

Senate Bill No. 82

CHAPTER 879

An act to amend Sections 7054, 7056, and 35107 of, to add Sections 7054.1 and 7058 to, and to repeal Sections 35174 and 72632 of, the Education Code, relating to schools.

[Approved by Governor October 13, 1995. Filed
with Secretary of State October 16, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 82, Kopp. School districts and community colleges: governing boards: ballot measure or candidate.

(1) Existing law authorizes the governing board of any school district or community college district or any member of the governing board of a school district or community college district to prepare or disseminate information or make public or private appearances or statements for the purpose of urging the passage or defeat of any school measure, as defined, of that district.

This bill would repeal these provisions. This bill would also make it a misdemeanor or felony, punishable as specified, to use school district or community college district funds, services, supplies, or equipment for the purpose of urging the support or defeat of any ballot measure or candidate, including, but not limited to, any candidate for election to the governing board of the district, thereby imposing a state-mandated local program. The bill would specify that it would not prohibit the use of the aforementioned public resources to provide information to the public about the possible effects of any bond issue or other ballot measure if specified conditions are met. The bill would also specify that nothing in the provisions of law on political activities of school officers and employees shall prohibit the use of a forum under the control of the governing board of a school district or community college district if the forum is made available to all sides on an equitable basis. The bill would also provide that nothing in the provisions of law on the political activities of school officers and employees shall be construed to prohibit any administrative officer or board member of a school district or community college district from appearing before a citizens' group that requests the appearance of the officer or board member for specified purposes.

(2) Existing law provides that an officer or employee of a local agency is not prevented from soliciting or receiving political funds or contributions to promote the passage or defeat of specified ballot measures. Existing law authorizes the local agency to prohibit or limit these activities by its employees during their working hours and



authorizes the local agency to prohibit or limit entry into buildings and grounds under the control of the local agency for those purposes during working hours.

This bill would instead prohibit the aforementioned activities from taking place during working hours and would prohibit entry into buildings and grounds under the control of a local agency for those purposes during working hours.

(3) Existing law does not authorize the imposition of limitations on the number of terms that a person may serve on the governing board of a school district.

Under existing law, the governing board of a school district is responsible for all personnel matters in the school district relative to a person's employment with the district, including hiring, dismissal, and classification.

This bill would make 2 changes related to the governing boards of school districts and would state the intent of the Legislature as to those changes. First, the bill would expressly authorize the governing board of a school district or the residents of the school district to submit a proposal to the electors to limit or repeal a limit on the number of terms a member of the governing board of a school district may serve. The bill would require that a term limit proposal apply prospectively only, and would make the operation of the proposal contingent upon the approval of the proposal by a majority of the votes cast on the question at a regularly scheduled election. Since the bill would create additional duties for local election officials, the bill would impose a state-mandated local program. The bill would also require, as of January 1, 1996, a member of the governing board of a school district to abstain from voting on personnel matters that uniquely affect a relative of the member, as defined, but would permit the member to vote on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs.

(4) 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 or mandates which do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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

However, the bill would provide that, if the Commission on State Mandates determines that this bill contains other costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be payable from the State Mandates Claims Fund.



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

SECTION 1. (a) The Legislature hereby finds and declares that, in a democratic society, the use of public funds in election campaigns is unjustified and inappropriate. No public entity should presume to use money derived from the whole of taxpayers to support or oppose ballot measures or candidates.

(b) However, it is not the intent of the Legislature, in enacting this act, to restrict the political activities of officers or employees of a school district or community college district except as provided in Article 2 (commencing with Section 7050) of Chapter 1 of Part 5 of the Education Code or as may be necessary to meet specified requirements of federal law. It is further not the intent of the Legislature, in enacting this act, to prohibit the ability of a governing board of a school district or a community college district or a member of either of those boards from preparing or disseminating information or making public or private appearances or statements for the purpose of urging the support or defeat of any ballot measure or candidate of the appropriate district by means of, or in circumstances that do not involve the use of, public funds. If no public funds are used, the governing board of a school district or a community college district would be authorized to prepare or disseminate information or make public or private appearances or statements for the purpose of urging the support or defeat of any ballot measure or candidate. The right of speech of any member of a governing board of a school district or community college district or any employee thereof is in no manner affected by this act.

SEC. 2. Section 7054 of the Education Code is amended to read:

7054. (a) No school district or community college district funds, services, supplies, or equipment shall be used for the purpose of urging the support or defeat of any ballot measure or candidate, including, but not limited to, any candidate for election to the governing board of the district.

