

Senate Bill No. 1360

CHAPTER 750

An act to amend Sections 35400 and 35401 of the Education Code, relating to the Los Angeles Unified School District.

[Approved by Governor September 26, 2000. Filed with Secretary of State September 27, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1360, Hayden. Los Angeles Unified School District.

Existing law, until January 1, 2001, authorizes the Los Angeles Unified School District's Director of the Internal Audit and Special Investigations Unit 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 and relevant to any inquiry or investigation undertaken by the director in the performance of his or her duties. Existing law requires the director to submit a report to the Legislature by July 1, 2000, and a final report by December 1, 2000, regarding the use and effectiveness of the subpoena power.

This bill would extend those provisions and the inspector general's authority to conduct investigations to January 1, 2005, and would revise the name of that unit to the Office of the Inspector General and the title of the director to the inspector general. The bill would authorize the inspector general to compel the production of data and documentary evidence deemed material, relevant, and that reasonably relate to an inquiry or investigation when he or she has a reasonable suspicion that a law, regulation, rule, or district policy has been or is being materially violated.

The bill would require the inspector general to submit annual interim reports to the Legislature by July 1 of each succeeding year through 2004 and would extend submission of the final report to December 1, 2004. The bill would specify the subject matters to be addressed in the reports.

The bill would provide that, with certain exceptions, any disclosure of information by the inspector general or that office that was acquired pursuant to a subpoena of the private books, documents, or papers of the person subpoenaed, is punishable as a misdemeanor, thereby creating a state-mandated local program.

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.

This bill would provide that no reimbursement is required by this act for a specified reason.

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

SECTION 1. Section 35400 of the Education Code is amended to read:

35400. (a) The Los Angeles Unified School District's Inspector General of the Office of the Inspector General is authorized to conduct investigations, 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 and relevant and that reasonably relate to the 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 violated or is being violated. For purposes of this section, "reasonable suspicion" means that the circumstances known or apparent to the inspector general include specific and articulable facts causing him or her to suspect that a material violation of law, regulation, rule, or district policy has occurred or is occurring, and that the facts would cause a reasonable officer in a like position to suspect that a material violation of a law, regulation, rule, or district bulletin has occurred or is occurring.

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

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

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



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

(1) The use and effectiveness of the subpoena power authorized by this section in the successful completion of the inspector general's duties.

(2) Any use of the subpoena power in which the issued subpoena was quashed, including the basis for the court's order.

(3) Any referral to the local district attorney or the Attorney General where the district attorney or Attorney General declined to investigate the matter further or declined to prosecute.

(f) This article shall remain in effect only until January 1, 2005, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2005, deletes or extends that date.

SEC. 2. Section 35401 of the Education Code is amended to read:

35401. (a) If the inspector general determines that there is reasonable cause to believe that an employee or outside agency has engaged in any illegal activity, he or she shall report the nature and details of the activity on a timely basis to the local district attorney or the Attorney General.

(b) The inspector general shall not have any enforcement power.

(c) Every investigation shall be kept confidential, except that the inspector general may issue any report of an investigation that has been substantiated, keeping confidential the identity of the individual or individuals involved, or release any findings resulting from an investigation conducted pursuant to this article that is deemed necessary to serve the interests of the district.

(d) This section shall not limit any authority conferred upon the Attorney General or any other department or agency of government to investigate any matter.

(e) Except as authorized in this section, or when called upon to testify in any court or proceeding at law, any disclosure of information by the inspector general or that office that was acquired pursuant to a subpoena of the private books, documents, or papers of the person subpoenaed, is punishable as a misdemeanor.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

