

Date of Hearing: June 15, 2022

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
SB 913 (Hertzberg) – As Amended March 16, 2022

SENATE VOTE: 37-0

SUBJECT: School districts: operations

SUMMARY: Reduces the threshold of average daily attendance (ADA), from 400,000 to 300,000, in several provisions in the Education Code which provide different treatment for school districts meeting this threshold, to reflecting a drop in enrollment in the state's largest school district. Specifically, **this bill:**

- 1) *Single gender schools and classes:* Authorizes a school district with an ADA of 300,000 or more, and a charter school that is authorized by such district, to maintain any single gender schools and classes, as specified.
- 2) *Notice of intent to lease real property:* Authorizes the governing board of any school district having an ADA of 300,000 or more, in lieu of a declaration of intention to lease real property, to publish a notice three times in a period of not less than 15 days in a newspaper of general circulation published in the district.
- 3) *Sale or lease of property with a playground or playing field:* Exempts any school district having an ADA of 300,000 or more from provisions relating to the sale or lease of a schoolsite that has a school playground, playing field, or other outdoor recreational purposes and open-space land particularly suited for recreational purposes.
- 4) *Administrator-to-teacher ratio:* Exempts from any reduction in state support resulting from excess administrative employees for the 2019–20 fiscal year to the 2021–22 fiscal year, a school district with an ADA of more than 300,000 as of the 2016–17 second principal apportionment.
- 5) *Substitute or temporary employees serving a complete school year:* Exempts any school district in which the ADA is in excess of 300,000 from provisions related to deeming a substitute or temporary employee, who serves during one school year for at least 75% of the school year and has performed the duties normally required of a certificated employee of the school district, as a probationary employee if employed as a probationary employee for the following school year.
- 6) *Teachers on emergency permits:* Prohibits schools in any school district having an ADA in excess of 300,000 from having at any time a certificated teaching staff, excluding substitutes, of whom more than 5% have only an emergency credential.
- 7) *Layoff of probationary certificated employees:* Prohibits, for a school district with ADA of 300,000 or more, layoff provisions from being applicable to probationary certificated employees who are covered by a collective agreement which contains provisions for the

layoff and reassignment of such employees.

- 8) *Sick leave for classified employees*: Exempts a school district or districts, governed by the same governing board, in which the combined ADA of all districts is in excess of 300,000, from the requirement to provide at least 12 days of sick leave to specified classified employees, provided such districts maintain sick leave policies as specified.
- 9) *Personnel commission in districts with a merit system*: Allows a unified school district with ADA in excess of 300,000, to authorize payment to members of the personnel commission an amount not to exceed \$100 per meeting, and not to exceed \$500 per month.
- 10) *Determining "length of service" relative to classified employee layoffs*:
 - a) Provides that "length of service," in school districts with ADA of 300,000 or more, for service commencing or continuing after January 1, 1986, is to be determined by the date of hire.
 - b) Deletes the cap of \$2,000 per month as compensation for each member of the governing board of a school district with ADA for the prior year exceeding 300,000, who attends all meetings held, and instead authorizes board members' salaries to be set forth by the local city charter law or applicable rules and regulations and as determined by a local compensation review committee. This bill also strikes reference to the city board of education, as no such body exists.
 - c) Eliminates the requirement that the governing board of a school district with a student population exceeding 400,000 that collects or deducts dues, agency fees, fair share fees, or any other fee or amount of money from the salary of a classified employee for the purpose of transmitting the money to an employee organization, to transmit the money to the employee organization within 15 working days of issuing the paycheck containing the deduction to the employee.
- 11) Declares that a special statute is necessary and that a general statute cannot be made applicable within the meaning of Section 16 of Article IV of the California Constitution because of the unique circumstances facing the Los Angeles Unified School District, including being the second largest school district in the country and the largest school district in California.

