

SENATE JUDICIARY COMMITTEE
Senator Thomas Umberg, Chair
2021-2022 Regular Session

SB 913 (Hertzberg)
Version: March 16, 2022
Hearing Date: March 29, 2022
Fiscal: Yes
Urgency: No
TSG

SUBJECT

School districts: operations

DIGEST

This bill ensures that specialized, existing provisions in state education law continue to apply to particularly large school districts even in the face of declining overall enrollment.

EXECUTIVE SUMMARY

The size of the Los Angeles Unified School District (LAUSD) dwarfs all other school districts in the state. In recognition that any district so large has unique characteristics and challenges, the state Education Code currently contains a number of provisions that apply to LAUSD alone. Rather than naming LAUSD specifically, however, these provisions technically apply to any school district with an average daily attendance (ADA) of over 400,000 students. In practice, no other California school district presently comes anywhere close to meeting that threshold.

The impetus for this bill is that enrollment at LAUSD has declined significantly in recent years and may soon fall below the 400,000 ADA threshold. As a result, absent legislative action, the district is in danger of losing the benefit of the state law provisions that are contingent on the district continuing to exceed that threshold. To avert that outcome, this bill reduces the threshold ADA for each provision to 300,000 students. At the same time, the bill makes a minor adjustment to how quickly LAUSD must pass on payroll deductions for union dues and brings state law restrictions on school board compensation into harmony with LAUSD's actual practices.

The bill is sponsored by LAUSD. There is no opposition on file. The bill passed out of the Senate Education Committee by a vote of 7-0.

PROPOSED CHANGES TO THE LAW

Existing law:

- 1) Enables school districts with ADA of 400,000 or more students to continue to operate single gender schools and classes until January 1, 2025 if they were already in existence as of July 1, 2017, subject to specified restrictions and provided that the district has adopted a policy addressing how the district will comply with federal law prohibiting discrimination on the basis of gender. (Ed. Code § 232.2.)
- 2) Authorizes the governing board of any school district having an ADA of 400,000 or more, in lieu of a declaration of intent to lease real property, to publish a notice three times in a period of not less than 15 days in a newspaper of general circulation published in the district. (Ed. Code § 17467.)
- 3) Exempts any school district having an ADA of 400,000 or more from requirements relating to the sale or lease of school property that has a school playground, playing field, or other outdoor recreational purposes and open-space land particularly suited for recreational purposes. (Ed. Code § 17500.)
- 4) Authorizes the compensation of each member of the city board of education or the governing board of a school district with an ADA for the prior year exceeding 400,000, but only if the member attends all meetings held and only in an amount not to exceed \$2,000 per month. (Ed. Code § 35120.)
- 5) Exempts a school district with an ADA of more than 400,000 as of the 2016-17 second principal apportionment from any reduction in state support resulting from excess administrative employees for the 2019-20 fiscal year to the 2021-22 fiscal year. (Ed. Code § 41404.5.)
- 6) Exempts any school district in which the ADA is in excess of 400,000 from state law provisions that deem a substitute or temporary employee who serves during one school year for at least 75 percent of the school year and has performed the duties normally required of a certificated employee of the school district, as a probationary employee when that employee is reemployed for the following school year. (Ed. Code § 44918.)
- 7) Prohibits schools in any school district having an ADA in excess of 400,000 from having a certificated teaching staff, excluding substitutes, that is composed of more than five percent who have only an emergency credential. (Ed. Code § 44928.)
- 8) Prevents layoff provisions from being applicable to probationary certificated employees who are covered by a collective agreement which contains provisions

for the layoff and reassignment of such employees, in a school district with an ADA of 400,000 or more. (Ed. Code § 44959.5.)

- 9) Requires the governing board of a school district with a student population exceeding 400,000 that collects or deducts dues, agency fees, fair share fees, or any other fee or amount of money from the salary of a classified employee for the purpose of transmitting the money to an employee organization, to transmit the money to the employee organization within 15 working days of issuing the paycheck containing the deduction to the employee. (Ed. Code § 45168.5.)
- 10) Exempts a school district, or multiple districts governed by the same governing board, which have a combined ADA in excess of 400,000, from the requirement to provide at least 12 days of sick leave to specified classified employees, provided such districts maintain alternative sick leave policies as specified. (Ed. Code § 45191.)
- 11) Allows a unified school district with an ADA in excess of 400,000 to authorize payment to members of the personnel commission an amount not to exceed \$100 per meeting, and not to exceed \$500 per month. (Ed. Code § 45251.)
- 12) Provides that "length of service," for service commencing or continuing after January 1, 1986, is to be determined by the date of hire in school districts with an ADA of 400,000 or more. (Ed. Code § 45308.)

This bill:

- 1) Lowers the threshold ADA for each of the provisions listed under existing law, above, to 300,000 students.
- 2) Eliminates authorization for up to \$2,000 per month in compensation to be paid to members of the governing board of a school district with an ADA for the prior year exceeding 400,000 who attend all meetings held, and instead authorizes board members in school districts with an ADA for the prior year exceeding 300,000 to receive salaries to be set by the local city charter law or applicable rules and regulations and as determined by a local compensation review committee.
- 3) Requires a school district with a student population exceeding 400,000 that collects or deducts dues, agency fees, fair share fees, or any other fee or amount of money from the salary of a classified employee for the purpose of transmitting the money to an employee organization, to transmit that money to the employee organization within 15 calendar days of issuing the paycheck containing the deduction.
- 4) Strikes an obsolete reference to the city board of education, as no such body exists.

