

AMENDED IN ASSEMBLY APRIL 29, 2002

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL

No. 2425

Introduced by Assembly Member Richman

February 21, 2002

~~An act to amend Section 35400 of the Education Code, relating to school districts.~~ *An act to add Sections 35400.1 and 35400.2 to the Education Code, relating to the Los Angeles Unified School District.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2425, as amended, Richman. *The Los Angeles Unified School District: Inspector General.*

Existing law, until January 1, 2005, authorizes the Los Angeles Unified School District's Office of Inspector General to subpoena witnesses, administer oaths or affirmations, take testimony, and compel the production of all information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence deemed material, relevant, and reasonably related to any inquiry or investigation undertaken by the inspector general when he or she has a reasonable suspicion that a law, regulation, rule, or district policy has been or is being materially violated. *Existing law makes it a crime to knowingly provide the inspector general false information under oath.*

This bill would ~~make technical, nonsubstantive changes to these provisions~~ *set forth additional powers, duties, and responsibilities of the inspector general, would set forth the duties of the school district and other local educational agencies and their officers and employees relating to cooperation with, and reporting to, the inspector general, thus imposing a state-mandated local program. The bill would impose*

the additional penalty of removal from office for interference with or obstruction of investigation of the inspector general.

The bill would require the governing board of the school district to require each entity seeking to contract with the board for goods and services to complete a prequalification questionnaire and would prohibit contracting with an entity that knowingly provides false information on the questionnaire.

This bill would make certain findings and declarations regarding the inapplicability of a general statute within the meaning of Section 16 of Article IV of the California Constitution.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. — Section 35400 of the Education Code is~~
- 2 *SECTION 1. The Legislature finds and declares all of the*
- 3 *following:*
- 4 *(a) The Los Angeles Unified School District projects the need*
- 5 *to construct 85 new schools in the current decade. As a result of*
- 6 *this, the Los Angeles Unified School District will be one of the*
- 7 *largest single sources of contracts for real estate acquisition,*
- 8 *environmental engineering, and public works construction in the*
- 9 *state.*
- 10 *(b) The Los Angeles Unified School District has an annual*
- 11 *operating budget in excess of nine billion dollars*
- 12 *(\$9,000,000,000). The Los Angeles Unified School District is*
- 13 *therefore a major contractor for goods and services from a large*
- 14 *number of vendors, including, but not limited to, consultants.*



1 (c) *Public confidence in the Los Angeles Unified School*
2 *District is critical to maintaining the integrity of the school district*
3 *itself, and the willingness of voters to enact both state and local*
4 *bond measures to fund the Los Angeles Unified School District's*
5 *urgent school construction needs.*

6 (d) *The enactment of this act does not imply any judgment or*
7 *finding as to the current financial condition or fiscal practices of*
8 *the Los Angeles Unified School District. However, there is a*
9 *widespread legitimate public expectation that the funds of the*
10 *school district must be allocated in the most cost-effective manner*
11 *to minimize tax dollar waste or abuse. Consequently, there is a*
12 *need for, both, independent and internal vigilance.*

13 (e) *In enacting this act it is, therefore, the intent of the*
14 *Legislature to recognize that public expenditures of this magnitude*
15 *require increased oversight and safeguards to avoid waste and*
16 *conflicts of interest.*

17 (f) *Due to the unique circumstances concerning the Los*
18 *Angeles Unified School District, it is necessary that the inspector*
19 *general be provided with adequate oversight authority, and the*
20 *Legislature finds and declares that a general statute cannot be*
21 *made applicable within the meaning of Section 16 of Article IV of*
22 *the California Constitution.*

23 SEC. 2. *Section 35400.1 is added to the Education Code, to*
24 *read:*

25 35400.1. (a) *In addition to other powers, duties, and*
26 *responsibilities, set forth in this article, the inspector general shall*
27 *have all of the following powers, duties, and responsibilities:*

28 (1) *The inspector general shall be independent from the*
29 *governing board of the school district, and shall be responsible for*
30 *the investigation of corruption, conflicts of interest, unethical*
31 *conduct, and other misconduct within the school district.*

32 (2) *The inspector general shall receive and investigate*
33 *complaints from any source, or upon his or her own initiative, or*
34 *at the direction of the governing board of the school district,*
35 *regarding alleged acts of corruption or other criminal activity,*
36 *conflicts of interest, unethical conduct, and misconduct within the*
37 *school district, including, but not limited to, the governing board*
38 *of the school district, the office of the Los Angeles County*
39 *Superintendent of Schools, and any subdistricts.*



