

ASSEMBLY BILL

No. 174

Introduced by Assembly Member Carter

January 29, 2009

An act to amend Sections 35706, 35707, 35710, and 35711 of, and to add Sections 35520.5 and 35710.3 to, the Education Code, relating to school district reorganization.

LEGISLATIVE COUNSEL'S DIGEST

AB 174, as introduced, Carter. School district reorganization.

(1) Existing law prescribes the procedure to reorganize school districts, including the filing of a petition with the county superintendent of schools by specified persons. Existing law authorizes a county committee on school district reorganization to approve petitions to transfer territory, other than petitions to transfer uninhabited territory from one district to another, or to transfer inhabited territory of less than 10% of the assessed valuation of the district from which the territory is being transferred, if it finds that certain specified conditions substantially are met. Existing law requires the committee, if it approves such a petition, to notify the county superintendent of schools, who in turn is required to call an election in the territory of the districts, as determined by the county committee, to be conducted at the next election of any kind in accordance with specified statutory provisions regarding elections.

This bill would authorize a county committee to approve a petition to form one or more school districts if specified conditions are met, including the granting of approval authority by each county superintendent of schools with jurisdiction over an affected school district that elects to grant approval authority to the county committee

on school district reorganization for which he or she is secretary, the governing board of each of the affected school districts consents to the petition, and the secretary of the county committee designated as the lead agency for purposes of the California Environmental Quality Act (CEQA), as specified, enters into an agreement on behalf of the county committee for any or all affected school districts to share among those districts the costs of complying with CEQA requirements and serving as the lead agency.

(2) Existing law requires a county superintendent of schools to transmit petitions to transfer territory simultaneously to the county committee and to the State Board of Education within 30 days after the petitions are filed.

This bill would apply that requirement to petitions to form one or more school districts pursuant to the bill.

(3) CEQA requires a lead agency, as defined, to prepare, or cause to be prepared by contract, and certify the completion of, an environmental impact report on a project, as defined, that may have a significant effect on the environment, or to adopt a negative declaration if it finds that the project will not have that effect.

This bill would designate the county committee as the lead agency for purposes of CEQA for petitions to transfer territory and petitions to form one or more school districts that the committee considers, except as specified.

(4) Existing law requires county officers or agencies to conduct proceedings or take actions in each of the counties involved in an action to reorganize school districts which are located in more than one county and are under the jurisdiction of different county superintendents of schools.

This bill would specify the manner for selecting the lead agency, as defined, for purposes of CEQA with regard to multicounty reorganization actions.

(5) Existing law requires a county committee to recommend approval or disapproval of a petition for unification of school districts or for the division of the territory of an existing school district into 2 or more separate school districts, or to approve or disapprove a petition for the transfer of territory, within 120 days of the commencement of the first public hearing on the petition.

This bill would require that, for the approval or disapproval of specified petitions, the 120-day period would commence after

certification of an environmental impact report, approval of a negative declaration, or a determination that the project is exempt from CEQA.

(6) Existing law requires a county committee to expeditiously transmit petitions to reorganize school districts, not including petitions to transfer territory, to the state board together with its recommendations thereon. Existing law requires the state board to conduct hearings regarding those petitions and recommendations pursuant to specified statutory provisions.

This bill would apply those requirements to petitions to form one or more school districts pursuant to the bill that are not approved by the county committee and would designate the state board as the lead agency, as defined, for purposes of CEQA for those petitions.

(7) Existing law authorizes a person to appeal, within 30 days, a decision based on an finding of the county committee that a proposed action to transfer territory will not adversely affect the racial or ethnic integration of the schools of the school districts affected.

This bill would extend that appeal authority to a decision based on an identical finding regarding a proposed action to form one or more school districts pursuant to the bill.

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

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

1 SECTION 1. Section 35520.5 is added to the Education Code,
2 to read:
3 35520.5. (a) For a petition described in Section 35521, the
4 county superintendents of schools of the affected counties by
5 mutual agreement shall determine which county committee shall
6 be designated the lead agency, as defined in Section 21067 of the
7 Public Resources Code, for purposes of the California
8 Environmental Quality Act (Division 13 (commencing with Section
9 21000) of the Public Resources Code).
10 (b) If an agreement is not attained pursuant to subdivision (a)
11 within 30 days of the filing of the petition pursuant to Section
12 35700, the lead agency for purposes of the California
13 Environmental Quality Act (Division 13 (commencing with Section
14 21000) of the Public Resources Code) shall be the county
15 committee for which the county superintendent of schools, serving
16 as the secretary of the committee pursuant to Section 4012, has

1 the greatest number of pupils under his or her jurisdiction, as
2 compared to the other affected counties, in the territory proposed
3 for reorganization.

4 SEC. 2. Section 35706 of the Education Code is amended to
5 read:

6 35706. (a) Within 120 days of the commencement of the first
7 public hearing on the petition, the county committee shall
8 recommend approval or disapproval of a petition for unification
9 of school districts or for the division of the territory of an existing
10 school district into two or more separate school districts, as the
11 petition may be augmented, or shall approve or disapprove a
12 petition for the transfer of territory, as the petition may be
13 augmented.

