

Senate Bill No. 638

CHAPTER 678

An act to add Section 60812 to, and to add Article 3.5 (commencing with Section 313) to Chapter 3 of Part 1 of, the Education Code, relating to English language education.

[Approved by Governor October 6, 1999. Filed
with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

SB 638, Alpert. English learners.

Existing law relating to English language education for immigrant children, with certain exceptions, requires that all children in California public schools be taught English by being taught in English, and in particular, requires that all children be placed in English language classrooms. Existing law requires that children who are English learners be educated through sheltered English immersion during a temporary transition period, not normally to exceed one year. Existing law provides for waiver of these requirements with the annual prior written informed consent of the parent or guardian.

This bill would require each school district to assess the English language development of each pupil to determine the level of proficiency. The bill would require the school district to establish procedures based upon guidelines and criteria developed by the State Board of Education for conducting the assessment and for the reclassification of a pupil from English learner to proficient in English.

This bill would, commencing with the 2000–01 school year, require the assessment to be conducted upon initial enrollment, and annually, thereafter, until the pupil is designated as English proficient.

Existing law requires the Superintendent of Public Instruction to review existing tests that assess the English language development of pupils whose primary language is other than English, and to determine which tests meet prescribed criteria or to develop such a test. The law requires the State Board of Education to approve related standards.

The bill would require the assessment of a pupil pursuant to the bill to primarily utilize the English language development test identified or developed by the Superintendent of Public Instruction, and in the interim would require the use of a test developed by the school district or by the State Department of Education. The bill would require test results to be made available to the public on the State

Department of Education Internet site. The bill would require the reclassification procedures to utilize multiple criteria in determining whether to reclassify a pupil as proficient in English, including, but not limited to, assessment of language proficiency using an objective assessment instrument, including, but not limited to, the English language development test, teacher evaluation, parental opinion and consultation, and comparison of the pupil's performance in basic skills against an empirically established range of performance in basic skills based upon the performance of English proficient pupils of the same age.

By establishing new requirements for English language assessment and for reclassification of pupils by school districts, this bill would impose a state-mandated local program.

The bill would declare that it is supplementary to, rather than amendatory of, the English Language In Public Schools Initiative Statute (Proposition 227).

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.

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

SECTION 1. Article 3.5 (commencing with Section 313) is added to Chapter 3 of Part 1 of the Education Code, to read:

Article 3.5. English Language Proficiency Assessment

313. (a) Each school district that has one or more pupils who are English learners shall assess each pupil's English language development in order to determine the level of proficiency for the purposes of this chapter.

(b) The State Department of Education, with the approval of the State Board of Education, shall establish procedures for conducting the assessment required pursuant to subdivision (a) and for the reclassification of a pupil from English learner to proficient in English.

(c) Commencing with the 2000–01 school year, the assessment shall be conducted upon initial enrollment, and annually, thereafter, on the anniversary of the pupil's initial identification by the school



district as being an English learner. The annual assessments shall continue until the pupil is redesignated as English proficient. The assessment shall primarily utilize the English language development test identified or developed by the Superintendent of Public Instruction pursuant to Chapter 7 (commencing with Section 60810) of Part 33. Prior to completion of the English language development test, a school district shall use either an assessment instrument developed by the school district or an assessment recommended by the State Department of Education.

(d) The reclassification procedures developed by the State Department of Education shall utilize multiple criteria in determining whether to reclassify a pupil as proficient in English, including, but not limited to, all of the following:

(1) Assessment of language proficiency using an objective assessment instrument, including but not limited to, the English language development test pursuant to Section 60810.

(2) Teacher evaluation, including, but not limited to, a review of the pupil's curriculum mastery.

(3) Parental opinion and consultation.

(4) Comparison of the pupil's performance in basic skills against an empirically established range of performance in basic skills based upon the performance of English proficient pupils of the same age, that demonstrates whether the pupil is sufficiently proficient in English to participate effectively in a curriculum designed for pupils of the same age whose native language is English.

SEC. 2. Section 60812 is added to the Education Code, to read:

60812. Commencing the school year following the year in which the Superintendent of Public Instruction has developed or identified a test pursuant to this chapter, the State Department of Education shall place the results of the statewide test, including average scores for every school district on its Internet site for public access.

SEC. 3. The Legislature finds and declares that this act provides an assessment mechanism that is supplementary to, rather than amendatory of, the English Language In Public Schools Initiative Statute (Proposition 227, approved by the voters at the June 2, 1998, primary election).

SEC. 4. It is the intent of the Legislature that the assessment and reclassification conducted pursuant to this act be consistent with federal law, and not impose requirements on local educational agencies that exceed requirements already set forth in federal law.

SEC. 5. 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.

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