

**AGENDA  
ASSEMBLY BUDGET SUBCOMMITTEE NO. 2  
ON EDUCATION FINANCE**

**ASSEMBLYMEMBER SARAH REYES, CHAIR**

**WEDNESDAY, MARCH 10, 1999  
STATE CAPITOL, ROOM 126  
4:00 P.M.**

**INFORMATIONAL HEARING:  
ENGLISH LEARNERS**

**OPENING REMARKS**

Assemblymember Sarah Reyes, Chair

**DEPARTMENT OF EDUCATION**

Sonia Hernandez, Deputy Superintendent, Curriculum & Instructional Leadership Branch

**CALIFORNIA ASSOCIATION OF BILINGUAL EDUCATORS**

**COMMISSION ON TEACHER CREDENTIALING**

Linda Bond, Director, Governmental Relations

**CALIFORNIA TEACHERS ASSOCIATION**

Justo Robles, Program Manager

**LEGISLATIVE ANALYST'S OFFICE**

Mary Jones, Principal Analyst

**PUBLIC COMMENTS**

**CLOSING REMARKS**

Assemblymember Sarah Reyes, Chair

**BACKGROUND:**

**Objectives of the hearing:** To provide information regarding 1) the size and characteristics of the English learner population in our public schools, 2) how districts are implementing Proposition 227, and 3) the status of specified reforms and new programs intended to help English learners and their corresponding budget implications.

**English Learner Population.** Approximately one-fourth of all children enrolled in California's K-12 public schools are designated "English learners," and have limited proficiency in speaking, writing, reading and understanding the English language. In grades K-3 the percentage of English learners is as high as 40 percent. English learners in California are of many different backgrounds and speak many languages, although almost 80 percent of all English learners speak Spanish as their primary language.

**Summary of Proposition 227.** Among the most important issues that school districts face in serving English learners is the recent enactment of Proposition 227. Because of the importance of this initiative and the changes it made to state law, a summary of its provisions is included below.

California voters approved Proposition 227, entitled the "English Language in Public Schools Initiative," in June of 1998. Proposition 227 was a statutory ballot initiative that added a new section to the Education Code. It mandates a one-year, intensive English program for teaching English to English learners, and establishes particular circumstances under which parents may make a request for a different instructional method for their children. It allows parents to sue school board members, teachers and administrators for not implementing the statute. It also mandates \$50 million in annual funding for local community-based English tutoring for children and adults.

**One method.** The initiative requires that schools place English learners in sheltered English immersion programs taught overwhelmingly in English, that English learners attend these programs for a "period not normally to exceed one year", and that after children have acquired "a good working knowledge of English," they are to be placed in mainstream classes taught entirely in English, with students who are native English speakers. The initiative allows schools to place children of different ages but similar levels of English proficiency in the same classes for the one-year sheltered English programs. It defines sheltered English immersion as an instructional method in which nearly all instruction is in English, but with curriculum specifically designed for children learning English. (State Board of Education regulations that further specify requirements for implementing Proposition 227 allow school districts to re-enroll children in the one-year immersion programs, if they determine that children have not learned sufficient English.)

**Parental waivers.** The initiative specifies that parents may apply for waivers for their children to attend programs other than the mandated one-year sheltered English programs, only under certain circumstances. In order to obtain a waiver, they must provide annual, written consent that their child be placed in another setting, and they must personally visit the school annually to apply for the waiver. During their visit to the school, they must be provided with information on the alternative programs available. However, parents may only apply for a waiver under one of the following three circumstances:

- 1) Their child already knows English. The child must obtain a score on a standardized test of English that is at or above the state average for his grade level, or at or above the 5<sup>th</sup> grade level, whichever is lower.
- 2) Their child is ten years of age or older, and the school principal and educational staff approve the waiver because they believe that another program can help the child rapidly learn English.
- 3) Their child has been in an English language classroom for more than 30 days and has "special needs," and the school principal, educational staff, and local school superintendent approve the waiver because they believe that another type of program is better suited to the child's overall educational development. The child's "special needs" must be described in writing. The initiative requires that local superintendents use guidelines established and approved by the local board of education and the State Board of Education in considering whether to grant waivers under this "special needs" circumstance.

The initiative requires schools to allow students with waivers to transfer to schools with the desired programs. A school must provide a requested alternative program, if at least 20 students in one grade receive waivers.

**Litigation provisions.** The initiative establishes the right of all California school children to be provided with an English language public education. It states that a child's parent has legal standing to sue for enforcement if his or her child is denied the option of an English language instructional curriculum in a public school. It also establishes that any school board member, elected official, public school teacher or administrator who "willfully and repeatedly refuses to implement the terms of this statute by providing such an English language educational option at an available public school to a California school child may be held personally liable for fees and actual damages by the child's parents or legal guardian."

