

Date of Hearing: June 26, 2024

ASSEMBLY COMMITTEE ON EDUCATION
Al Muratsuchi, Chair
SB 907 (Newman) – As Introduced January 4, 2024

[This bill was double referred to the Assembly Elections Committee and was heard by that Committee as it relates to issues under its jurisdiction].

SENATE VOTE: 30-9

SUBJECT: Orange County Board of Education: members

SUMMARY: Requires the Orange County Board of Education (OCBOE) to be increased from five to seven members and requires an election for the OCBOE to be consolidated with the statewide general election in November of each even-numbered year. Specifically, **this bill:**

- 1) Requires the OCBOE to be increased from five to seven board members.
- 2) Requires, notwithstanding any other law, an election for the OCBOE to be consolidated with the statewide general election in November of each even-numbered year.
- 3) Requires, as necessary, the term of office of all incumbent officers to be extended accordingly until the successor takes office after the new election date.
- 4) States that the Legislature finds and declares that a special statute is necessary and that a general statute cannot be made applicable because of the unique circumstances facing elections for the OCBOE.

EXISTING LAW:

- 1) Requires, pursuant to the California Constitution, that the Legislature provide for a board of education in each county, as specified. Provides that a county charter may provide for the election of the members of the county board of education of such county and for their qualifications and terms of office. (California Constitution, Article IX, Section 3.3)
- 2) Requires that the Legislature provide for a board of education in each county, as specified. (Constitution of California, Article IX, Section 7)
- 3) Requires, except in a city and county, there to be a county board of education, which is required to, unless a petition to establish a student board member is presented to a county board of education, consist of five or seven regular members to be determined by the county committee on school district organization. (Education Code (EC) 1000)
- 4) Authorizes, upon being requested by the county board of education, the county committee on school district organization, by a two-thirds vote of the members, to either change the boundaries of any or all of the trustee areas of the county or propose to increase or decrease the number of members of the county board of education, or both. (EC 1002)

- 5) Requires, when a county committee on school district organization proposes to reduce from seven to five or increase from five to seven the number of members of the county board of education, the county committee to call and conduct a hearing on the matter. Requires, at the conclusion of the hearing, the county committee to, by resolution, approve or disapprove the proposal. (EC 1003)
- 6) Requires the resolution of the county committee approving a reduction or increase in the number of members of the county board of education to constitute an order of election, and requires the proposal to be presented to the electors of the county not later than the next succeeding election for members of the county board of education. (EC 1004)
- 7) Establishes election dates as follows:
 - a) The first Tuesday after the first Monday in March of each even-numbered year that is evenly divisible by four;
 - b) The first Tuesday after the first Monday in March of each odd-numbered year;
 - c) The second Tuesday of April in each even-numbered year;
 - d) The first Tuesday after the first Monday in June in each even-numbered year that is not evenly divisible by four; and
 - e) The first Tuesday after the first Monday in November of each year. (Election Code (ELEC) 1000)
- 8) Requires except as provided, notwithstanding any other provisions of law, all state, county, municipal, district, and school district elections to be held on an established election date. (ELEC 1002)
- 9) Specifies that election dates do not apply to the following:
 - a) Any special election called by the Governor;
 - b) Elections held in chartered cities or chartered counties in which the charter provisions are inconsistent with this chapter;
 - c) School governing board elections consolidated as specified in the EC;
 - d) Elections of any kind are required or permitted to be held by a school district located in a chartered city or county when the election is consolidated with a regular city or county election held in a jurisdiction that includes 95% or more of the school district's population;
 - e) County, municipal, district, and school district initiative, referendum, or recall elections;
 - f) Any election conducted solely by mailed ballot as specified in the ELEC; and
 - g) Elections held as specified in the EC. (ELEC 1003)

- 8) Requires that the regular election to select governing board members in any school district, community college district, or county board of education be held on the first Tuesday after the first Monday in November of each odd-numbered year, except after the initial election of governing board members in any school district, community college district, or of members of a county board of education, the election of governing board members for the district or of members of the county board of education may be established, upon the adoption of an appropriate resolution by the governing board or the county board of education, to regularly occur on the same day as the statewide direct primary election, the statewide general election, or the general municipal election. Existing law provides that the resolution is to become operative upon approval by the board of supervisors. (ELEC 1302)
- 9) Authorizes a charter amendment to appear on the San Diego County ballot to require candidates for county office to be elected at the general election. (Government Code (GOV) 23725)

FISCAL EFFECT: According to the Senate Appropriations Committee:

