

AMENDED IN SENATE APRIL 23, 2014

SENATE BILL

No. 1174

Introduced by Senator Lara
(Coauthor: Senator Block)

February 20, 2014

An act to repeal Chapter 3 (commencing with Section 300) of Part 1 of Division 1 of Title 1 of *amend Sections 300, 305, 306, 310, 320, and 335 of, and to repeal Section 311 of, the Education Code, relating to English language education.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1174, as amended, Lara. English language education.

(1) Existing law, as added by Proposition 227, a measure approved by the voters at the June 2, 1998, statewide primary election, requires, among other things, that all children in California public schools be taught English by being taught in English. Proposition 227 specifies that English learner pupils, as defined, be educated through sheltered English immersion, as defined, during a temporary transition period not normally intended to exceed one year. Proposition 227 further provides that its requirements relating to sheltered English immersion instruction may be waived with the prior written consent of a pupil's parent or legal guardian, as specified. Proposition 227 also encourages family members and others to provide personal English language tutoring to English learner pupils.

This bill would amend and repeal various provisions of Proposition 227. The bill would, among other things, delete the sheltered English immersion requirement and waiver provisions, and would instead authorize school districts and county offices of education to determine the best language instruction methods and language acquisition

programs to implement by consulting experts in the field, parents, and engaging local communities. The bill would authorize parents to choose the education model that best suits their child, as provided.

~~Proposition~~

(2) *Proposition 227* also specifies that a pupil’s parent or legal guardian has standing to sue for enforcement of its provisions and, if successful, to receive normal and customary attorney’s fees and actual damages, but not punitive or consequential damages. Proposition 227 further provides that school board members, other elected officials, and public school teachers or administrators who wilfully and repeatedly refuse to implement its provisions may be held personally liable for fees and actual damages by a pupil’s parent or legal guardian.

This bill would ~~repeal Proposition 227. delete that provision.~~

(3) *Proposition 227 provides that its provisions may be amended by a statute to further its purpose passed by a 2/3 vote of each house of the Legislature and signed by the Governor.*

This bill would delete the requirement that the amendment further the purpose of Proposition 227, and would revise the vote threshold to a majority vote in each house of the Legislature.

~~(2)~~

(4) The California Constitution authorizes the Legislature to amend or repeal an initiative statute by another statute that becomes effective when approved by the electors.

This bill would provide that it would become effective only upon approval of the voters, and would require the Secretary of State to submit this measure to the voters for approval at a *the November 2016* statewide general election.

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. Chapter 3 (commencing with Section 300) of~~
- 2 ~~Part 1 of Division 1 of Title 1 of the Education Code is repealed.~~
- 3 *SECTION 1. This measure shall be known, and may be cited,*
- 4 *as the “California Ed.G.E. Initiative” or “California Education*
- 5 *for a Global Economy Initiative.”*
- 6 *SEC. 2. Section 300 of the Education Code is amended to read:*
- 7 *300. The People of California find and declare as follows:*

1 (a) Whereas, The English language is the national public
2 language of the United States of America and of the State of
3 California, is spoken by the vast majority of California residents,
4 and is also the leading world language for ~~science, technology,~~
5 ~~and international business, thereby being the science and~~
6 ~~technology, thereby being an important~~ language of economic
7 opportunity; and

8 (b) Whereas, ~~Immigrant~~ All parents are eager to have their
9 children ~~acquire a good knowledge of English, master the English~~
10 ~~language and obtain a high-quality education, thereby allowing~~
11 ~~preparing~~ them to fully participate in the American Dream of
12 economic and social advancement; and

13 (c) *Whereas, California is home to thousands of multinational*
14 *businesses that must communicate daily with associates around*
15 *the world; and*

16 (d) *Whereas, California employers across all sectors, both*
17 *public and private, are actively recruiting multilingual employees*
18 *because of their ability to forge stronger bonds with customers,*
19 *clients, and business partners; and*

20 (e) *Whereas, Multilingual skills are necessary for our nation's*
21 *national security and essential to conducting diplomacy and*
22 *internamts; and*

23 (f) *Whereas, California has a natural reserve of the world's*
24 *largest languages, including English, Mandarin, and Spanish,*
25 *which are critical to the state's economic trade and diplomatic*
26 *efforts; and*

27 (g) *Whereas, California has the unique opportunity to provide*
28 *all parents with the choice to have their children educated to high*
29 *standards in English and one or more additional languages,*
30 *including Native American languages, thereby increasing pupils'*
31 *access to higher education and careers of their choice; and*

32 (e)

33 (h) Whereas, The government and the public schools of
34 California have a moral obligation and a constitutional duty to
35 provide all of California's children, regardless of their ethnicity
36 or national ~~origins, origin,~~ with the skills necessary to become
37 productive members of our society, and of these skills, literacy in
38 the English language is among the most important; and

39 ~~(d) Whereas, The public schools of California currently do a~~
40 ~~poor job of educating immigrant children, wasting financial~~

