ASSEMBLY BILL No. 1850

Introduced by Assembly Member Eduardo Garcia

February 10, 2016

An act to amend Sections 32400 and 32401 of the Education Code, relating to educational services.

LEGISLATIVE COUNSEL’S DIGEST


Existing law expresses findings of the Legislature with respect to the impact of the federal Immigration Reform and Control Act of 1986 on illegal aliens. Existing law also states the intent of the Legislature to establish a state test that may be used by eligible aliens to attest to their understanding of English and understanding of the history and government of the United States to meet the requirements of that act. Existing law requires the Superintendent of Public Instruction, in consultation with the Chancellor of the California Community Colleges, to develop the state test referenced above.

This bill would delete the word “illegal” from the legislative findings relating to these aliens.

The bill would also replace the word “alien” with the term “foreign national” in these provisions, but this replacement would be operative only if the Superintendent certifies, in writing, to the Secretary of State of California on or before January 20, 2017, that this terminology has been changed in federal law as specified.

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

SECTION 1. Section 32400 of the Education Code is amended to read:

32400. (a) The Legislature finds that as many as one million seven hundred thousand illegal aliens could be granted amnesty and would seek permanent residency in California under the provisions of the federal Immigration Reform and Control Act of 1986 (Public Law 99-603). Under the act, eligible aliens would be required to demonstrate an understanding of ordinary English and a knowledge and understanding of the history and government of the United States.

(b) Further, it is the intent of the Legislature to establish a state test that may be used for use by eligible aliens to attest to their understanding of English and understanding of the history and government of the United States to meet the requirements of Section 312 of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1423) and the federal Immigration Reform and Control Act of 1986 (Public Law 99-603).

SEC. 2. Section 32400 of the Education Code is amended to read:

32400. (a) The Legislature finds that as many as one million seven hundred thousand illegal aliens—undocumented foreign nationals—could be granted amnesty and would seek permanent residency in California under the provisions of the federal Immigration Reform and Control Act of 1986 (Public Law 99-603). Under the act, eligible aliens would be required to demonstrate an understanding of ordinary English and a knowledge and understanding of the history and government of the United States.

(b) Further, it is the intent of the Legislature to establish a state test that may be used for use by eligible aliens to foreign nationals that would attest to their understanding of English and understanding of the history and government of the United States to meet the requirements of Section 312 of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1423) and the federal Immigration Reform and Control Act of 1986 (Public Law 99-603).

SEC. 3. Section 32401 of the Education Code is amended to read:

32401. (a) The Superintendent of Public Instruction, Superintendent, in consultation with the Chancellor of the
California Community Colleges, shall develop a test or adopt an existing test, subject to the approval of the United States Attorney General pursuant to the federal Immigration Reform and Control Act of 1986 (Public Law 99-603), to measure whether an eligible alien foreign national has a minimal understanding of ordinary English and a knowledge and understanding of the history and government of the United States as required under Section 312 of the federal Immigration and Nationality Act (8 U.S.C. Sec. 1423).

(b) The Governor, the Superintendent of Public Instruction, Superintendent, the Chancellor of the California Community Colleges, the President pro Tempore of the Senate, and the Speaker of the Assembly shall petition the Director of the United States Immigration and Naturalization Service and the United States Attorney General for approval to use the test referred to in subdivision (a) as one means by which an eligible immigrant foreign national may satisfy the requirements under the federal Immigration Reform and Control Act of 1986 (Public Law 99-603).

(c) The Superintendent of Public Instruction shall distribute this test the test referred to in subdivision (a) to school districts, county offices of education, and community colleges, upon their request for purposes of administration, to eligible immigrants foreign nationals granted legal status pursuant to Section 245A of the federal Immigration and Nationality Act, as amended by the Federal Immigration Reform and Control Act of 1986 (Public Law 99-603). Any school district, county office of education, or any other eligible agency which receives federal legalization impact-assistance funds to provide educational services may administer the test for purposes of determining the need of an eligible immigrant foreign national applying for legal status for appropriate educational services, and of allowing an eligible immigrant-foreign national to demonstrate an understanding of ordinary English and a knowledge and understanding of the history and government of the United States. Test results shall be confidential and may confidential, and shall not be released without the written consent of the eligible immigrant foreign national for any purpose that is not directly related to the provision of educational services. Upon request by an eligible immigrant foreign national applying for legal status, test results may be transmitted to the United States Immigration and Naturalization Service.

School districts, county offices of education community colleges,
and any other eligible agencies that receive federal funds for this purpose shall administer the test using appropriate test monitor and control procedures and provide for necessary test security measures.

SEC. 4. (a) Sections 2 and 3 of this act shall not become operative unless, on or before January 20, 2017, the Superintendent of Public Instruction certifies, in writing, to the Secretary of State of California that House Resolution 3785 of the 114th United States Congress, or an equivalent measure, has been enacted and the Correcting Hurtful and Alienating Names in Government Expression (CHANGE) Act has become law, accomplishing both of the following with respect to an executive agency of the federal government:

1. The replacement of the term “alien” with the term “foreign national” when used to refer to an individual who is not a citizen or national of the United States.
2. The replacement of the term “illegal alien” with the term “undocumented foreign national” when used to refer to an individual who is unlawfully present in the United States or who lacks a lawful immigration status in the United States.

(b) In the event that the Superintendent of Public Instruction makes the certification referenced in subdivision (a), Section 1 of this act shall become inoperative.