EXISTING LAW:

- 1) *Single gender schools and classes*: Authorizes a school district with an ADA of 400,000 or more, and a charter school that is authorized by such district, to maintain any single gender schools and classes, as specified. (Education Code (EC) 232.2)
- 2) *Notice of intent to lease real property*: Authorizes the governing board of any school district having ADA of 400,000 or more, in lieu of a declaration of intention to lease real property, to publish a notice three times in a period of not less than 15 days in a newspaper of general circulation published in the district. (EC 17467)

- 3) *Sale or lease of property with a playground or playing field:* Exempts any school district having ADA of 400,000 or more from provision relating to the sale or lease of a schoolsite that has a school playground, playing field, or other outdoor recreational purposes and open-space land particularly suited for recreational purposes. (EC 17500)
- 4) *Governing board member compensation:* Authorizes each member of the city board of education or the governing board of a school district with ADA for the prior year exceeding 400,000, who attends all meetings held, to receive as compensation for the member's services a sum not to exceed two thousand dollars (\$2,000) per month. (EC 35120)
- 5) *Administrator-to-teacher ratio:* Exempts from any reduction in state support resulting from excess administrative employees for the 2019–20 fiscal year to the 2021–22 fiscal year, a school district with an ADA of more than 400,000 as of the 2016–17 second principal apportionment. (EC 41404.5)
- 6) *Substitute or temporary employees serving a complete school year:* Exempts any school district in which the ADA is in excess of 400,000 from provisions related to deeming a substitute or temporary employee, who serves during one school year for at least 75% of school year and has performed the duties normally required of a certificated employee of the school district, as a probationary employee if employed as a probationary employee for the following school year. (EC 44918)
- 7) *Teachers on emergency permits:* Prohibits schools in any school district having an ADA in excess of 400,000 from having at any time a certificated teaching staff, excluding substitutes, of whom more than 5% have only an emergency credential. (EC 44928)
- 8) *Layoff of probationary certificated employees:* Prohibits, for a school district in which the ADA is 400,000 or more, layoff provisions from being applicable to probationary certificated employees who are covered by a collective agreement which contains provisions for the layoff and reassignment of such employees. (EC 44959.5)
- 9) *Transmission of fees to an employee organization:* Requires the governing board of a school district with a student population exceeding 400,000 that collects or deducts dues, agency fees, fair share fees, or any other fee or amount of money from the salary of a classified employee for the purpose of transmitting the money to an employee organization, to transmit the money to the employee organization within 15 *working* days of issuing the paycheck containing the deduction to the employee. (EC 45168.5)
- 10) *Sick leave for classified employees:* Exempts a school district or districts, governed by the same governing board, in which the combined ADA of all districts is in excess of 400,000 from the requirement to provide at least 12 days of sick leave to specified classified employees, provided such districts maintain sick leave policies as specified. (EC 45191)
- 11) *Personnel commission in districts with a merit system:* Allows a unified school district with ADA in excess of 400,000, to authorize payment to members of the personnel commission an amount not to exceed \$100 per meeting, and not to exceed \$500 per month. (EC 45251)

12) *Determining “length of service” relative to classified employee layoffs:* Provides that “length of service,” in school districts with ADA 400,000 or more, for service commencing or continuing after January 1, 1986, is to be determined by the date of hire. (EC 45308)

