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AB-709 School districts: governing boards: pupil members. (2019-2020)

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Date Published: 10/02/2019 09:00 PM

Assembly Bill No. 709

CHAPTER 437

An act to amend Sections 35012 and 35120 of the Education Code, relating to school districts.

[Approved by Governor October 02, 2019. Filed with Secretary of State October 02, 2019.]

LEGISLATIVE COUNSEL'S DIGEST

AB 709, Bonta. 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 gives each pupil member, among other things, the right to attend each and all meetings of the governing board of the school district, except executive sessions, and requires a pupil member to be seated with the members of the governing board of the school district and 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.

This bill would require a pupil member additionally to be appointed to subcommittees of the governing board in the same manner as other board members, require a pupil member to be made aware of the time commitment required to participate in subcommittee meetings and work, and authorize a pupil member to decline an appointment to a subcommittee. The bill would require a pupil member to be invited to attend other functions of the governing board of the school district such as forums, meetings with pupils and parents, and other general assemblies, and to also receive all materials received by other board members between open meetings, except for materials that pertain to closed session items. To the extent that these requirements would impose additional duties on school districts, the bill would impose a state-mandated local program. The bill would authorize subcommittee meetings to be scheduled in accordance with the availability of all members, including each pupil member. The bill would authorize the governing board of a school district to appoint a pupil to serve as an alternate pupil member who would fulfill all duties and have the same rights as a pupil member if the governing board determines the pupil member is not fulfilling their duties.

(2) Existing law limits the amount of compensation a member of the governing board of a school district may receive for the member's services, but authorizes the governing board to increase the compensation of individual board members beyond those limits. Existing law entitles a pupil member to the mileage allowance to the same extent as regular board members, but prohibits compensation of a pupil member, as described above.

This bill would authorize the governing board of a school district to award a pupil member elective course credit based on the number of equivalent daily instructional minutes for the pupil member's services provided.

(3) The Ralph M. Brown Act, among other things, requires that all meetings of the legislative body, as defined, of a local agency be open and public and all persons be permitted to attend unless a closed session is authorized.

This bill would expressly provide that pupil members are not members of a legislative body of a local agency for purposes of the act.

(4) 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 if 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. The governing board of a school district may appoint a pupil to serve as an alternate pupil member who would fulfill all duties and have the same rights as a pupil member if the governing board of a school district determines the pupil member is not fulfilling their duties. If the governing board of a school district appoints an alternate pupil member, the governing board shall suspend the prior pupil member's rights and privileges related to service on the governing board.

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

(B) (i) Each pupil member shall be appointed to subcommittees of the governing board in the same manner as other board members.

(ii) Each pupil member shall be made aware of the time commitment required to participate in subcommittee meetings and work, and may decline an appointment to a subcommittee.

(iii) Subcommittee meetings may be scheduled in accordance with the availability of all members, including each pupil member.

(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 in Section 35120, except as specified in subdivision (f) of Section 35120.

(9) (A) 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, being invited to attend other functions of the governing board of the school district, such as forums, meetings with pupils and parents, and other general assemblies, and participating in the questioning of witnesses and the discussion of issues.

(B) A pupil member shall also receive all materials received by other board members between open meetings, except for materials that pertain to closed session items.

(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.

(e) Pupil members shall not be considered members of a legislative body of a local agency for purposes of the Ralph M. Brown Act (Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code).

SEC. 2. Section 35120 of the Education Code is amended to read:

35120. (a) (1) In a school district in which the average daily attendance for the prior school year exceeded 400,000, each member of the city board of education or the governing board of the school district who attends all meetings held may receive as compensation for the member's services a sum not to exceed two thousand dollars (\$2,000) per month.

(2) In a school district that is not located in a city and county, and in which the average daily attendance for the prior school year exceeded 60,000, the governing board may prescribe, as compensation for the services of each member of the board who attends all meetings held, a sum not to exceed one thousand five hundred dollars (\$1,500) in any month.

(3) In a school district in which the average daily attendance for the prior school year was 60,000 or less, but more than 25,000, each member of the city board of education or the governing board of the school district who attends all meetings held may receive as compensation for the member's services a sum not to exceed seven hundred fifty dollars (\$750) in any month.

(4) In a school district in which the average daily attendance for the prior school year was 25,000 or less, but more than 10,000, each member of the city board of education or the governing board of the school district who attends all meetings held may receive as compensation for the member's services a sum not to exceed four hundred dollars (\$400) in any month.

(5) In a school district in which the average daily attendance for the prior school year was 10,000 or less, but more than 1,000, each member of the city board of education or the governing board of the school district who attends all meetings held may receive as compensation for the member's services a sum not to exceed two hundred forty dollars (\$240) in any month.

(6) In a school district in which the average daily attendance for the prior school year was 1,000 or less, but more than 150, each member of the city board of education or the governing board of the school district who attends all meetings held may receive as compensation for the member's services a sum not to exceed one hundred twenty dollars (\$120) in any month.

(7) In a school district in which the average daily attendance for the prior school year was less than 150, each member of the city board of education or the governing board of the school district who attends all meetings held may receive as compensation for the member's services a sum not to exceed sixty dollars (\$60) per month.

(8) A member who does not attend all meetings held in any month may receive, as compensation for the member's services, an amount not greater than the maximum amount allowed by this subdivision divided by the number of meetings held and multiplied by the number of meetings attended.

(9) For purposes of providing compensation pursuant to paragraphs (1) to (7), inclusive, average daily attendance for the prior school year may be increased by a school district's percentage of excused absences reported for the 1996–97 fiscal year.

(b) The compensation of members of the governing board of a school district newly organized or reorganized shall be governed by subdivision (a). For this purpose, the total average daily attendance in all of the schools of the school district in the school year in which the organization or reorganization became effective shall be considered the average daily attendance in the school district for the prior school year.

(c) A member may be paid for any meeting when absent if the board, by resolution duly adopted and included in its minutes, finds that at the time of the meeting the member is performing services outside the meeting for the school district or districts, the member was ill or on jury duty, or the absence was due to a hardship considered acceptable by the board.

(d) Compensation provided pursuant to this section shall be a charge against the funds of the school district. If the city board of education or the governing board of the school district is the governing board of more than one school district, the compensation shall be charged against and paid by the respective school districts in the same proportion as the salary of the city superintendent of schools is charged against them. Compensation shall be reduced by an amount equal to any salary or compensation paid to the members of the city board of education from any funds of the city.

(e) On an annual basis, the governing board may increase the compensation of individual board members beyond the limits delineated in this section, in an amount not to exceed 5 percent based on the present monthly rate of compensation. An increase made pursuant to this subdivision shall be effective upon approval by the governing board.

(f) The governing board of a school district may award a pupil member elective course credit based on the number of equivalent daily instructional minutes for the pupil member's services provided.

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.