COMMENTS

1. Declining enrollment at LAUSD

The impetus for this bill is a recent drop in ADA at LAUSD. According to the author of the bill:

For the last two decades, Los Angeles Unified is experiencing a trend of declining student enrollment. The patterns of this decline are most often attributed to declining birth rates and migration out of Los Angeles County. However, as a result of the COVID-19 health crisis, Los Angeles Unified is now especially seeing a drop in enrollment – experiencing a loss of 27,000 students or 6 percent of its total student population compared to the 2020-21 levels.

Because of this drop in ADA, absent legislative action, LAUSD may soon fall below the 400,000 student ADA that existing law requires for LAUSD to qualify for a number of specialized provisions in state law. This bill proposes to address the problem by reducing the threshold ADA associated with these specialized provisions from 400,000 to 300,000.

2. The specialized exceptions addressed in the bill would still only apply to LAUSD, at least for the foreseeable future

According to the California Department of Education, LAUSD's enrollment was 596,937 as of the 2019-2020 school year. Meanwhile, LAUSD's nearest rival for size, the San Diego Unified School District, had a mere 122,916 students.¹ Enrollment is not the same as average daily attendance, and public school enrollment everywhere in the state has changed over the course of the pandemic. Nonetheless, given the significant gap between the size of LAUSD and the next largest school districts in California, it appears safe to assume that, even if the lower ADA threshold proposed by this bill were enacted, the specialized provisions addressed in this bill would still apply exclusively to LAUSD for the foreseeable future.

3. Additional changes proposed by the bill

In addition to lowering the threshold ADA for districts to qualify for certain specialized state law provisions, the bill makes two substantive modifications to those provisions.

First, existing state law caps what school districts with more than an ADA above 400,000 can compensate school board members. (Ed. Code § 35120.) That cap is \$2,000 per month. (*Id.*) The Legislature enacted that limitation on school board member

¹ *Largest & Smallest Public School Districts (2019-2020)* California Department of Education <https://www.cde.ca.gov/ds/ad/ceflargesmalldist.asp> (as of Mar. 12, 2022).

compensation in the 1970s. (AB 3100, L. Greene, Ch. 1010, Stats. 1976.) Under the home rule doctrine, however, charter cities are not bound by state law with respect to purely municipal affairs. (Cal. Const., art. XI, § 5(a).) Because Los Angeles is a charter city, LAUSD does not believe that the compensation cap in Education Code Section 35120 applies to it. In fact, LAUSD has long since paid its schoolboard members more than the \$2,000 per month cap written in state law. Currently, those schoolboard members earn \$125,000 per year pursuant to a compensation system set forth in Los Angeles City Charter's Rule 804.²

It seems likely that, were the question ever litigated, courts would probably agree with LAUSD's conclusion that setting schoolboard member compensation is a matter of local concern and that, as a result, LAUSD is not subject to Education Code Section 35120's restrictions. For that reason, it may not make much difference whether LAUSD compensates board members in accordance with Education Code 35120 or not. Nonetheless, harmonizing the Education Code with how LAUSD actually compensates its school board members – as this bill proposes to do – would eliminate any possible doubt about the matter.

Second, the bill proposes a minor substantive adjustment to how quickly LAUSD deducts union membership dues from its employees' paychecks and passes the money along to the unions themselves. Under existing law, LAUSD has 15 *working* days in which to complete this transaction. (Ed. Code § 45168.5.) This bill would have the effect of converting that timeframe to 15 *calendar* days, effectively giving LAUSD slightly less time to convey the deducted membership dues to the unions. Evidently, LAUSD – as sponsor of this bill – is confident in its ability to meet this slightly shorter timeline.

4. Arguments in support of the bill

In summary, proponents of the bill assert that it is necessary to preserve the applicability of existing law to LAUSD in light of falling enrollment.

According to the author:

Existing state law authorizes local educational agencies (LEAs) with an ADA of 400,000 students or more to utilize various statutory provisions that establish the system of governance and funding for public elementary and secondary schools. As the largest school district in California and second largest in the country, these provisions are only applicable to the Los Angeles Unified School District (Los Angeles Unified), given their size and unique circumstances. These provisions are related to authorization

² Blume, L.A. *School Board Salaries More Than Double to \$125,000 a Year* (Jul. 10, 2017) Los Angeles Times <https://www.latimes.com/local/lanow/la-me-school-board-raises-20170710-story.html> (as of Mar. 15, 2022).

to operate single-gender classes under a pilot, the use of school property, terms of employment for school employees, and compensation for governing board members. [...] Due to the overwhelming decline in student enrollment, Los Angeles Unified risks falling under the 400,000 ADA requirement and will be no longer be able to operate under existing laws specifically authorized for LEAs with 400,000 students or more.

As sponsor of the bill, the Los Angeles Unified School District writes:

[SB 913] will enable the District to continue to utilize statutory provisions pertaining to the governance and operations of our schools.

SUPPORT

Los Angeles Unified School District (sponsor)

OPPOSITION

None known

RELATED LEGISLATION

Pending Legislation: None known.

Prior Legislation:

AB 23 (Ridley-Thomas, Ch. 654, Stats. 2017) authorized the continued operation of single gender public schools and classes that were already in existence as of July 1, 2017 in school districts with an average ADA of more than 400,000, subject to specified restrictions, provided that the district has adopted a policy addressing how the district will comply with federal law prohibiting discrimination on the basis of gender, and only until January 1, 2025.

AB 3100 (L. Greene, Ch. 1010, Stats. 1976) set state law restrictions on compensation for local school board members.

PRIOR VOTES:

Senate Education Committee (Ayes 7, Noes 0)
