

AMENDED IN SENATE APRIL 15, 1999

**SENATE BILL**

**No. 993**

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**Introduced by Senator Hayden**

February 26, 1999

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An act to add Sections 17214, ~~17225~~, and 17251.5 to the Education Code, and to add ~~Section 20111.3 to the Public Contract Code~~, relating to education.

LEGISLATIVE COUNSEL'S DIGEST

SB 993, as amended, Hayden. Education: school facilities: Los Angeles Unified School District.

(1) Existing law requires the governing board of a school district, before commencing the acquisition of real property for a new schoolsite or an addition to an existing schoolsite, to evaluate the property at a public hearing using the site selection standards established by the State Department of Education. Existing law requires the State Department of Education to provide school districts information relating to the impact or potential impact upon any schoolsite of hazardous substances, solid waste, safety, and hazardous air emissions.

This bill would require the State Department of Education to consult with the California Environmental Protection Agency to develop guidelines for protecting children's health at all schoolsites. The bill would require the guidelines specifically to address the impacts of toxic exposure on children's health, including the impacts of toxic exposure on children's growth and their developing physiology and neurology. The bill would require the guidelines to be applied

to any schoolsite selection process in which the State Department of Education is involved.

This bill would require the California Environmental Protection Agency, through the Department of Toxic Substances Control or other appropriate agencies, to assess all proposed and existing schoolsites that have an existing toxic contamination problem, including petroleum-based contamination and schoolsites that are currently occupied by pupils. If the California Environmental Protection Agency finds that a schoolsite is not safe for children, the bill would require that schoolsite to be closed until remediation is conducted and it is determined the site is safe. If a schoolsite is not yet occupied, but is under construction, the bill would require an assessment of that site to be completed and if it is declared unsafe, the bill would require the site to be remediated and declared safe before any pupils may enter the schoolsite. The bill would require these actions concerning remediation of schoolsites to be monitored by a citizen, parent, and school employee advisory committee.

~~This bill would prohibit a school district from purchasing or developing a schoolsite for the use of for-profit retail or wholesale ventures of any kind, and would prohibit a schoolsite from being used for operating a for-profit retail or wholesale business.~~

~~(2) Existing law requires the governing board of a school district to let any contract for a public project, as defined to include the construction, reconstruction erection alteration, renovation, improvement, demolition, and repair work involving school facilities, involving an expenditure of \$15,000 or more, to the lowest responsible bidder. Existing law provides for an alternative optional procedure on bidding on building construction projects that is based on a design and build basis and is applicable to certain counties, the cities of Davis and Sacramento, the Regents of the University of California, and certain state projects.~~

~~This bill would prohibit a school district with an average daily attendance in excess of 3,000,000 units from using a design build form of contract for the construction of school facilities and it to request separate bids for the design and the construction phases of a project.~~



~~(3) This bill would require the California State Auditor to undertake a feasibility and cost effectiveness study of the possible separation of the educational mission from real estate and toxic cleanup functions at the Los Angeles Unified School District. The bill would require the Joint Legislative Audit Committee to hold hearings on a reorganization of the Los Angeles Unified School District that would separate the district's educational mission from its real estate and toxic cleanup functions.~~

~~The bill would require the Los Angeles Unified School District, in order to qualify for state funding, to establish an independent Office of Inspector General that would investigate, monitor and correct patterns of wrongdoing, conflicts of interest, and inefficient waste of taxpayer funds by the district.~~

The bill would require the Los Angeles Unified School District to establish a Children's Environmental Health Unit as a separate and independent unit within the district, thereby imposing a state-mandated local program. The unit would be composed of personnel with expertise in the public health impacts of toxic exposures on children and children's health, growth and development. The unit would establish an advisory panel of public health professionals with expertise in children's health. The bill would require the Los Angeles Unified School District to consult with the unit regarding all discretionary projects undertaken by the district that may affect children's health or the health of district employees. The bill would prohibit the Los Angeles Unified School District from purchasing, leasing, or otherwise acquiring a schoolsite without a finding from the Children's Environmental Health Unit that the site is free of health hazards and does not pose any risk to children's health or to the health of district employees.

~~(4)~~

(2) 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 these statutory provisions.

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

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

1 SECTION 1. Section 17214 is added to the Education  
2 Code, to read:

3 17214. (a) The California Environmental Protection  
4 Agency, through the Department of Toxic Substances  
5 Control or other appropriate agencies, shall assess all  
6 proposed and existing schoolsites that have an existing  
7 toxic contamination problem, including petroleum-based  
8 contamination and schoolsites that are currently  
9 occupied by pupils. If the California Environmental  
10 Protection Agency finds that a schoolsite is not safe for  
11 children, based on children's health standards, that  
12 schoolsite shall be closed until remediation is conducted  
13 and the California Environmental Protection Agency  
14 determines the site is safe.

