

Date of Hearing: April 12, 2023

ASSEMBLY COMMITTEE ON EDUCATION  
Al Muratsuchi, Chair  
AB 1326 (Megan Dahle) – As Introduced February 16, 2023

**SUBJECT:** School district board vacancies: internet website notifications

**SUMMARY:** Requires a school district, within ten days of making a provisional appointment to fill a vacancy on the school district governing board, to post the notice in three public places in the school district, in a newspaper of general circulation, and on the school district's website. Specifically, **this bill:**

- 1) Requires, if a provisional appointment is made to the governing board of a school district to fill a vacancy that occurs or will occur, the school district governing board to, within 10 days of the provisional appointment, provide notice of both the actual vacancy or the filing of a deferred resignation and also the provisional appointment by all of the following methods:
  - a) Posting the notice in three public places in the school district;
  - b) Publishing the notice in a newspaper of general circulation one time. If there is no newspaper of general circulation published in the district, notice need not be published; and
  - c) Posting the notice on the school district's website.

**EXISTING LAW:**

- 1) Requires, if a vacancy occurs, or if a resignation has been filed with the county superintendent of schools containing a deferred effective date, the school district or community college district governing board to, within 60 days of the vacancy or the filing of the deferred resignation, either order an election or make a provisional appointment to fill the vacancy. Prohibits a governing board member from deferring the effective date of the member's resignation for more than 60 days after the member files the resignation with the county superintendent of schools.
- 2) Requires, in the event that a governing board fails to make a provisional appointment or order an election within the prescribed 60-day period, the county superintendent of schools to order an election to fill the vacancy.
- 3) Requires, when an election is ordered, it to be held on the next established election date, not less than 130 days after the order of the election.
- 4) Authorizes, if a provisional appointment is made within the 60-day period, the registered voters of the district to, within 30 days from the date of the appointment, petition for the conduct of a special election to fill the vacancy.
- 5) Requires the petition to be submitted to the county superintendent of schools having jurisdiction to have 30 days to verify the signatures. Requires, if the petition is determined to

be legally sufficient by the county superintendent of schools, the provisional appointment to be terminated, and the county superintendent of schools to order a special election to be conducted not less than 88, nor more than 125, days following the order of the election.

- 6) Authorizes the election to be conducted within 180 days after the issuance of the order so that the election may be consolidated with a regularly scheduled election.
- 7) Requires a person appointed to fill a vacancy to hold office only until the next regularly scheduled election for district governing board members that is scheduled 130 or more days after the effective date of the vacancy, whereupon an election is required to be held to fill the vacancy for the remainder of the unexpired term. Requires a person elected at an election to fill the vacancy to hold office for the remainder of the term in which the vacancy occurs or will occur. (Education Code (EC) 5091)
- 8) Requires, whenever a provisional appointment is made to the governing board of a school district, as specified, the board to, within 10 days of the provisional appointment of a person to fill a vacancy which occurs or will occur, post notices of both the actual vacancy or the filing of a deferred resignation and also the provisional appointment in three public places in the district, and to publish a notice pursuant to Section 6061 of the Government Code. If there is no newspaper of general circulation published in the district, notice need not be published.
- 9) Requires the notice to state the fact of the vacancy or resignation and the date of the occurrence of the vacancy or the date of the filing of, and the effective date of, the resignation. The notice must also contain the full name of the provisional appointee to the board and the date of his appointment, and a statement that unless a petition calling for a special election, containing a sufficient number of signatures, is filed in the office of county superintendent of schools within 30 days of the date of the provisional appointment, it shall become an effective appointment. (EC 5092)
- 10) Authorizes, for any reason vacancies should occur in a majority of the offices on any school district or community college district governing board, the president of the county board of education having jurisdiction to appoint members of the county board of education to the district governing board until new members of the governing board are elected or appointed. (EC 5094)
- 11) Requires, whenever any of the offices on any school district governing board or community college district governing board is vacant, the remaining governing board member or members, if any, and any governing board member or members elected or appointed to fill the vacancies, who have qualified, to have all the powers and perform all the duties of the governing board. (EC 5095)

**FISCAL EFFECT:** Unknown

**COMMENTS:**

*School district governance in California.* California school districts are overseen by elected boards of trustees that set policy and hire a chief executive, the superintendent. School district governing boards usually have five to seven members, sometimes chosen at large from across a district and sometimes drawn from candidates who live in a specific region of the district.

School district governing boards are responsible for passing an annual budget, hiring staff, and for setting policy. The superintendent has the job of implementing policies, managing the district, and making all other hiring decisions.

***Provisional appointments to fill school district governing board vacancies.*** There are several specified reasons a vacancy on a governing board may occur including:

- The death of an incumbent;
- The adjudication pursuant to a quo warranto proceeding (a special form of legal action used to resolve a dispute over whether a specific person has the legal right to hold the public office that he or she occupies) declaring that an incumbent is physically or mentally incapacitated due to disease, illness, or accident and that there is reasonable cause to believe that the incumbent will not be able to perform the duties of his/her office for the remainder of his/her term;
- A vacancy resulting from resignation occurs when the written resignation is filed with the County Superintendent of Schools having jurisdiction over the district;
- A board member's removal from office, including by recall;
- A board member's ceasing to be a resident of the district;
- A board member's conviction of a felony or any offense involving a violation of their official duties or conviction of a designated crime resulting in a forfeiture of office; and
- A board member's refusal or neglect to file his/her required oath or bond within the time prescribed.

The governing board is authorized to make a provisional appointment to fill a vacancy when a vacancy occurs longer than four months before the end of a governing board member's term, or to order an election, unless a special election is required. The person appointed is required to hold the office until the next regularly scheduled election for the school district board members and is afforded all the powers and duties of a board member upon appointment.

Whenever any of the seats on any school district governing board are vacant, the remaining governing board member or members, if any, and any governing board member or members elected or appointed to fill the vacancies, have all the powers and perform all the duties of the governing board.

This bill does not make changes to the process of selecting a provisional appointee to fill a school district governing board vacancy, but instead increases the requirements for notification to the public when a provisional appointment is made to include posting the notice on the school district's website. This proposed change would likely lead to additional public awareness of the governing board's membership.

***Related legislation.*** AB 721 (Valencia) of the 2023-24 Session would require school districts to post prominently on their internet homepage or published by the school district in a newspaper of general circulation in the county information related to the dates and location at which the

proposed budget may be inspected by the public, and the date and location of the public hearing on the proposed budget at least three days before the availability of the proposed budget for public inspection.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

None on file

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