

Date of Hearing: June 28, 2023

ASSEMBLY COMMITTEE ON EDUCATION

Al Muratsuchi, Chair

SB 494 (Newman) – As Amended June 8, 2023

SENATE VOTE: 32-6

SUBJECT: School district governing boards: meetings: school district superintendents and assistant superintendents: termination

SUMMARY: 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, or within 30 school days after the first convening of the governing board after a general election. Specifically, **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 school days after the first convening of the governing board after a general election.

EXISTING LAW:

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. 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 (GOV) 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. Requires that 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, be considered as regular meetings of the legislative body. (GOV 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. Requires that the agenda 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 website, if the local agency has one. (GOV 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. (GOV 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)
- 6) Requires the governing board of each school district to hold an annual organizational meeting. In a year in which a regular election for governing board members is conducted, the meeting shall be held on a day within a 15-day period that commences with the second Friday in December following the regular election. Organizational meetings in years in which no such regular election for governing board members is conducted shall be held on any date in December, but no later than December 20. Unless otherwise provided by rule of the governing board, the day and time of the annual meeting shall be selected, in a year in which a regular election for governing board members is conducted, by the board at its regular meeting held immediately before the first day of such 15-day period, or in a year in which no such regular election for governing board members is conducted, by the board at its last regular meeting held immediately before the organizational meeting. The board shall notify the county superintendent of schools of the day and time selected. The clerk of the board shall, within 15 days before the date of the annual meeting, notify in writing all members and members-elect of the date and time selected for the meeting. (EC 35143)

Special meetings

- 7) 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. Requires the notice to be delivered personally or by mail at least 24 hours before the time of the meeting as specified in the notice. Requires the call and notice to specify the time and place of the special meeting and the business to be transacted. Requires no other business to be considered at those meetings by the governing board. (EC 35144)
- 8) 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 website, if the local agency has one. Requires the notice to 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. Requires the call and notice to specify the time and place of the special meeting and the business to be transacted or discussed. Requires no other business to be considered at these meetings by the legislative body. Requires the call and notice to be posted at least 24 hours prior to the special meeting in a location that is freely accessible to members of the public. (GOV 54956)
- 9) 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. This provision does not apply to a local agency calling a special meeting to discuss the local agency's budget. (GOV 54956)

Emergency meetings

- 10) 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. (GOV 54956.5)

District superintendent or assistant superintendent

- 11) Authorizes any district superintendent of schools, or deputy, associate, or assistant superintendent of schools, to be elected for a term of no more than four years. Authorizes the governing board of any school district, with the consent of the employee concerned, to 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)
- 12) 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)
- 13) 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; and
 - k) Alcoholism or other drug abuse that makes the employee unfit to instruct or associate with children. (EC 44932)
- 14) 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 to 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; and
 - 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. (GOV 53260)

FISCAL EFFECT: This bill has been keyed non-fiscal by the Office of Legislative Counsel.

COMMENTS:

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.”

Types of school board meetings and required public notice. School district governing boards have the authority to 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. ***The Committee may wish to consider that*** 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 requires more time before board meetings where critical 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.

Termination without cause vs. with cause. Existing law prohibits a permanent employee from being dismissed except for cause, and includes a list of causes for which a permanent employee may be terminated (for example: unsatisfactory performance, immoral or unprofessional conduct). This bill does not affect any terminations for cause; the bill only affects termination of a superintendent or assistant superintendent *without cause*.

Cooling off period. This bill prohibits the governing board of a school district from terminating a superintendent or an assistant superintendent of the school district, or both, without cause, within 30 school 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.

Superintendent stability and experience associated with positive outcomes. According to a 2006 report by the Mid-continent Research for Education and Learning (McREL), *School District Leadership that Works: The Effect of Superintendent Leadership on Student Achievement*, superintendent tenure is positively correlated with student achievement. The report noted that positive effects of the correlation manifest themselves as early as two years into a superintendent's tenure. The results of a 2014 AASA Journal of Scholarship and Practice study of superintendents in New Jersey, *The Superintendent's Influence on Student Achievement*, suggested that the number of years of experience a superintendent had in the state helped to offset the negative influence of other factors. For example, students in school districts with experienced superintendents with greater percentages of students eligible for free lunch outperformed similar school districts with less experienced superintendents.

Recommended committee amendments. *Staff recommend the bill be amended* as follows:

- Limit the cooling off period to 30 days after the first convening after a general election.
- Authorize, for any month in which there is no regular meeting scheduled, the governing board of a school district to allow a regular meeting to be called for this purpose.

Arguments in support. The Association of California School Administrators writes, "Regrettably there have been a growing number of incidents where school boards abruptly acted at a special meeting to terminate superintendents and/or assistant superintendents without cause.

In some of the most unsettling instances this action was called during the winter holidays when the district was on break, the individual who was subject to the dismissal without cause was out of the country, or the meeting was announced on Sunday for a meeting on Monday. In other instances, the dismissal without cause took place at the first meeting of newly elected board members. Sudden changes in school leadership have lasting consequences that go far beyond the individual superintendent. It can have financial and emotional impacts on a school community. It can also cultivate fear and destabilize a district.

SB 494 will further transparency and community awareness when changes in non-elected school leadership are under consideration. It will also help school board members gain a more complete understanding of their district and thereby better equip the governing body to responsibly deliberate and act upon significant personnel decisions that they have direct authority over.”

Related legislation. SB 998 (Hart), Chapter 1452, Statutes of 1987, 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.

AB 339 (Brown), Chapter 1588, Statutes of 1953, established the Ralph M. Brown Act which governs public meetings and other functions conducted by legislative bodies of public agencies.

REGISTERED SUPPORT / OPPOSITION:

Support

Association of California School Administrators
California Teachers Association

Opposition

California School Boards Association

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