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NEW LEGISLATION IMPACTS K-12 STUDENT BOARD MEMBERS/ AMONG OTHER THINGS, “PREFERENTIAL VOTING” IS NOW MANDATORY

Two bills recently signed by the Governor impact the role of student trustees in districts maintaining high schools. The bills were “double-joined” so portions of each bill take effect only if the other bill passes.¹

Background on Student Board Members

Under existing law (Education Code section 35012), students in districts maintaining high schools can petition their school boards for appointment of a nonvoting pupil member of the board. The petition must include the signatures of the lesser of (1) at least 500 pupils regularly enrolled in district high schools or (2) 10 percent of students regularly enrolled in district high schools. If a petition is presented, the governing board must order the inclusion of at least one nonvoting pupil member on the board annually and within 60 days of receipt of the petition (or at its next regular meeting if one is not scheduled during the 60-day period). The board in its discretion can order inclusion of more than one nonvoting pupil member.

Pupil board members are to be chosen by pupils enrolled in the high school/high schools of the district in accordance with procedures adopted by the governing board (see CSBA Board Bylaw 9150). They can be less than 18 years old and must be enrolled in high school in the district. Pupil board members serve a one-year term beginning July 1 of each year.

Pupil board members are to be recognized as such and seated with other board members. They have the right to attend all board meetings, except closed sessions. They can receive all materials presented to board members and participate in questioning witnesses and discussing issues. Boards can adopt a resolution permitting pupil members to make motions that can be acted on by the board, except on matters relating to employer-employee relations.

Student board members are entitled to mileage reimbursement to the same extent as regular board members, but they are not entitled to meeting stipends.

¹ Senate Bill 468 and Assembly Bill 261 both proposed legislation relating to pupil board members, and each had an alternative section containing amendments common to both bills. Because SB 468 was chaptered after AB 261, SB 468 takes precedence.

Section 35012 states that elimination of a pupil member position requires a majority vote of all board members on a motion listed as a public agenda item.

Preferential Voting

Under existing law, students had the option of bringing a petition to allow “preferential voting” for the pupil member, whether in the initial or a subsequent petition. Preferential voting rights permit the pupil board member(s) to formally express an opinion on open session matters before the governing board votes. Preferential votes are recorded in the minutes but do not count toward determining the outcome.

The New Legislation

SB 468 was sponsored by the California Association of Student Councils. There was no opposition on file. The Senate Rules Committee Analysis stated, “This bill gives student members of school district governing boards a greater voice on issues considered by the governing board, yet does not allow a student’s vote to determine the final outcome of a vote.”

Under this legislation, Education Code section 35012 is revised to automatically afford preferential voting rights to all pupil board members; students no longer have to petition the board for preferential voting rights.²

SB 468 specifically requires that pupil board members be invited to staff briefings of board members or be provided with a separate staff briefing within the same timeframe as the staff briefing of board members.³

SB 468 also clarifies that the agenda material provided to pupil members should only consist of open session material, and that the agenda material must be provided to the pupil board member at the same time it is presented to board members (student board members asserted there was a disparity in the distribution of information in some districts).

Please contact our office if you have additional questions concerning this matter.

— Grant Herndon

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² It appears that a district with a currently nonvoting student board member (without preferential voting rights) would be required to afford preferential voting rights to that student after the legislation takes effect on January 1, 2018. If the district is not comfortable with that change, presumably its board could vote to eliminate the student board member position, as authorized in Education Code section 35012. If a subsequent petition is then filed, it would automatically include preferential voting rights.

³ While the new legislation does not say so, it is assumed that student board members should not have access to staff briefings on closed session matters, consistent with the requirements of the Brown Act and the portion of Education Code section 35012 which makes clear that pupil board members do not attend closed sessions of the board.