15 (b) If a schoolsite is not yet occupied, but is under  
16 construction, the California Environmental Protection  
17 Agency shall complete an assessment of that site based on  
18 children's health standards. If the California  
19 Environmental Protection Agency declares the site is  
20 unsafe, it shall be remediated and declared safe by the  
21 California Environmental Protection Agency before any  
22 pupils may enter the schoolsite.

23 (c) The California Environmental Protection  
24 Agency's actions concerning remediation of a schoolsite  
25 pursuant to this section shall be monitored by a local  
26 citizen, parent, and school employee advisory  
27 committee. The committee shall be comprised of three  
28 representatives from community-based organizations  
29 that have demonstrated experience in seeking



1 prevention of toxic hazards at schoolsites and appointed  
2 by the California Environmental Protection Agency,  
3 three representatives chosen by the local parent-teacher  
4 organization, two persons representing school  
5 employees, and one person representing the school  
6 district. The advisory committee shall have access to all  
7 geotechnical and environmental assessment reports  
8 concerning the local site.

9 ~~SEC. 2. Section 17225 is added to the Education Code,~~  
10 ~~to read:~~

11 ~~17225. A school district may not purchase or develop~~  
12 ~~any schoolsites for the use of for-profit retail and~~  
13 ~~wholesale business ventures of any kind. A schoolsite may~~  
14 ~~not be used for the purpose of operating a for-profit retail~~  
15 ~~or wholesale business.~~

16 ~~SEC. 3. Section 17251.5 is added to the Education~~  
17 ~~Code, to read:~~

18 ~~17251.5. The State Department of Education shall~~  
19 ~~consult with the California Environmental Protection~~  
20 ~~Agency to develop guidelines for protecting children's~~  
21 ~~health at all schoolsites. These guidelines shall be~~  
22 ~~complete on or before January 1, 2001, and shall be~~  
23 ~~applied to the schoolsite selection process under Section~~  
24 ~~17251, as well as to all other schoolsite selection processes~~  
25 ~~in which the State Department of Education is involved.~~  
26 ~~The guidelines shall specifically address the impact of~~  
27 ~~toxic exposure on children's health, including, but not~~  
28 ~~limited to, the impact of toxic exposure on children's~~  
29 ~~growth and their developing physiology and neurology.~~

30 ~~SEC. 4. Section 20111.3 is added to the Public~~  
31 ~~Contract Code, to read:~~

32 ~~20111.3. A school district with an average daily~~  
33 ~~attendance in excess of 3,000,000 units may not use a~~  
34 ~~design-build form of contract for the construction of~~  
35 ~~school facilities and shall request separate bids for the~~  
36 ~~design and construction phases of a project.~~

37 ~~SEC. 5. The Legislature finds and declares all of the~~  
38 ~~following:~~

39 ~~(a) The primary mission of any school district is the~~  
40 ~~education, development, health, and safety of its pupils.~~



1 ~~(b) The Los Angeles Unified School District is~~  
2 ~~besieged by issues of real estate acquisition and toxic~~  
3 ~~contamination at the expense of time, energy and~~  
4 ~~resources that must be focused on educational~~  
5 ~~development of its pupils.~~

6 ~~(c) The Los Angeles Unified School District is the~~  
7 ~~second largest district in the United States, with a budget~~  
8 ~~of approximately seven billion dollars (\$7,000,000,000);~~  
9 ~~with 700,000 pupils at 670 schoolsites, and is embarked on~~  
10 ~~a multibillion dollar school construction program over the~~  
11 ~~coming decade.~~

12 ~~(d) There have been repeated incidents and~~  
13 ~~allegations involving waste of taxpayer funds,~~  
14 ~~conflicts of interest, excessive secrecy, lack of~~  
15 ~~accountability, and wrongdoing at the Los Angeles~~  
16 ~~Unified School District over the past several years,~~  
17 ~~eclipsing the district's positive achievements and~~  
18 ~~undermining public confidence in the effectiveness and~~  
19 ~~integrity of the district.~~

20 ~~(e) The State of California spends billions of taxpayer~~  
21 ~~dollars for educational access and quality.~~

22 ~~(f) It is in the best interest of education that issues of~~  
23 ~~real estate acquisition and toxic contamination be~~  
24 ~~decoupled from the organizational structure and budget~~  
25 ~~of the Los Angeles Unified School District.~~

26 ~~SEC. 6. (a) The State Auditor shall undertake a~~  
27 ~~feasibility and cost-effectiveness study of the possible~~  
28 ~~separation of the educational mission from real estate and~~  
29 ~~toxic cleanup functions at the Los Angeles Unified School~~  
30 ~~District. The State Auditor shall consult widely with~~  
31 ~~educational organizational experts in the conduct of its~~  
32 ~~study. The California State Auditor shall complete its~~  
33 ~~report no later than January 1, 2001, for consideration by~~  
34 ~~the Legislature and the Los Angeles Unified School~~  
35 ~~District.~~

36 ~~(b) The Joint Legislative Audit Committee shall hold~~  
37 ~~open, inclusive hearings to allow full discussion of a~~  
38 ~~reorganization of the Los Angeles Unified School District~~  
39 ~~that would separate the district's educational mission~~  
40 ~~from its real estate and toxic cleanup functions.~~



