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AB-1850 Educational services: permanent residents: foreign nationals. (2015-2016)

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Assembly Bill No. 1850

CHAPTER 69

An act to amend Sections 13000, 32400, 32401, 52613, 52651, 68062, 68130.5, and 69505 of the Education Code, relating to educational services.

[Approved by Governor July 22, 2016. Filed with Secretary of State July 22, 2016.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1850, Eduardo Garcia. Educational services: permanent residents: foreign nationals.

(1) The existing California Civil Liberties Public Education Act has been enacted for the stated purpose of sponsoring public educational activities and development of educational materials to ensure that the events surrounding the exclusion, forced removal, and internment of persons of Japanese ancestry will be remembered and so that the causes and circumstances of this and similar events may be illuminated and understood.

Existing law requires, to the extent that federal financial analysis methodology incorporates this exemption, income received as reparation payments paid pursuant to federal law for the purpose of redressing the injustice done to persons of Japanese ancestry who were interned during World War II not be considered in determining an applicant's financial need for purposes of student financial aid programs.

This bill would delete the term "resident aliens" from these provisions and replace it with the term "permanent residents."

(2) 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.

(3) This bill would also replace the word "alien" with the term "foreign national" in various provisions relating to educational services provided to immigrants, relating to adult education, and relating to the determination of residence for students of specified public postsecondary educational institutions, 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.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 13000 of the Education Code is amended to read:

13000. (a) This part shall be known and may be cited as the California Civil Liberties Public Education Act. The purpose of the California Civil Liberties Public Education Act is to sponsor public educational activities and development of educational materials to ensure that the events surrounding the exclusion, forced removal, and internment of citizens and permanent residents of Japanese ancestry will be remembered, and so that the causes and circumstances of this and similar events may be illuminated and understood.

(b) The Legislature finds and declares that the federal Commission on Wartime Relocation and Internment of Civilians (CWRIC) was established by Congress in 1980 to "review the facts and circumstances surrounding Executive Order 9066, issued in February 19, 1942, and the impact of such Executive Order on American citizens and permanent residents... and to recommend appropriate remedies." The CWRIC issued a report of its findings in 1983 with the reports "Personal Justice Denied" and "Personal Justice Denied-Part II, Recommendations." The reports were based on information gathered "through 20 days of hearings in cities across the country, particularly the West Coast, hearing testimony from more than 750 witnesses: evacuees, former government officials, public figures, interested citizens, and historians and other professionals who have studied the subjects of Commission inquiry."

(c) The lessons to be learned from the internment of Japanese-Americans during World War II are embodied in "Personal Justice Denied-Part II, Recommendations." The CWRIC concluded as follows: "In sum, Executive Order 9066 was not justified by military necessity, and the decisions that followed from it-exclusion, detention, the ending of detention and the ending of exclusion-were not founded upon military considerations. The broad historical causes that shaped these decisions were race prejudice, war hysteria, and a failure of political leadership. Widespread ignorance about Americans of Japanese descent contributed to a policy conceived in haste and executed in an atmosphere of fear and anger at Japan. A grave personal injustice was done to the American citizens and resident aliens of Japanese ancestry who, without individual review or any probative evidence against them were excluded, removed and detained by the United States during World War II."

(d) The Legislature further finds and declares that President Ronald Reagan signed into law the federal Civil Liberties Act of 1988 and declared during the signing ceremony that "This is a great day for America." In that act the Congress declared as follows:

"The Congress recognizes that, as described in the Commission on Wartime Relocation and Internment of Civilians, a grave injustice was done to both citizens and permanent residents of Japanese ancestry by the evacuation, relocation, and internment of civilians during World War II. As the Commission documents, these actions were carried out without adequate security reasons and without any acts of espionage or sabotage documented by the Commission, and were motivated largely by racial prejudice, wartime hysteria, and a failure of political leadership. The excluded individuals of Japanese ancestry suffered enormous damages, both material and intangible, and there were incalculable loses in education and job training, all of which resulted in significant human suffering for which appropriate compensation has not been made. For these fundamental violations of the basic civil liberties and constitutional rights of these individuals of Japanese ancestry, the Congress apologizes on behalf of the Nation."

