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**SB-1445 Governing boards: pupil members: expulsion hearing recommendations.** (2023-2024)

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**Senate Bill No. 1445**

**CHAPTER 327**

An act to amend Sections 35012 and 47604.2 of the Education Code, relating to school governance.

[ Approved by Governor September 20, 2024. Filed with Secretary of State September 20, 2024. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 1445, Cortese. Governing boards: pupil members: expulsion hearing recommendations.

Existing law requires school district governing boards, charter school governing bodies, and the governing bodies of entities managing multiple charter schools to appoint at least one high school pupil as a pupil member of the board or body, as applicable, in response to a petition from high school pupils requesting the appointment of one or more pupil members, as provided. Existing law gives each pupil member the right to attend every meeting of the governing board or body, except closed sessions, and to receive all materials received by regular members, except for materials that pertain to closed session items, as provided.

Existing law requires the governing boards of school districts to establish rules and regulations governing procedures for the expulsion of pupils, and requires a petition to establish a charter school to include, among other things, a reasonably comprehensive description of the procedures by which pupils can be suspended or expelled from the charter school for disciplinary reasons or otherwise involuntarily removed from the charter school for any reason, as specified. Existing law requires school district pupils to be entitled to a hearing to determine whether the pupil should be expelled, conducted in a session closed to the public, except as provided.

This bill would authorize school district governing boards, charter school governing bodies, and the governing bodies of entities managing multiple charter schools to allow each of their respective pupil members to make restorative justice recommendations that would be considered in closed session expulsion hearings. The bill would require, if the school district governing board, charter school governing body, or governing body of an entity managing multiple charter schools authorizes those pupil member recommendations, limited case information that pertains to those closed session items to be disclosed to each pupil member, subject to pupil and parental consent, as specified.

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

**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 regular members elected at large by the qualified voters of the school district. The terms of the regular members shall, except as otherwise provided, be for

four years and staggered so that as nearly as practicable one-half of the regular members shall be elected in each odd-numbered year.

(b) A unified school district may have a governing board of seven regular members if the proposal for unification has specified a governing board of seven regular members. The regular 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 regular 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 regular 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 regular 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 closed sessions.

(B) (i) Each pupil member shall be appointed to subcommittees of the governing board in the same manner as regular 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 pupil 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 policies and procedures prescribed by the governing board. The term of a pupil member shall be one year, commencing on July 1 of each year, except that the term of a pupil member may be adjusted only in cases where a vacancy occurs or to provide more pupils with an opportunity to serve on the governing board.

(8) A pupil member shall be entitled to the mileage allowance to the same extent as regular members, and may receive compensation as specified in subdivision (f) of Section 35120.

(9) (A) A pupil member shall be seated with the regular 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 regular members at the same time the materials are presented to the regular members, being invited to staff briefings of regular members or being provided a separate staff briefing within the same timeframe as the staff briefing of regular 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 regular members between open meetings, except for materials that pertain to closed session items.

(C) (i) The governing board of the school district may authorize the pupil member or members to make restorative justice recommendations that may be considered by the governing board of the school district in closed session expulsion hearings. If the governing board of the school district authorizes pupil recommendations in expulsion hearings, then notwithstanding subparagraph (B), the governing board of the school district shall disclose limited case information that pertains to closed session items to the pupil member or members to allow the pupil member or members to make those recommendations.

(ii) Disclosure of case information to the pupil member or members pursuant to clause (i) shall be conditioned on the voluntary, written consent of the pupil who is subject to the expulsion hearing and the pupil's parent or guardian, and shall be consistent with federal and state privacy laws, including, but not limited to, the federal Family Educational Rights and Privacy Act of 2001 (20 U.S.C. Sec. 1232g) and any implementing federal regulations.

(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 regular 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).

(f) As used in this section, the following definitions apply:

(1) "Pupil member" means a pupil board member appointed pursuant to subdivision (d).

(2) "Regular member" means a board member elected or selected pursuant to subdivisions (a) to (c), inclusive.

**SEC. 2.** Section 47604.2 of the Education Code is amended to read:

**47604.2.** (a) For purposes of this section, "entity managing a charter school" has the same meaning as described in subdivision (a) of Section 47604.1.

(b) (1) There may be submitted to the governing body of a charter school attended by high school pupils, or to the governing body of an entity managing multiple charter schools including a charter school attended by high school pupils, a pupil petition requesting the governing body of the charter school or the governing body of the entity managing multiple charter schools, as appropriate, to appoint one or more pupil members to the appropriate governing body pursuant to this section.

(2) The petition shall contain the signatures of either (A) not less than 500 pupils regularly enrolled in the high school of the charter school, or (B) not less than 10 percent of the number of pupils regularly enrolled in the high school of the charter school. If a charter school attended by high school pupils is operated by an entity managing a charter school or managing multiple charter schools, then the petition shall contain the signatures of either (A) not less than 500 pupils regularly enrolled in any of the high schools operated by the entity managing a charter school or multiple charter schools, or (B) not less than 10 percent of the number of pupils regularly enrolled in high schools operated by the entity managing a charter school or multiple charter schools. 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 body of the charter school or of the entity managing multiple charter schools shall order the inclusion within the membership of that governing body, in addition to the number of regular members otherwise prescribed, of at least one pupil member. The governing body of the charter school or of the entity managing multiple charter schools may order the inclusion of more than one pupil member.