1 resources on costly experimental language programs whose failure
2 over the past two decades is demonstrated by the current high
3 drop-out rates and low English literacy levels of many immigrant
4 children; and

5 (e) ~~Whereas, Young immigrant children can easily acquire full~~
6 ~~fluency in a new language, such as English, if they are heavily~~
7 ~~exposed to that language in the classroom at an early age.~~

8 (i) *Whereas, The California Legislature approved, and the*
9 *Governor signed, a historic school funding reform that restructured*
10 *public education funding in a more equitable manner, directs*
11 *increased resources to improve English language acquisition, and*
12 *provides local control to schools districts and schools on how to*
13 *spend funding through the local control funding formula and local*
14 *control and accountability plans; and*

15 (j) *Whereas, Parents now have the opportunity to participate*
16 *in building innovative new programs that will offer pupils greater*
17 *opportunities to acquire 21st century skills, such as*
18 *multilingualism; and*

19 (k) *Whereas, All parents will have a choice and voice to demand*
20 *the best education for their children, including access to language*
21 *programs that will improve their children's preparation for college*
22 *and careers, and allow them to be more competitive in a global*
23 *economy; and*

24 (l) *Whereas, Existing law places constraints on teachers and*
25 *schools, which have deprived many pupils of opportunities to*
26 *develop multilingual skills; and*

27 (m) *Whereas, A large body of research has demonstrated the*
28 *cognitive benefits and long-term academic benefits in language*
29 *and in dual- and tri-immersion language programs.*

30 (f)

31 (n) ~~Therefore, It is resolved that: amendments to, and the repeal~~
32 ~~of, certain provisions of this chapter will advance the goal of voters~~
33 ~~to ensure that all children in California public schools shall be~~
34 ~~taught English as rapidly and effectively as possible. receive the~~
35 ~~highest quality education, including English language instruction~~
36 ~~and access to high-quality, innovative, and research-based~~
37 ~~language programs that provide the California Ed.G.E. (California~~
38 ~~Education for a Global Economy).~~

39 *SEC. 3. Section 305 of the Education Code is amended to read:*

1 ~~305. Subject to the exceptions provided in Article 3~~
2 ~~(commencing with Section 310), all children in California public~~
3 ~~schools shall be taught English by being taught in English. In~~
4 ~~particular, this shall require that all children be placed in English~~
5 ~~language classrooms. Children who are English learners shall be~~
6 ~~educated through sheltered English immersion during a temporary~~
7 ~~transition period not normally intended to exceed one year. Local~~
8 ~~schools shall be permitted to place in the same classroom English~~
9 ~~learners of different ages but whose degree of English proficiency~~
10 ~~is similar.~~

11 ~~305. School districts and county offices of education may~~
12 ~~determine the best language instruction methods and language~~
13 ~~acquisition programs to implement by consulting experts in the~~
14 ~~field, parents, and engaging local communities. Local schools~~
15 ~~shall be encouraged to mix together in the same classroom English~~
16 ~~learners from different native-language groups but with the same~~
17 ~~degree of English fluency. Once English learners have acquired a~~
18 ~~good working knowledge of English, they shall be transferred to~~
19 ~~English language mainstream classrooms. As much as possible,~~
20 ~~fluency for targeted language instruction. Schools are also~~
21 ~~encouraged to provide opportunities for monolingual English~~
22 ~~speaking pupils to be instructed in another language to a degree~~
23 ~~sufficient to produce proficiency in that language. The non-English~~
24 ~~language should be at the discretion of the parents, community,~~
25 ~~and school, depending upon the linguistic resources of the school~~
26 ~~community. In accordance with the local control funding formula~~
27 ~~calculated pursuant to Section 42238.02, as implemented by~~
28 ~~Section 42238.03, current supplemental funding for English~~
29 ~~learners low-income pupils, English learners, and foster children~~
30 ~~shall be maintained, subject to possible modification under Article~~
31 ~~8 (commencing with Section 335) below.~~

32 ~~SEC. 4. Section 306 of the Education Code is amended to read:~~
33 ~~306. The definitions of the terms used in this article and in~~
34 ~~Article 3 I (commencing with Section 310) 300) are as follows:~~

35 ~~(a) “English learner” means a child who does not speak English~~
36 ~~or whose native language is not English and who is not currently~~
37 ~~able to perform ordinary classroom work in English, also known~~
38 ~~as a Limited English Proficiency or LEP child.~~

39 ~~(b) “English language classroom” means a classroom in which~~
40 ~~the language of instruction used by the teaching personnel is~~

1 overwhelmingly the English language, and in which such teaching
2 personnel possess a good knowledge of the English language.

3 (e) “English language mainstream classroom” means a
4 classroom in which the pupils either are native English language
5 speakers or already have acquired reasonable fluency in English.

6 (d) “Sheltered English immersion” or “structured English
7 immersion” means an English language acquisition process for
8 young children in which nearly all classroom instruction is in
9 English but with the curriculum and presentation designed for
10 children who are learning the language.