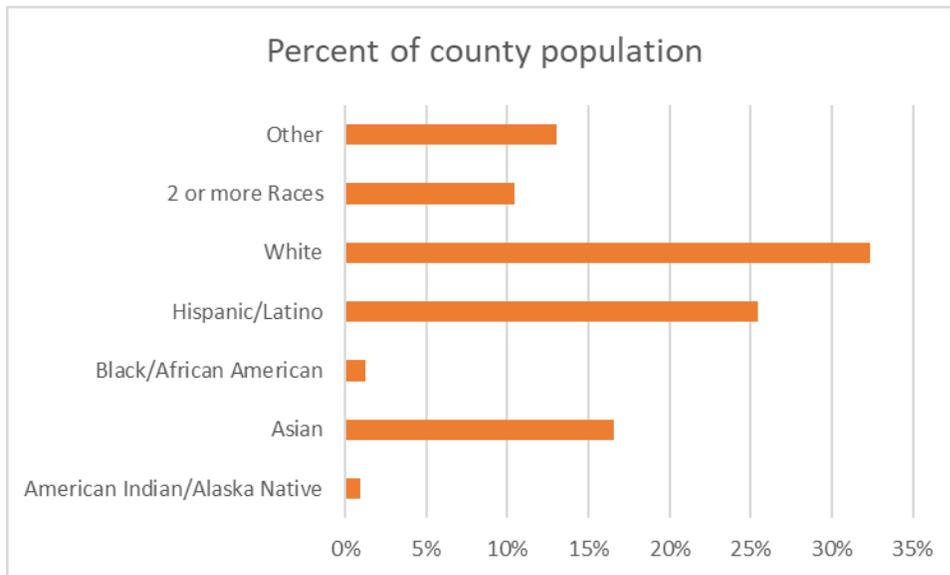
- By changing the date for the election of seats on the OCBOE, thereby imposing additional duties on local elections officials, this bill could create a reimbursable state mandate. Additional local costs resulting from the bill (among others) would include potentially adding an extra ballot card to presidential election cycle ballots to accommodate the additional contests. To the extent the Commission on State Mandates determines that the provisions of this bill create a new program or impose a higher level of service on local agencies, local agencies could claim reimbursement of those costs. The magnitude is unknown, but potentially in the hundreds of thousands of dollars annually (General Fund). This bill is not likely to result in new costs to the Secretary of State.
- By adding two members to the OCBOE, this bill would result in additional costs of approximately \$70,000 each year to the Orange County Department of Education. This estimate is based on the amount of expenses incurred each year for the existing Trustees (stipends and health benefits). Additionally, to the extent that the bill results in a new redistricting process of the Trustee areas to accommodate the additional members, there would be additional costs to the Orange County Department of Education and the OCBOE. The magnitude of these costs is unknown but could be in the low to mid hundreds of thousands of dollars on a one-time basis.

COMMENTS:

Need for the bill. According to the author, “Comprised of five elected trustees, the OCBOE is one of only five county education boards to hold their elections as part of the primary, and are the only contests in Orange County that are decided solely during the primary by a plurality, rather than majority, vote. Data indicates 360,000 fewer voters participated in the 2022 primary than in the general, and at least one OCBOE candidate won the support of as little as 11% of registered voters. Increasing the number of trustees will ensure a more representative and responsive board, and aligning OCBOE elections with the November balloting will improve civic participation and parental engagement in our local education decision-making processes. This is especially important for Orange County’s Asian American and Latino families, who despite comprising 70% of the county’s K-12 student population, remain underrepresented in the

primary electorate and on the Board. Orange County’s population has become more diverse, and more than doubled in size since the OCBOE was last modified in 1977. SB 907 offers two common-sense governance reforms that will enhance local control and ensure a more representative and responsive Board of Education for the residents of California’s third-largest county.”

Demographics of Orange County. According to the U.S. Census Bureau’s 2020 Decennial Census, Orange County has a population of 3,186,989. This is broken down by race/ethnicity as shown in the figure below.



Supporters point to the lack of representation on the current board of the racial/ethnic diversity of the county.

Orange County Department of Education. The Orange County Department of Education (OCDE) is the county office of education (COE)

for Orange County. According to the OCDE, the COE serves some of Orange County’s most vulnerable student populations and provides support and mandated fiscal oversight to 28 school districts serving more than 600 schools and approximately 475,000 students. In addition to providing direct instruction to students through its own alternative and special education programs, OCDE administers an array of programs and services that are critical to the operations of local school districts and community colleges, facilitating professional development, legal guidance, payroll, career and technical education support, high-speed internet access, Local Control and Accountability Plan assistance and approval, resources for families, and student enrichment.

The elected offices within the OCOE include seats on the county board of education and the county superintendent of schools, however this bill relates only to the seats on the county board of education.

Size of county boards of education varies. The OCBOE consists of five elected members who represent the five trustee areas of the county. Board members are elected for a four-year term by the electors of the trustee area which they represent. From among its members, the Board elects a president and a vice president. The Board has as its secretary and executive officer the County Superintendent of Schools, who is elected by the people every four years. This bill proposes to add two additional board members to the board.