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 aliens could be granted amnesty and would seek permanent residency in California under 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 for use by eligible aliens 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 32400 of the Education Code is amended to read:

32400. (a) The Legislature finds that as many as one million seven hundred thousand undocumented foreign nationals could be granted amnesty and would seek permanent residency in California under the federal Immigration Reform and Control Act of 1986 (Public Law 99-603). Under the act, eligible undocumented foreign nationals 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 for use by eligible 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. 4. Section 32401 of the Education Code is amended to read:

32401. (a) The 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 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, 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 foreign national may satisfy the requirements under the federal Immigration Reform and Control Act of 1986 (Public Law 99-603).

(c) The Superintendent shall distribute 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 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 that receives federal legalization impact-assistance funds to provide educational services may administer the test for purposes of determining the need of an eligible foreign national applying for legal status for appropriate educational services, and of allowing an eligible 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 shall not be released without the written consent of the eligible foreign national for any purpose that is not directly related to the provision of educational services. Upon request by an eligible 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. 5. Section 52613 of the Education Code is amended to read:

52613. (a) Notwithstanding any section to the contrary, each governing board of a school district maintaining classes for adults that issues a Certificate of Eligibility for Nonimmigrant (F-1) Student Status - For Academic and Language Students, Form I-20AB, or completes Form I-20AB for a nonimmigrant foreign national, as defined in subparagraph (F)(i) of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code, for the purposes of enrolling the nonimmigrant foreign national in a class in English and citizenship for foreigners or a class in an elementary subject, shall charge the nonimmigrant foreign national a fee to cover the full costs of instruction, but in no case shall the fee exceed the actual cost of the instruction. The fee shall be adopted at a regular meeting of the governing board of each of these school districts maintaining classes for adults at least 90 days before the commencement of the classes for which the fee is charged.

(b) No school district maintaining classes for adults shall include the attendance of F-1 visa students enrolled in a class in English and citizenship for foreigners or in a class in elementary subjects for apportionment purposes.

SEC. 6. Section 52651 of the Education Code is amended to read:

52651. For purposes of this chapter, unless the context otherwise requires, the following terms shall have the following meanings:

(a) "Board of Governors" means the Board of Governors of the California Community Colleges.

(b) "Chancellor" means the Chancellor of the California Community Colleges.

(c) "Community-based organizations" means public nonprofit benefit corporations of demonstrated effectiveness approved by the Superintendent to provide educational services to eligible legalized persons.

(d) "Department" means the State Department of Education.

(e) "Educational outreach activities" means:

(1) Information transmitted to temporary resident foreign nationals regarding the requirements of the federal Immigration and Nationality Act of 1986 (8 U.S.C. Secs. 1160, 1161, and 1255a), as those requirements existed on the effective date of this chapter, relating to adjustment of resident status, sources of assistance to those foreign nationals obtaining adjustment of

resident status, including educational, informational, and referral services, and the rights and responsibilities of those foreign nationals and foreign nationals lawfully admitted for permanent residence, the identification of health, employment, and social services, and the importance of identifying oneself as a temporary resident foreign national to service providers. It does not include client counseling or any other service that would assume responsibility of the foreign national's application for the adjustment of resident status.

(2) Information provided to newly legalized persons and other immigrants regarding educational opportunities available to them.

(f) "Immigrant" means a person who is a citizen of a country other than the United States and is eligible for education services in California or a naturalized United States citizen who is now residing in California.

(g) "Newly legalized person" means a foreign national who has been granted lawful temporary resident status under Sections 1160, 1161, and 1255a of Title 8 of the United States Code, as those sections existed on the effective date of this chapter. In addition, it means a person who has, after being granted lawful temporary resident status, obtained permanent resident or citizenship status.