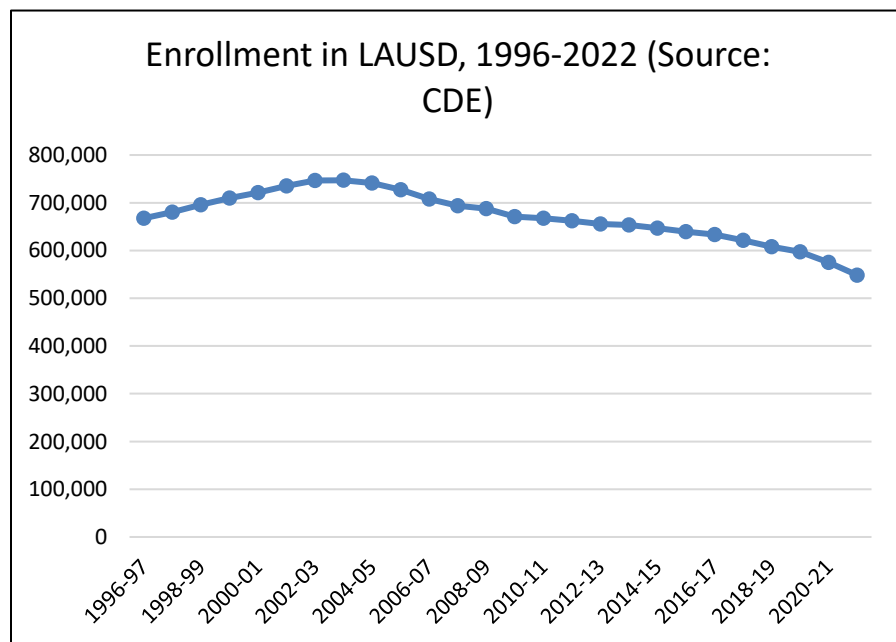
FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

Need for this bill. According to the author, “The COVID-19 health crisis created lasting and devastating impacts on the California public school system. As the second largest school district in the country and the largest in California, Los Angeles Unified School District (LAUSD) faced additional pressure as it struggles to attract enough students to meet average daily attendance requirements for their governance and funding. SB 913 seeks to remedy the impacts of declining student enrollment by making a technical change to existing laws that reference local educational agencies with an average daily attendance (ADA) of 400,000 students or more, by changing the threshold to 300,000 ADA. With this technical change, LAUSD will continue to meet the ADA required for certain rules and exemptions pertaining to the governance and operations of their schools.”

Applies only to Los Angeles Unified School District. The Los Angeles Unified School District (LAUSD) is the only school district in the state with ADA of 300,000 or more. As mentioned in the author’s statement, LAUSD’s ADA has declined and may soon drop below 400,000, making it necessary to adjust the ADA threshold if statutes pertaining to LAUSD are to remain operative.

The author’s office notes that for the last two decades, the LAUSD has experienced significant declining enrollment. The author notes that while the patterns of this decline are most often attributed to declining birth rates and migration out of Los Angeles County, as a result of the



COVID-19 crisis, the district is experiencing a loss of 27,000 students or 6% of its total student population compared to the 2020-21 levels.

As shown in the chart on this page, enrollment (which is greater than ADA) in LAUSD schools rose in the 1990’s and then fell from a high of 747,000 in 2003-04 to 548,000 in 2021-22. There are multiple factors for this trend, as noted below. In LAUSD and other districts, growth in

enrollment in charter schools has also played a role in this decline.

COVID-19 impact on attendance and apportionment. In February of this year, the CDE released data related to the First Principal Apportionment (P-1) ADA in the current fiscal year. Attendance for apportionment was not collected for the 2020–21 fiscal year in response to the COVID-19 pandemic. SB 98 (Chapter 24, Statutes of 2020) and SB 820 (Chapter 110, Statutes of 2020) required that school districts, COEs, and continuing charter schools be funded on 2019–20 ADA, sometimes referred to as the “pandemic hold harmless.” Further, growing school districts and charter schools were authorized to request funding for growth, as specified.

The table below, “School District and Charter School ADA by Grade Level,” displays ADA prior to and during the COVID-19 pandemic. The statewide decline in ADA from 2019-20 to 2021-22 is 8.5%. P-1 ADA represents attendance for all full school months between the start of the school year and December 31, while Annual ADA (AN) represents attendance for the full school year.

