation corps certified by the California Conservation Corps pursuant to Sections 14507.5 or 14406 of the Public Resources Code.
(5) Instruction provided to juvenile court school pupils pursuant to subdivision (b) of Section 42238.18 or pursuant to Section 1981 for individuals who are placed in a residential facility.

SEC. 3. Section 60640 of the Education Code is amended to read:

60640. (a) There is hereby established the California Assessment of Student Performance and Progress, to be known as the CAASPP.
(b) Commencing with the 2013–14 school year, the CAASPP shall be composed of all of the following:
(1) (A) 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.
(B) In the 2013–14 school year, the consortium summative assessment in English language arts and mathematics shall be a field test only, to enable the consortium to gauge the validity and reliability of these assessments and to conduct all necessary psychometric procedures and studies, including, but not necessarily limited to, achievement standard setting, and to allow the department to conduct studies regarding full implementation of the assessment system. These field tests and results shall not be used for any other purpose, including the calculation of any accountability measure.
(2) (A) Science grade level assessments in grades 5, 8, and 10 that measure content standards adopted pursuant to Section 60605, until a successor assessment is implemented pursuant to subparagraph (B).

(B) For science assessments, the Superintendent shall make a recommendation to the state board as soon as is feasible after the adoption of science content standards pursuant to former Section 60605.85, as that section read on June 30, 2014, regarding the assessment of the newly adopted standards. Before making recommendations, the Superintendent shall consult with stakeholders, including, but not necessarily limited to, California science teachers, individuals with expertise in assessing English learners and pupils with disabilities, parents, and measurement experts, regarding the grade level and type of assessment. The recommendations shall include cost estimates and a plan for implementation of at least one assessment in each of the following grade spans:

(i) Grades 3 to 5, inclusive.
(ii) Grades 6 to 9, inclusive.
(iii) Grades 10 to 12, inclusive.

(3) The California Alternate Performance Assessment in grades 2 to 11, inclusive, in English language arts and mathematics and science in grades 5, 8, and 10, which measures content standards adopted pursuant to Section 60605 until a successor assessment is implemented. The successor assessment shall be limited to the grades and subject areas assessed pursuant to paragraph (1) and subparagraph (B) of paragraph (2).

(4) The Early Assessment Program established by Chapter 6 (commencing with Section 99300) of Part 65 of Division 14 of Title 3.

(5) (A) A local educational agency may administer a primary language assessment aligned to the English language arts standards adopted pursuant to Section 60605, as it read on January 1, 2013, to pupils who are identified as limited English proficient and enrolled in any of grades 2 to 11, inclusive, until a subsequent primary language assessment aligned to the common core standards in English language arts adopted pursuant to Section 60605.8 is developed pursuant to subparagraph (E).

(B) If a local educational agency chooses to administer a primary language assessment to pupils identified as limited English
proficient and enrolled in any of grades 2 to 11, inclusive, pursuant
to subparagraph (A), it shall notify the department in a manner to
be determined by the department and the costs shall be paid by the
state and included as part of the testing contract, and the department
shall provide the local educational agency a per pupil
apportionment for administering the assessment pursuant to
subdivision (l).

(C) The Superintendent shall consult with stakeholders,
including assessment and English learner experts, to determine
the content and purpose of a stand-alone language arts summative
assessment in primary languages other than English that aligns
with the English language arts content standards. The
Superintendent shall consider the appropriate purpose for this
assessment, including, but not necessarily limited to, support for
the State Seal of Biliteracy and accountability. It is the intent of
the Legislature that an assessment developed pursuant to this
section be included in the state accountability system.

(D) The Superintendent shall report and make recommendations
to the state board at a regularly scheduled public meeting no sooner
than one year after the first full administration of the consortium
computer-adaptive assessments in English language arts and
mathematics summative assessments in grades 3 to 8, inclusive,
and grade 11, regarding an implementation timeline and estimated
costs of a stand-alone language arts summative assessment in
primary languages other than English.

(E) The Superintendent shall develop, and the state board shall
adopt, a primary language assessment. The Superintendent shall
administer this assessment no later than the 2016–17 school year.

(F) This paragraph shall be operative only to the extent that
funding is provided in the annual Budget Act or another statute
for the purpose of this section.