(h) "Services provider" means any community-based organization, school district maintaining adult education programs, or community college that has been approved by the Superintendent in the 1991–92 fiscal year as eligible to provide educational services to newly legalized persons pursuant to subdivision (k) of Section 23.50 of the Budget Act of 1991.

(i) "SLIAG" means the State Legalization Impact-Assistance Grants as set forth in Section 204 of the federal Immigration Reform and Control Act of 1986, (Sec. 204, P.L. 99-603), as it exists on the effective date of this chapter.

(j) "Superintendent" means the Superintendent of Public Instruction.

SEC. 7. Section 68062 of the Education Code is amended to read:

68062. In determining the place of residence the following rules are to be observed:

(a) There can only be one residence.

(b) A residence is the place where one remains when not called elsewhere for labor or other special or temporary purpose, and to which he or she returns in seasons of repose.

(c) A residence cannot be lost until another is gained.

(d) The residence can be changed only by the union of act and intent.

(e) A man or woman may establish his or her residence. A woman's residence shall not be derivative from that of her husband.

(f) The residence of the parent with whom an unmarried minor child maintains his or her place of abode is the residence of the unmarried minor child. When the minor lives with neither parent his or her residence is that of the parent with whom he or she maintained his or her last place of abode, provided the minor may establish his or her residence when both parents are deceased and a legal guardian has not been appointed.

(g) The residence of an unmarried minor who has a parent living cannot be changed by his or her own act, by the appointment of a legal guardian, or by relinquishment of a parent's right of control.

(h) A foreign national, including an unmarried minor foreign national, may establish his or her residence, unless precluded by the federal Immigration and Nationality Act (8 U.S.C. Sec. 1101 et seq.) from establishing domicile in the United States.

(i) The residence of an unmarried minor foreign national shall be derived from his or her parents pursuant to the provisions of subdivisions (f) and (g).

SEC. 8. Section 68130.5 of the Education Code is amended to read:

68130.5. Notwithstanding any other law:

(a) A student, other than a nonimmigrant foreign national within the meaning of paragraph (15) of subsection (a) of Section 1101 of Title 8 of the United States Code, who meets all of the following requirements shall be exempt from paying nonresident tuition at the California State University and the California Community Colleges:

(1) Satisfaction of either of the following:

(A) High school attendance in California for three or more years.

(B) Attainment of credits earned in California from a California high school equivalent to three or more years of full-time high school coursework and a total of three or more years of attendance in California elementary schools, California secondary schools, or a combination of those schools.

(2) Graduation from a California high school or attainment of the equivalent thereof.

(3) Registration as an entering student at, or current enrollment at, an accredited institution of higher education in California not earlier than the fall semester or quarter of the 2001–02 academic year.

(4) In the case of a person without lawful immigration status, the filing of an affidavit with the institution of higher education stating that the student has filed an application to legalize his or her immigration status, or will file an application as soon as he or she is eligible to do so.

(b) A student exempt from nonresident tuition under this section may be reported by a community college district as a full-time equivalent student for apportionment purposes.

(c) The Board of Governors of the California Community Colleges and the Trustees of the California State University shall prescribe rules and regulations for the implementation of this section.

(d) Student information obtained in the implementation of this section is confidential.

SEC. 9. Section 69505 of the Education Code is amended to read:

69505. (a) To the extent that federal financial analysis methodology incorporates this exemption, income received as reparation payments paid pursuant to federal law on or after October 1, 1990, for the purpose of redressing the injustice done to United States citizens and permanent residents of Japanese ancestry who were interned during World War II shall not be considered in determining an applicant's financial need.

(b) To the extent that federal financial analysis methodology incorporates this exemption, income received as reparation payments paid by the Canadian government for the purpose of redressing the injustice done to persons of Japanese ancestry who were interned in Canada during World War II shall not be considered in determining an applicant's financial need.

SEC. 10. (a) Sections 3 to 8, inclusive, 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 2 of this act shall become inoperative.