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**SB-468 School districts: governing boards: pupil members.** (2017-2018)

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**Senate Bill No. 468**

**CHAPTER 283**

An act to amend Section 35012 of the Education Code, relating to school districts.

[ Approved by Governor September 25, 2017. Filed with Secretary of State September 25, 2017. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 468, Leyva. School districts: governing boards: pupil members.

(1) Existing law requires the governing board of a school district maintaining one or more high schools to appoint to its membership one or more pupil members if pupils submit a petition to the governing board to make those appointments, as provided. Existing law requires a pupil member to be recognized as a full member of the governing board of the school district at meetings, including receiving all materials presented to the board members and participating in the questioning of witnesses and the discussion of issues.

This bill would specify that a pupil member shall receive all open meeting materials presented to the board members at the same time the materials are presented to the board members and would additionally require a pupil member to be invited to staff briefings of board members or provided a separate staff briefing within the same timeframe as the staff briefing of board members. To the extent that this requirement would impose additional duties on school districts, the bill would impose a state-mandated local program.

(2) This bill would incorporate additional changes to Section 35012 of the Education Code proposed by AB 261 to be operative only if this bill and AB 261 are enacted and this bill is enacted last.

(3) 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.

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 the statutory provisions noted above.

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

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

**SECTION 1.** Section 35012 of the Education Code is amended to read:

**35012.** (a) Except as otherwise provided, the governing board of a school district shall consist of five members elected at large by the qualified voters of the school district. The terms of the members shall, except as otherwise provided, be for four years and staggered so that as nearly as practicable one-half of the members shall be elected in each odd-numbered year.

(b) A unified school district may have a governing board of seven members in the event the proposal for unification has specified a governing board of seven members. The members of the governing board of a unified school district shall be elected at large or by trustee areas as designated in the proposal for unification and shall serve four-year terms of office.

(c) Notwithstanding subdivision (a), and except as provided in this subdivision and Section 5018, the governing board of an elementary school district other than a union or joint union elementary school district shall consist of three members selected at large from the territory comprising the school district. Whenever, in any such elementary school district the average daily attendance during the preceding fiscal year is 300 or more, the procedures prescribed by Section 5018 shall be undertaken.

(d) (1) (A) There may be submitted to the governing board of a school district maintaining one or more high schools a pupil petition requesting the governing board to appoint one or more nonvoting pupil members to the governing board pursuant to this section.

(B) There may also be submitted to the governing board of a school district maintaining one or more high schools a pupil petition requesting the governing board to allow preferential voting for the pupil member or members of the governing board. This request may be made in the original petition for pupil representation on the governing board or in a separate petition after a pupil member or members have been appointed to the governing board.

(2) Whether for pupil representation or for preferential voting for the pupil member or members, the petition shall contain the signatures of either (A) not less than 500 pupils regularly enrolled in high schools of the school district, or (B) not less than 10 percent of the number of pupils regularly enrolled in high schools of the school district, whichever is less. Each fiscal year, and within 60 days of receipt of a petition for pupil representation, or at its next regularly scheduled meeting if no meeting is held within those 60 days, the governing board of a school district shall order the inclusion within the membership of the governing board, in addition to the number of members otherwise prescribed, at least one nonvoting pupil member. The governing board of a school district may order the inclusion of more than one nonvoting pupil member.

(3) Upon receipt of a petition for pupil representation, the governing board of a school district shall, commencing July 1, 1976, and each year thereafter, order the inclusion within the membership of the governing board, in addition to the number of members otherwise prescribed, at least one nonvoting pupil member. The governing board of a school district may order the inclusion of more than one nonvoting pupil member.

(4) (A) Upon receipt of a petition for preferential voting for the pupil member or members, the governing board of a school district shall allow preferential voting for the pupil member or members of the governing board.

(B) Preferential voting, as used in this section, means a formal expression of opinion that is recorded in the minutes and cast before the official vote of the governing board of the school district. A preferential vote shall not serve in determining the final numerical outcome of a vote. No preferential vote shall be solicited on matters subject to closed session discussion.

(5) The governing board of the school district may adopt a resolution authorizing the nonvoting or preferential voting pupil member or members to make motions that may be acted upon by the governing board, except on matters dealing with employer-employee relations pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

(6) Each pupil member shall have the right to attend each and all meetings of the governing board of the school district, except executive sessions.

(7) Any pupil selected to serve as a nonvoting or preferential voting member of the governing board of a school district shall be enrolled in a high school of the school district, may be less than 18 years of age, and shall be chosen by the pupils enrolled in the high school or high schools of the school district in accordance with procedures prescribed by the governing board. The term of a pupil member shall be one year commencing on July 1 of each year.

(8) A nonvoting or preferential voting pupil member shall be entitled to the mileage allowance to the same extent as regular members, but is not entitled to the compensation prescribed by Section 35120.