Data provided by the California School Boards Association identifies 31 counties with 5-member county boards of education and 22 counties with 7-member county boards. In terms of those counties with larger populations:

- 3 counties have a population over 3 million, of these Los Angeles County has a 7-member board of education, while Orange and San Diego counties have 5-member boards; and
- 10 counties have populations over 1 million, of these 5 have 7-member county boards of education (Alameda, Los Angeles, Riverside, Sacramento, and Santa Clara) and 5 have 5-member boards (Contra Costa, Fresno, Orange, San Bernardino, and San Diego).

Local remedies exist. Current law allows county boards of education to have 5 or 7 members, as determined by the county committee on school district organization. This bill would add a state requirement for OCBOE to add two additional county board members to its already five-member county board.

The county committee on school district organization may propose changes to board member numbers or trustee area boundaries upon request by the county board of education. If the committee wants to change the board member number, a public hearing is held, followed by a vote. If the proposal is approved, it becomes an order of election presented to the county's electors at the next board of education election.

Existing law also authorizes county boards of education to adopt a resolution to change their elections to regularly occur on the same day as the statewide *direct primary election*, the statewide *general election*, or the *general municipal election*. Existing law requires the resolution to be approved by the county board of supervisors in order to become effective. Existing law requires the board of supervisors, within 60 days from the date of submission, to approve the resolution unless it finds that the ballot style, voting equipment, or computer capacity is such that additional elections or materials cannot be handled.

To date, Committee staff is unaware of any attempt by the OCBOE to either 1) adopt a resolution or request to add additional members to its county board, or 2) adopt a resolution or request to consolidate its election into the statewide general election. ***The Committee may wish to consider***, whether the existing local remedy should be pursued prior to the Legislature imposing a change in local election procedures.

To date, there does not appear to be any precedent for the Legislature to mandate the size of local educational agency governing boards. ***The Committee may wish to consider*** whether the passage of this bill would lead to future such measures.

Arguments in support. The California League of United Latin American Citizens (LULAC) writes, "LULAC is the oldest and most widely respected Latino civil rights organization in the U.S. Education and increasing political participation is a key part of our mission and we are concerned with the Orange County Board of Education holding its elections during the primaries when studies have shown voter turnout is low. In addition, their current system allows simple plurality of votes which means candidates do not need to secure an absolute majority to avoid a runoff vote on the general election ballot in November. As a result, candidates who are elected

are not representative of the majority of the votes but also not representative of the majority of the community whose students attend these schools.

SB 907 will improve civic participation and parental engagement in Orange County's education decision-making process by adding two additional seats to the Board of Education, while shifting elections for OCBOE trustees to the more representative, higher-turnout November ballot. In doing so, SB 907 will align the Orange County Board of Education with the other 90% of county education boards that hold their contests during the general election cycle."

Arguments in opposition. The California School Boards Association (CSBA), with an Oppose unless Amended position writes, "The bill sets a troubling precedent by singling out and manipulating just one of the state's county boards of education. By doing so, SB 907 tramples on the will of local voters by legislating the addition of two additional seats on the OCBOE in an effort to modify its makeup. The proposal enables the state to reach into this community to make changes to a locally elected governing board, circumventing the long-standing process that normally requires a vote of the electorate.

For these reasons, CSBA is asking that if this bill continues to move forward it be amended to remove the provisions that would increase the board's membership to seven."

Related legislation. SB 286 (Min) of the 2021-22 Session would have required the election for seats on the OCBOE to be consolidated within the November statewide general election. This bill was held in the Assembly Appropriations Committee.

AB 759 (McCarty), Chapter 743, Statutes of 2022, requires county district attorneys and sheriffs to be elected during presidential election years, instead of gubernatorial election years, beginning with the 2028 presidential primary election, except as specified.

SB 1450 (Umberg) of the 2019-20 Session would have required an election for an office that is determined by the plurality of the votes cast for that office, with no possibility of a runoff, that is consolidated with a statewide election to be consolidated with the statewide general election in November. This bill was held in the Senate Elections and Constitutional Amendments Committee.

AB 901 (Gloria), Chapter 713, Statutes of 2017, authorizes an amendment to the San Diego County charter, either by a proposal submitted by the board of supervisors or by voter initiative, to require that candidates for certain county offices and the county board of education be elected at the general election instead of at the primary election.

AB 805 (Gonzalez Fletcher), Chapter 658, Statutes of 2017, makes changes to the governance and financing authority of the San Diego Association of Governments, the San Diego Metropolitan Transit System, and the North County Transit District.

REGISTERED SUPPORT / OPPOSITION:

Support

California Federation of Teachers
California LULAC State Organization
Citizens Take Action
Lavender Democrats of Orange County
1 individual

Oppose

California Charter Schools Association
California School Boards Association
Ednovate
Orange County Board of Education
1 individual

Analysis Prepared by: Marguerite Ries and Debbie Look / ED. / (916) 319-2087