

---

# SENATE COMMITTEE ON EDUCATION

Senator Josh Newman, Chair

2023 - 2024 Regular

---

**Bill No:** SB 494 **Hearing Date:** April 19, 2023  
**Author:** Newman  
**Version:** March 20, 2023  
**Urgency:** No **Fiscal:** No  
**Consultant:** Lynn Lorber

**Subject:** School district governing boards: meetings: school district superintendents and assistant superintendents: termination.

## SUMMARY

This bill prohibits 1) the governing board of a school district from taking action to terminate a superintendent or assistant superintendent of the school district, or both, without cause, at a special or emergency meeting of the governing board; and 2) the governing board of a school district from terminating a superintendent or assistant superintendent of the school district, or both, without cause, within 30 days after the first convening of the governing board after a general election.

## BACKGROUND

### *Regular meetings*

- 1) Requires, under the Ralph M. Brown Act, all meetings of the legislative body of a local agency to be open and public, and requires that all persons be permitted to attend any meeting of the legislative body of a local agency. Existing law defines "local agency" as a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency. (Government Code § 54953)
- 2) Requires each legislative body of a local agency, except for advisory committees or standing committees, to provide, by ordinance, resolution, bylaws, or by whatever other rule is required for the conduct of business by that body, the time and place for holding regular meetings. Meetings of advisory committees or standing committees, for which an agenda is posted at least 72 hours in advance of the meeting pursuant to subdivision (a) of Section 54954.2, shall be considered for purposes of this chapter as regular meetings of the legislative body. (Government Code § 54954)
- 3) Requires, at least 72 hours before a regular meeting, the legislative body of the local agency, or its designee, to post an agenda containing a brief general description of each item of business to be transacted or discussed at the meeting, including items to be discussed in closed session. A brief general description of an item generally need not exceed 20 words. The agenda shall specify the time and location of the regular meeting and shall be posted in a location that is freely accessible to members of the public and on the local agency's Internet Web site, if the local

agency has one. (Government Code § 54954.2)

- 4) Defines “local agency” as a county, city, whether general law or chartered, city and county, town, school district, municipal corporation, district, political subdivision, or any board, commission or agency thereof, or other local public agency. (Government Code § 54951)
- 5) Requires the first meeting of any newly elected or appointed school district governing board, and any annual meeting required by law to be held by such board for purposes of its organization, to be deemed a regular meeting of the board for purposes of any requirement of law that periodic meetings shall be held by such board, and the regular business of the board may be transacted at such a meeting. (Education Code (EC) § 35149)

#### *Special meetings*

- 6) Authorizes a special meeting of the governing board of a school district to be called at any time by the presiding officer of the board, or by a majority of the members thereof, by delivering personally or by mail written notice to each member of the board, and to each local newspaper of general circulation, radio, or television station requesting notice in writing. The notice shall be delivered personally or by mail at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at those meetings by the governing board. (EC § 35144)
- 7) Authorizes a special meeting to be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering written notice to each member of the legislative body and to each local newspaper of general circulation and radio or television station requesting notice in writing and posting a notice on the local agency’s Internet Web site, if the local agency has one. The notice shall be delivered personally or by any other means and shall be received at least 24 hours before the time of the meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted or discussed. No other business shall be considered at these meetings by the legislative body. The call and notice shall be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public. (Government Code § 54956)
- 8) Prohibits a legislative body from calling a special meeting regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits, of a local agency executive, as defined. However, this does not apply to a local agency calling a special meeting to discuss the local agency’s budget. (Government Code § 54956)

#### *Emergency meetings*

- 9) Authorizes a legislative body to hold an emergency meeting without complying with either the 24-hour notice requirement or the 24-hour posting requirement, or both of the notice and posting requirements, in the case of an emergency situation involving

matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities. (Government Code § 54956.5)

*District superintendent or assistant superintendent*

- 10) Provides that any district superintendent of schools, or deputy, associate, or assistant superintendent of schools, may be elected for a term of no more than four years. The governing board of any school district, with the consent of the employee concerned, may at any time terminate, effective on the next succeeding first day of July, the term of employment of, and any contract of employment with, the superintendent of schools, or any associate, deputy, or assistant superintendent of schools of the district, and reelect or reemploy the employee, on those terms and conditions as may be mutually agreed upon by the board and the employee, for a new term to commence on the effective date of the termination of the existing term of employment. (EC § 35031)
- 11) Requires written notice at least 45 days in advance, in the event the governing board of a school district determines the superintendent of schools of the district, or deputy, associate, or assistant superintendent of schools, or employee in the senior management of the classified service is not to be reelected or reemployed as such upon the expiration of his or her term. In the event the governing board of a district fails to reelect or reemploy the superintendent of schools of the district, or deputy, associate, or assistant superintendent of schools, or employee in the senior management of the classified service as such and the written notice herein provided for has not been given, he or she shall be deemed reelected for a term of the same length as the one completed, and under the same terms and conditions and with the same compensation. (EC § 35031)
- 12) Prohibits a permanent employee from being dismissed except for one or more of the following causes:
  - a) Immoral conduct, including, but not limited to, egregious misconduct, as defined.
  - b) Unprofessional conduct.
  - c) Commission, aiding, or advocating the commission of acts of criminal syndicalism.
  - d) Dishonesty.
  - e) Unsatisfactory performance.
  - f) Evident unfitness for service.
  - g) Physical or mental condition unfitting him or her to instruct or associate with children.
  - h) Persistent violation of or refusal to obey the school laws of the state or reasonable regulations prescribed for the government of the public schools by