(c) No later than March 1, 2016, the Superintendent shall submit
to the state board recommendations on expanding the CAASPP
to include additional assessments, for consideration at a regularly
scheduled public meeting. The Superintendent shall also submit
these recommendations to the appropriate policy and fiscal
committees of the Legislature and to the Director of Finance in
accordance with all of the following:

(1) In consultation with stakeholders, including, but not
necessarily limited to, California teachers, individuals with
expertise in assessing English learners and pupils with disabilities, parents, and measurement experts, the Superintendent shall make recommendations regarding assessments, including the grade level, content, and type of assessment. These recommendations shall take into consideration the assessments already administered or planned pursuant to subdivision (b). The Superintendent shall consider the use of consortium-developed assessments, various item types, computer-based testing, and a timeline for implementation.

(2) The recommendations shall consider assessments in subjects, including, but not necessarily limited to, history-social science, technology, visual and performing arts, and other subjects as appropriate, as well as English language arts, mathematics, and science assessments to augment the assessments required under subdivision (b), and the use of various assessment options, including, but not necessarily limited to, computer-based tests, locally scored performance tasks, and portfolios.

(3) The recommendations shall include the use of an assessment calendar that would schedule the assessments identified pursuant to paragraph (2) over several years, the use of matrix sampling, if appropriate, and the use of population sampling.

(4) The recommendations shall include a timeline for test development, and shall include cost estimates for subject areas, as appropriate.

(5) Upon approval by the state board and the appropriation of funding for this purpose, the Superintendent shall develop and administer approved assessments. The state board shall approve test blueprints, achievement level descriptors, testing periods, performance standards, and a reporting plan for each approved assessment.

(6) The Superintendent shall convene an advisory panel, consisting of, but not necessarily limited to, secondary teachers, school administrators, school board members, parents, a student chosen from among the two finalists who were not appointed by the Governor to serve as the student member on the state board pursuant to Section 33000.5, representatives of a dropout recovery charter school operating pursuant to subdivision (f) of Section 47605.1, measurement experts, and individuals with expertise in assessing English learners and pupils with disabilities, to provide recommendations to the Superintendent on the continuation of the
high school exit examination, described in Chapter 9 (commencing with Section 60850), and on alternative pathways to satisfy the high school graduation requirements pursuant to Sections 51224.5 and 51225.3.

(d) For the 2013–14 and 2014–15 school years, the department shall make available to local educational agencies Standardized Testing and Reporting Program test forms no longer required by the CAASPP. The cost of implementing this subdivision, including, but not necessarily limited to, shipping, printing, scoring, and reporting per pupil shall be the same for all local educational agencies, and shall not exceed the marginal cost of the assessment, including any cost the department incurs to implement this section. A local educational agency that chooses to administer an assessment pursuant to this subdivision shall do so at its own expense, and shall enter into an agreement for that purpose with a contractor, subject to the approval of the department.

(e) The Superintendent shall make available a paper and pencil version of any computer-based CAASPP assessment for use by pupils who are unable to access the computer-based version of the assessment for a maximum of three years after a new operational test is first administered.

(f) (1) From the funds available for that purpose, each local educational agency shall administer assessments to each of its pupils pursuant to subdivision (b). As allowable by federal statute, recently arrived English learner pupils are exempted from taking the assessment in English language arts. The state board shall establish a testing period to provide that all schools administer these tests to pupils at approximately the same time during the instructional year. The testing period established by the state board shall take into consideration the need of local educational agencies to provide makeup days for pupils who were absent during testing, as well as the need to schedule testing on electronic computing devices.

(2) For the 2013–14 school year, each local educational agency shall administer the field tests in a manner described by the department in consultation with the president or executive director of the state board. Additional participants in the field test beyond the representative sample may be approved by the department, and the department shall use existing contract savings to fund local educational agency participation in one or more tests per
participant. Funds for this purpose shall be used to allow for maximum participation in the field tests across the state. To the extent savings in the current contract are not available to fully fund this participation, the department shall prorate available funds by test. Local educational agencies shall bear any additional costs to administer these assessments that are in excess of the contracted amount. With the approval of the state board and the Director of Finance, the department shall amend the existing assessment contract to accommodate field testing beyond the representative sample, and to allow for special studies using information collected from the field tests.

(g) From the funds available for that purpose, each local educational agency shall administer assessments as determined by the state board pursuant to paragraph (5) of subdivision (c).

(h) As feasible, the CAASPP field tests shall be conducted in a manner that will minimize the testing burden on individual schools. The CAASPP field tests shall not produce individual pupil scores unless it is determined that these scores are valid and reliable.

(i) The governing board of a school district may administer achievement tests in grades other than those required by this section as it deems appropriate.