(3) Upon receipt of a petition for pupil representation, the governing body of a charter school or of an entity managing multiple charter schools shall, commencing July 1, 2023, and each year thereafter, order the inclusion within the membership of that governing body, in addition to the number of regular members otherwise prescribed, of at least one pupil member. The governing body of a charter school or of an entity managing multiple charter schools may order the inclusion of more than one

pupil member. The governing body of a charter school or of an entity managing multiple charter schools 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 that governing body determines the pupil member is not fulfilling their duties. If the governing body of a charter school or of an entity managing multiple charter schools appoints an alternate pupil member, that governing body shall suspend the prior pupil member's rights and privileges related to service on that governing body.

(4) (A) A pupil member of the governing body of a charter school or of an entity managing multiple charter schools 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 body of the charter school or of an entity managing multiple charter schools. 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 body of a charter school or of an entity managing multiple charter schools may adopt a resolution authorizing the pupil member or members to make motions that may be acted upon by that governing body, 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 body of a charter school or of an entity managing multiple charter schools, except closed sessions.

(B) (i) Each pupil member shall be appointed to subcommittees of the governing body in the same manner as other governing body regular 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 of the governing body, including each pupil member.

(7) Any pupil selected to serve as a member of the governing body of a charter school or of an entity managing multiple charter schools shall be enrolled in high school within the charter school, may be less than 18 years of age, and shall be chosen by the pupils enrolled in high school within the charter school in accordance with policies and procedures prescribed by that governing body. The term of a pupil member shall be one year, commencing on July 1 of each year, except that the term of a pupil member may be adjusted only in cases where a vacancy occurs or to provide more pupils with an opportunity to serve on the governing body.

(8) (A) A pupil member shall be entitled to the mileage allowance to the same extent as regular governing body members, and may receive compensation, as specified pursuant to subparagraph (B).

(B) The governing body of a charter school or of an entity managing multiple charter schools may award a pupil member either or both of the following:

(1) Elective course credit based on the number of equivalent daily instructional minutes for the pupil member's services provided.

(2) Monthly financial compensation as determined by the governing body.

(9) (A) A pupil member shall be seated with the regular members of the governing body of a charter school or of an entity managing multiple charter schools, and shall be recognized as a full member of that governing body at the meetings, including receiving all open meeting materials presented to the governing body regular members at the same time the materials are presented to the other governing body regular members, being invited to staff briefings of governing body regular members, or being provided a separate staff briefing within the same timeframe as the staff briefing of other governing body regular members, being invited to attend other functions of that governing body, 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 governing body regular members between open meetings, except for materials that pertain to closed session items.

(C) (i) The governing body of a charter school or of an entity managing multiple charter schools may authorize the pupil member or members to make restorative justice recommendations that may be considered by the governing body in closed session expulsion hearings. If the governing body authorizes pupil recommendations in expulsion hearings, then

notwithstanding subparagraph (B), the governing body shall disclose limited case information that pertains to closed session items to the pupil member or members to allow the pupil member or members to make those recommendations.

(ii) Disclosure of case information to the pupil member or members pursuant to clause (i) shall be conditioned on the voluntary, written consent of the pupil who is subject to the expulsion hearing and the pupil's parent or guardian, and shall be consistent with federal and state privacy laws, including, but not limited to, the federal Family Educational Rights and Privacy Act of 2001 (20 U.S.C. Sec. 1232g) and any implementing federal regulations.

(10) A pupil member shall not be included in determining the vote required to carry any measure before the governing body of a charter school or of an entity managing multiple charter schools.

(11) The pupil member shall not be liable for any acts of the governing body of a charter school or of an entity managing multiple charter schools.

(12) A majority vote of all voting governing body regular members shall be required to approve a motion to eliminate the pupil member position from the governing body of a charter school or of an entity managing multiple charter schools. The motion shall be listed as a public agenda item for a meeting of the governing body before the motion being voted upon.

(c) A pupil member of the governing body of a charter school or of an entity managing multiple charter schools shall not be considered a member of a legislative body or 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) or the Bagley-Keene Open Meeting Act.

(d) The governing body of a charter school or of an entity managing multiple charter schools that orders the inclusion of a pupil member within its governing body membership pursuant to paragraph (2) of subdivision (b) shall do both of the following:

(1) (A) Notify the chartering authority of the charter school within 30 days of either of the following:

(i) The inclusion of the pupil member.

(ii) Any subsequent change in the pupil membership.

(B) The notification shall be in writing, include the name of the pupil member, the duration of the term of the pupil, and a copy of the approved pupil petition described in subdivision (b).

(2) Include at the next charter renewal with the chartering authority, the inclusion of the pupil member as a change to the governing body of the charter school or of an entity managing multiple charter schools.

(e) As used in this section, the following definitions apply:

(1) "Pupil member" means a pupil member appointed pursuant to subdivision (b).

(2) "Regular member" means a governing body member nominated or appointed to the governing body of the charter school or of an entity managing multiple charter schools, consistent with Section 47605 or 47605.6, as applicable.

(f) This section shall prevail over any contrary provision in the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code), or between this section and a nonprofit public benefit corporation's articles of incorporation or bylaws, relating to pupil members on the governing body of the charter school or of an entity managing multiple charter schools. Nothing in this section otherwise alters, amends, or impairs the rights, duties, and obligations of a nonprofit public benefit corporation relating to the operation of a charter school.

(g) The requirements of this section shall not be waived by the state board pursuant to Section 33050 or any other law.