14 (b) *The 120-day period for approving or disapproving a petition*
15 *pursuant to Section 35709 or 35710 shall commence after*
16 *certification of an environmental impact report, approval of a*
17 *negative declaration, or a determination that the project is exempt*
18 *from the California Environmental Quality Act (Division 13*
19 *(commencing with Section 21000) of the Public Resources Code).*

20 SEC. 3. Section 35707 of the Education Code is amended to
21 read:

22 35707. (a) Except for petitions for the transfer of ~~territory,~~
23 ~~territory or petitions to form one or more school districts that meet~~
24 ~~the conditions described in subdivision (b) of Section 35710,~~ the
25 county committee ~~shall~~ expeditiously *shall* transmit the petition
26 to the ~~State Board of Education~~ *state board* together with its
27 recommendations ~~thereon on the petition.~~ It ~~shall~~ also *shall* report
28 whether any of the following, in the opinion of the committee,
29 would be true regarding the proposed reorganization as described
30 in the petition:

31 (1) ~~It would~~ adversely *would* affect the school district
32 organization of the county.

33 (2) It would comply with ~~the provisions of~~ Section 35753.

34 (b) Petitions for transfers of territory *and petitions to form one*
35 *or more school districts that meet the conditions described in*
36 *subdivision (b) of Section 35710* shall be transmitted pursuant to
37 Section 35704.

38 SEC. 4. Section 35710 of the Education Code is amended to
39 read:

1 35710. (a) For all other petitions to transfer territory, if the
2 county committee finds that the conditions enumerated in
3 paragraphs (1) to (10), inclusive, of subdivision (a) of Section
4 35753 are substantially met, the county committee may approve
5 the petition and, if approved, shall notify the county superintendent
6 of schools who shall call an election in the territory of the districts
7 as determined by the county committee, to be conducted at the
8 next election of any kind in accordance with either of the following:

9 ~~(a)–~~

10 (1) Section 1002 of the Elections Code and Part 4 (commencing
11 with Section 5000) of *Division 1 of Title 1*.

12 ~~(b)–~~

13 (2) Division 4 (commencing with Section 4000) of the Elections
14 Code.

15 (b) A county committee also may approve a petition to form one
16 or more school districts if the requirements of subdivision (a), and
17 the following conditions, are met:

18 (1) Each county superintendent of schools with jurisdiction over
19 an affected school district elects to grant approval authority to
20 the county committee on school district organization for which he
21 or she is secretary pursuant to Section 4012, and that county
22 committee chooses to accept that authority.

23 (2) The governing board of each of the affected school districts
24 consents to the petition.

25 (3) The secretary of the county committee designated as the
26 lead agency pursuant to Section 35710.3 or subdivision (a) of
27 Section 35520.5 enters into an agreement on behalf of the county
28 committee for any or all affected school districts to share among
29 those districts the costs of complying with the requirements of the
30 California Environmental Quality Act (Division 13 (commencing
31 with Section 21000) of the Public Resources Code).

32 (c) A petition to form one or more school districts that meets
33 the conditions described in subdivision (b), but is not approved by
34 the county committee, shall be transmitted to the state board
35 pursuant to subdivision (a) of Section 35707 and heard by the state
36 board pursuant to Section 35708. The state board, rather than the
37 county committee, shall be the lead agency, as defined in Section
38 21067 of the Public Resources Code, for purposes of the California
39 Environmental Quality Act (Division 13 (commencing with Section
40 21000) of the Public Resources Code) for each petition transmitted

1 *pursuant to this subdivision, including a petition disapproved by*
2 *the county committee after determining the project is exempt from*
3 *the California Environmental Quality Act pursuant to paragraph*
4 *(5) of subdivision (b) of Section 21080 of the Public Resources*
5 *Code.*

6 SEC. 5. Section 35710.3 is added to the Education Code, to
7 read:

8 35710.3. A county committee shall be the lead agency, as
9 defined in Section 21067 of the Public Resources Code, for
10 purposes of the California Environmental Quality Act (Division
11 13 (commencing with Section 21000) of the Public Resources
12 Code) for each petition it considers pursuant to Sections 35709
13 and 35710, unless the state board is the lead agency pursuant to
14 subdivision (c) of Section 35710.

15 SEC. 6. Section 35711 of the Education Code is amended to
16 read:

17 35711. ~~Any~~ (a) A person questioning the finding of the county
18 committee pursuant to Section 35709 or 35710 that the ~~proposed~~
19 ~~action to transfer of territory or form one or more school districts~~
20 will not adversely affect the racial or ethnic integration of the
21 schools of the districts affected, may appeal a decision ~~made upon~~
22 ~~such a~~ based on that finding. The appeal shall be made to the State
23 ~~Board of Education~~ state board within 30 days. The appeal shall
24 be based upon factual and statistical evidence.

25 If

26 (b) ~~If the State Board of Education~~ state board denies the appeal,
27 the decision of the county committee shall stand. If the ~~State Board~~
28 ~~of Education~~ state board approves the appeal, it shall review the
29 findings of the county committee at a regular meeting of the state
30 board.

31 ~~The State Board of Education~~

32 (c) The state board shall notify the county committee on its
33 decision on the appeal. If the ~~State Board of Education~~ state board
34 approves the appeal, the county committee shall transmit a copy
35 of the proceedings to the ~~State Board of Education~~ state board
36 within 30 days after receipt of notice. The ~~State Board of Education~~
37 state board shall review the transcript, considering all factors
38 involved. The ~~State Board of Education~~ state board may reverse,
39 or may affirm, the decision of the county committee, or if it appears
40 that inadequate consideration was given to the effect of the transfer

- 1 on integration of the schools of the districts affected, it shall direct
- 2 the county committee to reconsider its decision and for this purpose
- 3 to hold another hearing.

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