(j) Subject to the approval of the state board, the department may make available to local educational agencies a primary language assessment aligned to the English language arts standards adopted pursuant to Section 60605, as it read on January 1, 2013, for assessing pupils who are enrolled in a dual language immersion program that includes the primary language of the assessment and who are either nonlimited English proficient or redesignated fluent English proficient until a subsequent primary language assessment aligned to the common core standards in English language arts adopted pursuant to Section 60605.8 is developed pursuant to paragraph (5) of subdivision (b). The cost for the assessment shall be the same for all local educational agencies and shall not exceed the marginal cost of the assessment, including any cost the department incurs to implement this section. A local educational agency that elects to administer a primary language assessment pursuant to this subdivision shall do so at its own expense and shall enter into an agreement for that purpose with the state testing contractor, subject to the approval of the department.
(k) Pursuant to Section 1412(a)(16) of Title 20 of the United States Code, individuals with exceptional needs, as defined in Section 56026, shall be included in the testing requirement of subdivision (b) with appropriate accommodations in administration, where necessary, and the individuals with exceptional needs who are unable to participate in the testing, even with accommodations, shall be given an alternate assessment.

(l) (1) The Superintendent shall apportion funds appropriated for these purposes to local educational agencies to enable them to meet the requirements of subdivisions (b) and (c).

(A) For the CAASPP field tests administered in the 2013–14 school year or later school years, the Superintendent shall apportion funds to local educational agencies if funds are specifically provided for this purpose in the annual Budget Act.

(B) The Superintendent shall apportion funds to local educational agencies to enable them to administer assessments used to satisfy the voluntary Early Assessment Program in the 2013–14 school year pursuant to paragraph (4) of subdivision (b).

(2) The state board annually shall establish the amount of funding to be apportioned to local educational agencies for each test administered and annually shall establish the amount that each contractor shall be paid for each test administered under the contracts required pursuant to Section 60643. The amounts to be paid to the contractors shall be determined by considering the cost estimates submitted by each contractor each September and the amount included in the annual Budget Act, and by making allowance for the estimated costs to local educational agencies for compliance with the requirements of subdivisions (b) and (c). The state board shall take into account changes to local educational agency test administration activities under the CAASPP, including, but not limited to, the number and type of tests administered and changes in computerized test registration and administration procedures, when establishing the amount of funding to be apportioned to local educational agencies for each test administered.

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

(m) For purposes of making the computations required by
Section 8 of Article XVI of the California Constitution, the
appropriation for the apportionments made pursuant to paragraph
(1) of subdivision (l), and the payments made to the contractors
under the contracts required pursuant to Section 60643 or
subparagraph (C) of paragraph (1) of subdivision (a) of Section
60605 between the department and the contractor, are “General
Fund revenues appropriated for school districts,” as defined in
subdivision (c) of Section 41202, for the applicable fiscal year,
and included within the “total allocations to school districts and
community college districts from General Fund proceeds of taxes
appropriated pursuant to Article XIII B,” as defined in subdivision
(e) of Section 41202, for that fiscal year.

(n) As a condition to receiving an apportionment pursuant to
subdivision (l), a local educational agency shall report to the
Superintendent all of the following:

(1) The pupils enrolled in the local educational agency in the
grades in which assessments were administered pursuant to
subdivisions (b) and (c).

(2) The pupils to whom an achievement test was administered
pursuant to subdivisions (b) and (c) in the local educational agency.

(3) The pupils in paragraph (1) who were exempted from the
test pursuant to this section.

(o) The Superintendent and the state board are authorized and
encouraged to assist postsecondary educational institutions to use
the assessment results of the CAASPP, including, but not
necessarily limited to, the grade 11 consortium summative
assessments in English language arts and mathematics, for
academic credit, placement, or admissions processes.

(p) Subject to the availability of funds in the annual Budget Act
for this purpose, and exclusive of the consortium assessments, the
Superintendent, with the approval of the state board, annually shall
release to the public test items from the achievement tests pursuant
to Section 60642.5 administered in previous years. Where feasible and practicable, the minimum number of test items released per year shall be equal to 25 percent of the total number of test items on the test administered in the previous year.

(q) On or before July 1, 2014, Sections 850 to 868, inclusive, of Title 5 of the California Code of Regulations shall be revised by the state board to conform to the changes made to this section in the first year of the 2013–14 Regular Session. The state board shall adopt initial regulations as emergency regulations to immediately implement the CAASPP assessments, including, but not necessarily limited to, the administration, scoring, and reporting of the tests, as the adoption of emergency regulations is necessary for the immediate preservation of the public peace, health, safety, or general welfare within the meaning of Section 11346.1 of the Government Code. The emergency regulations shall be followed by the adoption of permanent regulations, in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code).