**Funding provision.** The initiative requires that current supplemental funding for English learners are maintained as much as possible.

**Adult English programs.** The initiative appropriates \$50 million a year for ten years from the state's General Fund to provide additional funding to free or subsidized adult English language programs, to serve adults who pledge to tutor English learner children in English. The initiative requires the Superintendent of Public Instruction to administer the funds, the State Board of Education to develop guidelines for this provision and local school boards to disburse the funds to schools or community organizations that provide such programs.

**Statutory change.** The initiative made a statutory change to the State Education Code, and not an amendment to the state constitution. It specifically states that the Legislature can amend the statute if such amendments further the purposes of the initiative, and that any amendments must be approved by a two-thirds vote of the Legislature. (As with any initiative, the electorate may also approve an amendment to this proposed statute.)

**Operative date.** The initiative is to become operative for all school terms that begin more than 60 days after its enactment. (State Board of Education regulations that further specify requirements for implementing Proposition 227 specify that year-round schools are not required to implement the terms of Proposition 227 until January of 1999.)

**Fiscal impact.** The Legislative Analyst Office estimates that there may be savings to local school districts as a result of this initiative. However, the initiative itself requires that supplemental funding for English learners are maintained as much as possible. There are no other known estimates of the fiscal effect of this initiative.

State law prior to the adoption of Proposition 227. Prior to the passage of Proposition 227, the law governing bilingual education and services to English learners in California had been inoperative, or "sunsetting", since 1987. School districts were required to provide services to English learners based on eight general principles of the sunsetted law. In addition, the State Board of Education had issued advisories regarding general principles for districts to follow in designing programs for English learners, and the State Department of Education allowed districts six administrative options in designing programs for English learners.

**Pending lawsuit over SBE's waiver authority:** Last year, the State Board of Education determined that it did not have the authority to waive portions of Proposition 227 for districts that apply for waivers, even though it does have authority to waive other parts of the State Education Code. Several districts sued the SBE over its interpretation of its waiver authority to provide districts with waivers from provisions of Proposition 227. The outcome of this lawsuit is still pending.

**PROPOSITION 227 IMPLEMENTATION ISSUES**

Schools on traditional calendars were required to begin implementing Proposition 227 last fall, while schools on year-round schedules were required to begin implementation in January of 1999. Anecdotal evidence suggests that school districts are approaching implementation of Proposition 227 in different ways. Nevertheless, the following are statewide implementation issues that have potential budget implications:

- **Teacher Training** – If parents do not request waivers from the immersion programs or school districts choose not to grant them, teachers will be required to teach with a structured English method. Teachers may need immediate and intensive training to assist them in implementing this method;
- **Supplementary Instruction** – If Proposition 227 results in attempts to teach English learners English more quickly, these children may need supplemental instruction (in the form of after-school, Saturday or summer school classes), either before their transition to mainstream English classes or after; and
- **Instructional Materials** – The instructional method required by Proposition 227, sheltered English immersion, requires the use of specific instructional materials that provide academic content in English but are designed to be understood by children that are learning English. School districts may need to purchase new materials in order to properly implement this method.

**ENGLISH LEARNER PROVISIONS**

The Governor's proposed budget for 1999-2000 contains the following provisions specifically intended to address the needs of English learners. The Subcommittee will take action on these proposals at future hearings.

- A \$10 million augmentation to provide professional development for teachers and other personnel who provide instruction and support to English language learners;\*
- A \$50 million augmentation to provide supplemental instruction in after-school, summer or Saturday programs to children who are learning English;\*
- A \$14 million augmentation to pay for the administration of a new English language development test to identify English learners and determine their level of English language fluency as they progress in school;

- \$414 million in existing funds for the Economic Impact Aid program, which is part of the Mega-Item, and as such receives growth and COLA funding. This program has been in existence for many years, and is used by school districts to fund services for English learners; and
- A \$100 million appropriation for ESL classes for adults that pledge to help English learner children acquire English. The initiative itself makes an annual appropriation of \$50 million for this purpose for 10 years. The \$100 million includes \$50 million in carryover funds from the current year.

\* Note: The Governor has asked the Superintendent of Public Instruction and the heads of the state's public universities to study effective methods for teaching English learners and recommend specific proposals for spending the total \$60 million the Governor has recommended in the budget for professional development and supplemental instruction. The group is expected to report its recommendations to the Subcommittee and the rest of the Legislature in April.