1 ~~SEC. 7. (a) In order to qualify for state school~~  
2 ~~facilities funding, the Los Angeles Unified School District~~  
3 ~~shall establish an independent Office of Inspector~~  
4 ~~General that shall investigate, monitor, and correct~~  
5 ~~patterns of alleged wrongdoing, conflicts-of-interest, and~~  
6 ~~inefficient waste of taxpayer funds by the district.~~

7 ~~(b) The Office of Inspector General shall be~~  
8 ~~established by an affirmative vote of four members of the~~  
9 ~~governing board of the school district. The Inspector~~  
10 ~~General may only be removed from office for cause, after~~  
11 ~~public hearings, by a vote of five members of the~~  
12 ~~governing board of the school district.~~

13 ~~(c) The Inspector General shall be provided the staff~~  
14 ~~that is necessary to competently perform his or her~~  
15 ~~mission, including a professional investigative and~~  
16 ~~auditing staff. The Los Angeles Unified School District~~  
17 ~~may reassign any qualified existing staff for these~~  
18 ~~functions.~~

19 ~~(d) The Inspector General shall have broad subpoena~~  
20 ~~powers.~~

21 ~~(e) The priorities of the Inspector General shall be~~  
22 ~~examination of all contracts, subcontracts, and personnel~~  
23 ~~matters for evidence of waste, fraud, abuse, or criminal~~  
24 ~~wrongdoing. The Inspector General shall have access,~~  
25 ~~upon request, to any and all documents within the Los~~  
26 ~~Angeles Unified School District.~~

27 ~~(f) The Inspector General shall receive and may~~  
28 ~~investigate allegations made by Los Angeles Unified~~  
29 ~~School District employees or the general public.~~  
30 ~~Confidentiality procedures shall be established in order~~  
31 ~~to prevent the possibility of retaliation.~~

32 ~~(g) The Inspector General shall serve for a term of five~~  
33 ~~years, after which he or she may be reappointed, during~~  
34 ~~a public hearing, by affirmative vote of four members of~~  
35 ~~the governing board of the school district.~~

36 ~~SEC. 8.—~~

37 ~~SEC. 3. (a) The Los Angeles Unified School District~~  
38 ~~shall establish the Children’s Environmental Health Unit~~  
39 ~~as a separate and independent unit within the district~~



1 which shall report directly to the superintendent of the  
2 district and the governing board of the school district.

3 (b) The Children's Environmental Health Unit shall  
4 be composed of personnel with expertise in the public  
5 health impacts of toxic exposures on children and  
6 children's health, growth, and development. The director  
7 of the unit shall have a doctorate in public health,  
8 medicine, toxicology, or a related field. This unit shall not  
9 share any personnel with the real estate acquisition unit  
10 of the school district.

11 (c) The unit shall establish an advisory panel of public  
12 health professionals with expertise in children's health  
13 which shall meet regularly.

14 (d) All agencies within the Los Angeles Unified School  
15 District shall comply with a request for documents from  
16 the unit.

17 (e) The Los Angeles Unified School District shall  
18 consult with the unit regarding all discretionary projects  
19 undertaken by the district that may affect children's  
20 health or the health of district employees.

21 (f) Phase Two environmental assessments conducted  
22 on behalf of the Los Angeles Unified School District shall  
23 not be deemed complete without review and approval of  
24 the assessment report by the Children's Environmental  
25 Health Unit.

26 (g) All reports produced by the Children's  
27 Environmental Health Unit shall be available to  
28 members of the public, upon request and payment of  
29 reproduction costs.

30 (h) The Los Angeles Unified School District shall not  
31 purchase, lease, or otherwise acquire a schoolsite without  
32 a finding from the Children's Environmental Health Unit  
33 that the site is free of health hazards and does not pose any  
34 risk to children's health or to the health of district  
35 employees.

36 ~~SEC. 9.—~~

37 *SEC. 4.* The Legislature finds and declares that, for  
38 ~~Sections 6, 7, and 8~~ *Section 3* of this act, a special law is  
39 necessary and that a general law cannot be made  
40 applicable within the meaning of Section 16 of Article IV



1 of the California Constitution because of the unique  
2 circumstances of the Los Angeles Unified School District.  
3 The facts constituting the special circumstances are those  
4 set forth in Section 5 of this act.

5 ~~SEC. 10.~~—

6 *SEC. 5.* Notwithstanding Section 17610 of the  
7 Government Code, if the Commission on State Mandates  
8 determines that this act contains costs mandated by the  
9 state, reimbursement to local agencies and school  
10 districts for those costs shall be made pursuant to Part 7  
11 (commencing with Section 17500) of Division 4 of Title  
12 2 of the Government Code. If the statewide cost of the  
13 claim for reimbursement does not exceed one million  
14 dollars (\$1,000,000), reimbursement shall be made from  
15 the State Mandates Claims Fund.

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