- the state board or by the governing board of the school district employing him or her.
- i) Conviction of a felony or of any crime involving moral turpitude.
  - j) Advocating or teaching communism with the intent to indoctrinate or to inculcate in the mind of any student a preference for communism.
  - k) Alcoholism or other drug abuse that makes the employee unfit to instruct or associate with children. (EC § 44932)
- 13) Requires all contracts of employment between an employee and a local agency employer to include a provision that provides that regardless of the term of the contract, if the contract is terminated, the maximum cash settlement that an employee may receive shall be an amount equal to the monthly salary of the employee multiplied by the number of months left on the unexpired term of the contract, with the following exceptions:
- a) If the unexpired term of the contract is greater than 18 months, the maximum cash settlement shall be an amount equal to the monthly salary of the employee multiplied by 18.
  - b) In the case of a district superintendent of schools, for contracts of employment executed on or after January 1, 2016, the maximum cash settlement shall be an amount equal to the monthly salary of the employee multiplied by 12. (Government Code § 53260)

## ANALYSIS

This bill:

- 1) Prohibits the governing board of a school district from taking action to terminate a superintendent or assistant superintendent of the school district, or both, without cause, at a special or emergency meeting of the governing board.
- 2) Prohibits the governing board of a school district from terminating a superintendent or assistant superintendent of the school district, or both, without cause, within 30 days after the first convening of the governing board after a general election.

## STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author, “The implications of the current lack of required advance notice for such deliberations were brought into sharp focus earlier this year, when the newly installed governing board of the Orange Unified School District called a special meeting of the board, over the winter holiday break, with just 24-hour notice. At that meeting, the governing board proceeded to terminate the school district superintendent, explicitly without cause, appointing her interim replacement at the same meeting. That interim superintendent resigned a mere five weeks later, leaving the school district without a leader.

“It's fairly self-evident that newly elected school board members generally need some time to become fully conversant in the often complex inner workings of school district governance, as well as the various and sometimes unique issues facing the district. In recognition of those facts, it seems reasonable that school district governing boards should have a ‘cooling off,’ or ramping up, period before making decisions as momentous as changing district leadership with cause by ensuring an appropriate interval for noticing and a resulting open and comprehensive discussion that fully includes all prospectively affected stakeholders as well as the public at large.”

- 2) **Types of school board meetings and required public notice.** School district governing boards may convene regular meetings with 72 hour public notice, special meetings with 24 hour public notice, and emergency meetings with less than 24 hour public notice. Current law provides that emergency meetings are for cases of an emergency situation involving matters upon which prompt action is necessary due to the disruption or threatened disruption of public facilities. However, current law does not prescribe what types of situations may be acted upon during regular or special meetings; school district governing boards may take any action with as little as 24 hour public notice.

This bill limits the authority of a school district governing board to terminate a superintendent or assistant superintendent of the school district, or both, *without cause* to occur only at regular meetings, which require 72 hour notice. This bill does not restrict the ability to terminate a superintendent or assistant superintendent *with cause* at any time, including a special or emergency meeting with 24 hour or less public notice.

This bill essentially requires more time before board meetings where important decisions are made about school district leadership to enable greater participation and input by school and district employees, parents, students, and the community at large.

- 3) **Termination without cause vs with cause.** The Education Code prohibits a permanent employee from being dismissed except for cause, and includes a list of causes for which a permanent employee may be terminated (unsatisfactory performance, immoral or unprofessional conduct, etc.). This bill does not affect any terminations for cause; the bill only affects termination of a superintendent or assistant superintendent *without cause*.
- 4) **Cooling off period.** This bill prohibits the governing board of a school district from terminating a superintendent or assistant superintendent of the school district, or both, without cause, within 30 days after the first convening of the governing board after a general election. This provision is similar to a local ordinance in the City of Orange that prohibits the City Manager from being terminated within 90 days after any municipal election for the selection or recall of one or more of the members of the City Council.

## SUPPORT

Association of California School Administrators (sponsor)

**OPPOSITION**

None received

**-- END --**