(b) Nothing in this section shall prohibit the use of any of the public resources described in subdivision (a) to provide information to the public about the possible effects of any bond issue or other ballot measure if both of the following conditions are met:

(1) The informational activities are otherwise authorized by the Constitution or laws of this state.

(2) The information provided constitutes a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding the bond issue or ballot measure.

(c) A violation of this section shall be a misdemeanor or felony punishable by imprisonment in the county jail not exceeding one year or by a fine not exceeding one thousand dollars (\$1,000), or by both, or imprisonment in a state prison for 16 months, or two or three years.



SEC. 3. Section 7054.1 is added to the Education Code, to read:

7054.1. Nothing in this article shall be construed as prohibiting any administrative officer or board member of a school district or community college district from appearing at any time before a citizens' group that requests the appearance of the officer or board member for purposes of discussing the reasons why the governing board of the district called an election to submit to the voters of the district a proposition for the issuance of bonds and for purposes of responding to inquiries from the citizens' group.

SEC. 4. Section 7056 of the Education Code is amended to read:

7056. (a) Nothing in this article prevents an officer or employee of a local agency from soliciting or receiving political funds or contributions to promote the support or defeat a ballot measure that would affect the rate of pay, hours of work, retirement, civil service, or other working conditions of officers or employees of the local agency. These activities are prohibited during working hours. In addition, entry into buildings and grounds under the control of a local agency for such purposes during working hours is also prohibited.

(b) Nothing in this section shall be construed to prohibit any recognized employee organization or its officers, agents, and representatives from soliciting or receiving political funds or contributions from employee members to promote the support or defeat of any ballot measure on school district property or community college district property during nonworking time. As used in this subdivision, "nonworking time" means time outside an employee's working hours, whether before or after school or during the employee's luncheon period or other scheduled work intermittency during the schoolday.

SEC. 5. Section 7058 is added to the Education Code, to read:

7058. Nothing in this article shall prohibit the use of a forum under the control of the governing board of a school district or community college district if the forum is made available to all sides on an equitable basis.

SEC. 6. Section 35107 of the Education Code is amended to read:

35107. (a) Any person, regardless of sex, who is 18 years of age or older, a citizen of the state, a resident of the school district, a registered voter, and who is not disqualified by the Constitution or laws of the state from holding a civil office, is eligible to be elected or appointed a member of a governing board of a school district without further qualifications.

(b) (1) An employee of a school district may not be sworn into office as an elected or appointed member of that school district's governing board unless and until he or she resigns as an employee. If the employee does not resign, the employment will automatically terminate upon being sworn into office.

(2) For any individual who is an employee of a school district and an elected or appointed member of that school district's governing



board prior to January 1, 1992, this subdivision shall apply when he or she is reelected or reappointed, on or after January 1, 1992, as a member of the school district's governing board.

(c) Notwithstanding any other provision of law, the governing board of a school district may adopt or the residents of the school district may propose, by initiative, a proposal to limit or repeal a limit on the number of terms a member of the governing board of the school district may serve on the governing board of the school district. Any proposal to limit the number of terms a member of the governing board of the school district may serve on the governing board of the school district shall apply prospectively only and shall not become operative unless it is submitted to the electors of the school district at a regularly scheduled election and a majority of the votes cast on the question favor the adoption of the proposal.

(d) (1) An initiative measure proposed pursuant to subdivision (c) shall be subject to the procedures set forth in Chapter 4 (commencing with Section 9300) of Division 9 of the Elections Code.

(2) A proposal submitted to the electors by the governing board pursuant to subdivision (c) shall be subject to the procedures set forth in Chapter 6 (commencing with Section 9500) of Division 9 of the Elections Code.

(e) A member of the governing board of a school district shall abstain from voting on personnel matters that uniquely affect a relative of the member but may vote on collective bargaining agreements and personnel matters that affect a class of employees to which the relative belongs. For purposes of this section, "relative" means an adult who is related to the person by blood or affinity within the third degree, as determined by the common law, or an individual in an adoptive relationship within the third degree.

SEC. 7. Section 35174 of the Education Code is repealed.

SEC. 8. Section 72632 of the Education Code is repealed.

SEC. 9. It is the intent of the Legislature, in amending Section 35107 of the Education Code as set forth in Section 6, to make only those changes in Section 35107 made by Chapter 432 of the Statutes of 1995 and proposed by Chapter 22 of the Statutes of 1995.

SEC. 10. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution for those costs that may be incurred by a local agency or school district because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

However, notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains other costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for



reimbursement does not exceed one million dollars (\$1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

Notwithstanding Section 17580 of the Government Code, unless otherwise specified in this act, the provisions of this act shall become operative on the same date that the act takes effect pursuant to the California Constitution.