1 (3) *The inspector general may refer matters involving unethical*
2 *conduct or misconduct as he or she deems appropriate to the*
3 *governing board of the school district, the Los Angeles County*
4 *Superintendent of Schools, or local superintendents, as*
5 *appropriate, for investigation, disciplinary action, or other*
6 *appropriate action.*

7 (4) *The inspector general shall make any other investigation*
8 *and issue-related reports regarding corruption or other criminal*
9 *activity, unethical conduct, conflicts of interest, and misconduct,*
10 *that he or she deems to be in the best interest of the school district.*

11 (5) *The inspector general shall have full and unrestricted*
12 *access to examine, copy or remove any records, information, data,*
13 *reports, plans, projections, matters, contracts, memoranda,*
14 *correspondence, and any other materials of the school district,*
15 *including, but not limited to, those of the governing board of the*
16 *school district, the Los Angeles County Superintendent of Schools,*
17 *local superintendents, advisory boards, oversight committees, and*
18 *any other officer or employee of the school district, except those*
19 *documents or other records that cannot be so disclosed according*
20 *to law.*

21 (b) *The governing board of the school district shall provide*
22 *whatever assistance is necessary and appropriate to enable the*
23 *inspector general to carry out his or her responsibilities.*

24 (c) *The governing board of the school district, the Los Angeles*
25 *County Superintendent of Schools, local superintendents, and all*
26 *heads within the departments or divisions of the school district*
27 *shall ensure the full cooperation of all persons employed or*
28 *supervised by them with investigations or inquiries conducted by*
29 *the inspector general.*

30 (d) *The governing board of the school district, the Los Angeles*
31 *County Superintendent of Schools, and local superintendents*
32 *within the school district shall make available to the inspector*
33 *general facilities, services, personnel, and other assistance as may*
34 *be necessary for the conduct of his or her investigations.*

35 (e) *The governing board of the school district, the Los Angeles*
36 *County Superintendent of Schools, local superintendents within*
37 *the school district, and all other departments or divisions of the*
38 *school district shall provide the inspector general, upon request,*
39 *any and all documents, records, reports, files or other information,*



1 *except those documents or other records that cannot be so*
2 *disclosed according to law.*

3 (f) *Notwithstanding any provision of law to the contrary, to*
4 *ensure full availability of records and documents to the inspector*
5 *general, the governing board of the school district, the Los Angeles*
6 *County Superintendent of Schools, and local superintendents and*
7 *all other school district departments and divisions shall make and*
8 *retain copies of all documents, records or files provided to state or*
9 *federal prosecutors to the extent consistent with federal law, or*
10 *other investigative bodies, pursuant to subpoena or otherwise.*

11 (g) *Every officer or employee of the school district, including,*
12 *but not limited to, the members of the governing board of the*
13 *school district, the Los Angeles County Superintendent of Schools,*
14 *and local superintendents, shall cooperate fully with the inspector*
15 *general.*

16 (h) *The governing board of the school district, the Los Angeles*
17 *County Superintendent of Schools, and local superintendents shall*
18 *not prevent or prohibit the inspector general from initiating,*
19 *carrying out, or completing any audit or investigation or from*
20 *issuing any subpoena during the course of any audit or*
21 *investigation.*

22 (i) *Notwithstanding any provision of law to the contrary, every*
23 *officer and employee of the school district, including, but not*
24 *limited to, the members of the governing board of the school*
25 *district, the Los Angeles County Superintendent of Schools, local*
26 *superintendents, and all other officers and employees of the school*
27 *district shall have the affirmative obligation to report, directly and*
28 *without undue delay, to the inspector general, any and all*
29 *information concerning conduct which they know or should*
30 *reasonably know may involve corrupt or other criminal activity or*
31 *conflict or interest by any of the following:*

32 (1) *An officer or employee of the school district, concerning his*
33 *or her office or employment.*

34 (2) *Any person dealing with the school district, concerning*
35 *workers dealing with the school district.*

36 (j) *In addition to other penalties set forth in this article,*
37 *interference with or obstruction of the inspector general's*
38 *investigations or other functions shall constitute cause for removal*
39 *from office or employment.*



1 SEC. 3. Section 35400.2 is added to the Education Code, to
2 read:

3 35400.2. (a) The governing board of the Los Angeles Unified
4 School District shall require that a prequalification questionnaire
5 be completed by each construction company, engineering firm,
6 consultant, legal firm, product vendor, and any other business
7 entity seeking to contract with the governing board for the
8 furnishing of goods or services. The questionnaire shall solicit
9 information regarding the entity including, but not necessarily
10 limited to, all of the following:

- 11 (1) Experience.
- 12 (2) Quality and timeliness of past performance.
- 13 (3) Reliability and responsibility.
- 14 (4) Compliance with wage, hours, and other fair labor
15 standards.
- 16 (5) Compliance with equal employment requirements.
- 17 (6) Subcontractors used.
- 18 (7) Integrity of the firm and its key personnel.
- 19 (8) Gifts given, or contributions made, to members, alternate
20 members, or employees of the governing board of the school
21 district.