(9) A nonvoting or preferential voting pupil member shall be seated with the members of the governing board of the school district and shall be recognized as a full member of the governing board at the meetings, including receiving all open meeting materials presented to the board members at the same time the materials are presented to the board members, being invited to staff briefings of board members or being provided a separate staff briefing within the same timeframe as the staff briefing of board members, and participating in the questioning of witnesses and the discussion of issues.

(10) The nonvoting or preferential voting pupil member shall not be included in determining the vote required to carry any measure before the governing board of the school district.

(11) The nonvoting or preferential voting pupil member shall not be liable for any acts of the governing board of the school district.

(12) A majority vote of all voting board members shall be required to approve a motion to eliminate the nonvoting or preferential voting pupil member position from the governing board of a school district. The motion shall be listed as a public agenda item for a meeting of the governing board before the motion being voted upon.

**SEC. 1.5.** Section 35012 of the Education Code is amended to read:

**35012.** (a) Except as otherwise provided, the governing board of a school district shall consist of five members elected at large by the qualified voters of the school district. The terms of the members shall, except as otherwise provided, be for four years and staggered so that as nearly as practicable one-half of the members shall be elected in each odd-numbered year.

(b) A unified school district may have a governing board of seven members in the event the proposal for unification has specified a governing board of seven members. The members of the governing board of a unified school district shall be elected at large or by trustee areas as designated in the proposal for unification and shall serve four-year terms of office.

(c) Notwithstanding subdivision (a), and except as provided in this subdivision and Section 5018, the governing board of an elementary school district other than a union or joint union elementary school district shall consist of three members selected at large from the territory comprising the school district. Whenever, in any such elementary school district the average daily attendance during the preceding fiscal year is 300 or more, the procedures prescribed by Section 5018 shall be undertaken.

(d) (1) There may be submitted to the governing board of a school district maintaining one or more high schools a pupil petition requesting the governing board to appoint one or more pupil members to the governing board pursuant to this section.

(2) The petition shall contain the signatures of either (A) not less than 500 pupils regularly enrolled in high schools of the school district, or (B) not less than 10 percent of the number of pupils regularly enrolled in high schools of the school district, whichever is less. Each fiscal year, and within 60 days of receipt of a petition for pupil representation, or at its next regularly scheduled meeting if no meeting is held within those 60 days, the governing board of a school district shall order the inclusion within the membership of the governing board, in addition to the number of members otherwise prescribed, at least one pupil member. The governing board of a school district may order the inclusion of more than one pupil member.

(3) Upon receipt of a petition for pupil representation, the governing board of a school district shall, commencing July 1, 1976, and each year thereafter, order the inclusion within the membership of the governing board, in addition to the number of members otherwise prescribed, at least one pupil member. The governing board of a school district may order the inclusion of more than one pupil member.

(4) (A) A pupil member of the governing board of a school district shall have preferential voting rights.

(B) Preferential voting, as used in this section, means a formal expression of opinion that is recorded in the minutes and cast before the official vote of the governing board of the school district. A preferential vote shall not serve in determining the final numerical outcome of a vote. No preferential vote shall be solicited on matters subject to closed session discussion.

(5) The governing board of the school district may adopt a resolution authorizing the pupil member or members to make motions that may be acted upon by the governing board, except on matters dealing with employer-employee relations pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code.

(6) Each pupil member shall have the right to attend each and all meetings of the governing board of the school district, except executive sessions.

(7) Any pupil selected to serve as a member of the governing board of a school district shall be enrolled in a high school of the school district, may be less than 18 years of age, and shall be chosen by the pupils enrolled in the high school or high schools of the school district in accordance with procedures prescribed by the governing board. The term of a pupil member shall be one year commencing on July 1 of each year.

(8) A pupil member shall be entitled to the mileage allowance to the same extent as regular members, but is not entitled to the compensation prescribed by Section 35120.

(9) A pupil member shall be seated with the members of the governing board of the school district and shall be recognized as a full member of the governing board at the meetings, including receiving all open meeting materials presented to the board members at the same time the materials are presented to the board members, being invited to staff briefings of board members or being provided a separate staff briefing within the same timeframe as the staff briefing of board members, and participating in the questioning of witnesses and the discussion of issues.

(10) The pupil member shall not be included in determining the vote required to carry any measure before the governing board of the school district.

(11) The pupil member shall not be liable for any acts of the governing board of the school district.

(12) A majority vote of all voting board members shall be required to approve a motion to eliminate the pupil member position from the governing board of a school district. The motion shall be listed as a public agenda item for a meeting of the governing board before the motion being voted upon.

**SEC. 2.** Section 1.5 of this bill incorporates amendments to Section 35012 of the Education Code proposed by both this bill and Assembly Bill 261. That section shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2018, (2) each bill amends Section 35012 of the Education Code, and (3) this bill is enacted after Assembly Bill 261, in which case Section 1 of this bill shall not become operative.

**SEC. 3.** 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.