11 (e) “Bilingual education/native language instruction” means a
12 language acquisition process for pupils in which much or all
13 instruction, textbooks, and teaching materials are in the child’s
14 native language.

15 (b) “Dual- or tri-immersion program” means a program that
16 teaches a portion of the day in English and a portion of the day
17 in another language.

18 SEC. 5. Section 310 of the Education Code is amended to read:

19 310. ~~The requirements of Section 305 may be waived with the~~
20 ~~prior written informed consent, to be provided annually, of the~~
21 ~~child’s parents or legal guardian under the circumstances specified~~
22 ~~below and in Section 311. Such informed consent shall require~~
23 ~~that said parents or legal guardian personally visit the school to~~
24 ~~apply for the waiver and that they there be provided a full~~
25 ~~description of the educational materials to be used in the different~~
26 ~~educational program choices and all the educational opportunities~~
27 ~~available to the child. Under such parental waiver conditions,~~
28 ~~children may be transferred to classes where they are taught English~~
29 ~~and other subjects through bilingual education techniques or other~~
30 ~~generally recognized educational methodologies permitted by law.~~

31 Individual schools

32 310. *Parents may choose the education model that best suits*
33 *their child. Schools in which 20 pupils or more of a given grade*
34 *level receive a waiver request a specific language program shall*
35 *be required to offer such a class; otherwise, they must allow the*
36 *pupils to transfer to a public school in which such a class is offered.*

37 SEC. 6. Section 311 of the Education Code is repealed.

38 311. ~~The circumstances in which a parental exception waiver~~
39 ~~may be granted under Section 310 are as follows:~~

1 ~~(a) Children who already know English: the child already~~
2 ~~possesses good English language skills, as measured by~~
3 ~~standardized tests of English vocabulary comprehension, reading,~~
4 ~~and writing, in which the child scores at or above the state average~~
5 ~~for his or her grade level or at or above the 5th grade average,~~
6 ~~whichever is lower; or~~

7 ~~(b) Older children: the child is age 10 years or older, and it is~~
8 ~~the informed belief of the school principal and educational staff~~
9 ~~that an alternate course of educational study would be better suited~~
10 ~~to the child's rapid acquisition of basic English language skills;~~
11 ~~or~~

12 ~~(c) Children with special needs: the child already has been~~
13 ~~placed for a period of not less than thirty days during that school~~
14 ~~year in an English language classroom and it is subsequently the~~
15 ~~informed belief of the school principal and educational staff that~~
16 ~~the child has such special physical, emotional, psychological, or~~
17 ~~educational needs that an alternate course of educational study~~
18 ~~would be better suited to the child's overall educational~~
19 ~~development. A written description of these special needs must~~
20 ~~be provided and any such decision is to be made subject to the~~
21 ~~examination and approval of the local school superintendent, under~~
22 ~~guidelines established by and subject to the review of the local~~
23 ~~Board of Education and ultimately the State Board of Education.~~
24 ~~The existence of such special needs shall not compel issuance of~~
25 ~~a waiver, and the parents shall be fully informed of their right to~~
26 ~~refuse to agree to a waiver.~~

27 *SEC. 7. Section 320 of the Education Code is amended to read:*
28 *320. As detailed in Section 5 of Article 9 of the California*
29 *Constitution, and Article 2 (commencing with Section 305) and*
30 *Article 3 (commencing with Section 310), respectively, all*
31 *California school children have the right to be provided with a*
32 *free public education and an English language public education.*
33 *If a California school child has been denied the option of an English*
34 *language instructional curriculum in public school, the child's*
35 *parent or legal guardian shall have legal standing to sue for*
36 *enforcement of the provisions of this statute, and if successful shall*
37 *be awarded normal and customary attorney's fees and actual*
38 *damages, but not punitive or consequential damages. Any school*
39 *board member or other elected official or public school teacher or*
40 *administrator who willfully and repeatedly refuses to implement*

1 ~~the terms of this statute by providing such an English language~~
 2 ~~educational option at an available public school to a California~~
 3 ~~school child may be held personally liable for fees and actual~~
 4 ~~damages by the child’s parents or legal guardian.~~

5 *SEC. 8. Section 335 of the Education Code is amended to read:*
 6 335. The provisions of this act may be amended by a statute
 7 that becomes effective upon approval by the electorate or by a
 8 statute ~~to further the act’s purpose~~ passed by a ~~two-thirds~~ *majority*
 9 vote of each house of the Legislature and signed by the Governor.

10 ~~SEC. 2. Section 1~~

11 *SEC. 9. Sections 2 to 8, inclusive, of this act ~~repeals~~ amend or*
 12 *repeal provisions of Proposition 227, an initiative statute that was*
 13 *approved by the voters at the June 2, 1998, statewide primary*
 14 *election, and shall become effective only when submitted to, and*
 15 *approved by, the voters. The Secretary of State shall submit ~~Section~~*
 16 *1 Sections 1 to 8, inclusive, of this act for approval by the voters*
 17 *at a the November 2016 statewide general election in accordance*
 18 *with Section 9040 of the Elections Code.*