22 (9) Lawsuits filed against the firm and their dispositions.
23 (b) Neither the governing board nor any of its organizational
24 units shall contract or do business with any entity that knowingly
25 provides false information on the prequalification questionnaire.

26 SEC. 4. Notwithstanding Section 17610 of the Government
27 Code, if the Commission on State Mandates determines that this
28 act contains costs mandated by the state, reimbursement to local
29 agencies and school districts for those costs shall be made
30 pursuant to Part 7 (commencing with Section 17500) of Division
31 4 of Title 2 of the Government Code. If the statewide cost of the
32 claim for reimbursement does not exceed one million dollars
33 (\$1,000,000), reimbursement shall be made from the State
34 Mandates Claims Fund.

35 ~~amended to read:~~

36 ~~35400. (a) The Los Angeles Unified School District's~~
37 ~~Inspector General of the Office of the Inspector General is~~
38 ~~authorized to conduct investigations, subpoena witnesses,~~
39 ~~administer oaths or affirmations, take testimony, and compel the~~
40 ~~production of all information, documents, reports, answers,~~



1 records, accounts, papers, and other data and documentary
2 evidence deemed material and relevant and that reasonably relate
3 to the inquiry or investigation undertaken by the inspector general
4 when he or she has a reasonable suspicion that a law, regulation,
5 rule, or district policy has been violated or is being violated. For
6 purposes of this section, “reasonable suspicion” means that the
7 circumstances known or apparent to the inspector general include
8 specific and articulable facts causing him or her to suspect that a
9 material violation of law, regulation, rule, or district policy has
10 occurred or is occurring, and that the facts would cause a
11 reasonable officer in a like position to suspect that a material
12 violation of a law, regulation, rule, or district bulletin has occurred
13 or is occurring.

14 (b) Subpoenas shall be served in the manner provided by law
15 for service of summons. Any subpoena issued pursuant to this
16 section may be subject to challenge pursuant to Chapter 2
17 (commencing with Section 1985) of Title 3 of Part 4 of the Code
18 of Civil Procedure.

19 (c) For purposes of this section, Sections 11184, 11185, 11186,
20 11187, 11188, 11189, 11190, and 11191 of the Government Code
21 shall apply to the subpoenaing of witnesses and documents,
22 reports, answers, records, accounts, papers, and other data and
23 documentary evidence as if the investigation was being conducted
24 by a state department head, except that the applicable court for
25 resolving motions to compel or motions to quash shall be the
26 Superior Court for the County of Los Angeles.

27 (d) Notwithstanding any other provision of law, any person
28 who, after the administration of an oath or affirmation pursuant to
29 this section, states or affirms as true any material matter that he or
30 she knows to be false is guilty of a misdemeanor punishable by
31 imprisonment in a county jail not to exceed six months, by a fine
32 not to exceed five thousand dollars (\$5,000), or by both that fine
33 and imprisonment for the first offense. Any subsequent violation
34 shall be punishable by imprisonment in a county jail not to exceed
35 one year, by a fine not to exceed ten thousand dollars (\$10,000),
36 or by both that fine and imprisonment.

37 (e) The inspector general shall submit an interim report to the
38 Legislature by July 1, 2000, annual interim reports by July 1 of
39 each succeeding year through 2004, and a final cumulative report
40 by December 1, 2004, on all of the following:



- 1 ~~(1) The use and effectiveness of the subpoena power authorized~~
- 2 ~~by this section in the successful completion of the inspector~~
- 3 ~~general's duties.~~
- 4 ~~(2) Any use of the subpoena power in which the issued~~
- 5 ~~subpoena was quashed, including the basis for the court's order.~~
- 6 ~~(3) Any referral to the local district attorney or the Attorney~~
- 7 ~~General in a matter in which the district attorney or Attorney~~
- 8 ~~General declined to investigate the matter further or declined to~~
- 9 ~~prosecute.~~
- 10 ~~(f) This article shall remain in effect only until January 1, 2005,~~
- 11 ~~and as of that date is repealed, unless a later enacted statute, that~~
- 12 ~~is enacted before January 1, 2005, deletes or extends that date.~~