Statewide ADA has declined since 2019-20 (the last prior year that ADA was reported for Principal Apportionment) for school districts, county offices of education (COEs) and charter schools:

- School district ADA had a noticeable decline with 88% of school districts reporting lower ADA.
- Statewide COE ADA had the greatest rate of decline; 56 COEs reporting lower ADA with the greatest decline experienced in Alternative Education Grant ADA.
- Charter school ADA had the smallest statewide ADA decline of the three LEA types with 67% of charter schools reporting lower ADA.

Prior to the pandemic, charter school ADA was growing, while school district ADA was declining. The average ADA change between 2019-20 and 2021-22 is fairly consistent across school districts with 538 reporting ADA that is 5-15% lower than 2019-20 ADA.

ADA changes among charter schools vary significantly. There are 125 charter schools that had reported ADA increase of 30% or more between 2019-20 and 2021-22, including 62 classroom-based charter schools that received Senate Bill 820 growth funding in 2020-21 and 57 nonclassroom-based charter schools.

School District and Charter School ADA by Grade Level

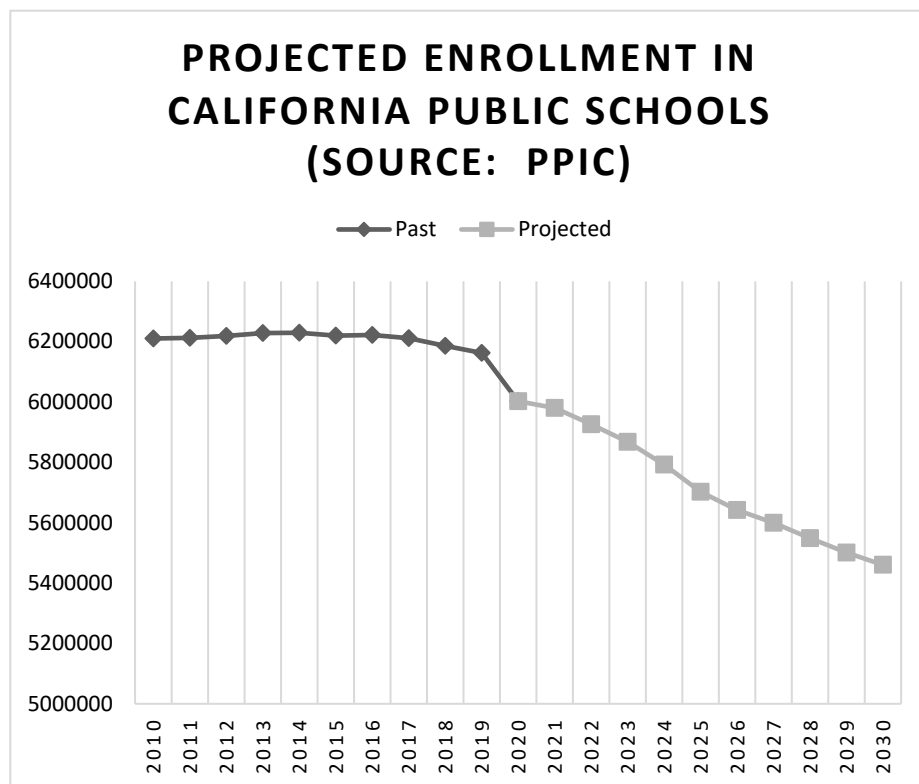
Fiscal Year	Grades TK/K-3	Grades 4-6	Grades 7-8	Grades 9-12
2019-20 AN Reported ADA	1,774,173	1,318,029	918,473	1,850,689
2021-22 P-1 Reported ADA	1,552,895	1,209,546	822,260	1,783,953
2019-20 to 2021-22 Change	(221,278)	(108,483)	(96,213)	(66,736)
Percent Change	-12.47%	-8.23%	-10.48%	-3.61%

Source: CDE

Statewide declining

enrollment. According to the Public Policy Institute of California (PPIC, 2021), over the next decade, enrollment declines are projected to accelerate, with statewide enrollment expected to fall 9% by 2030–31. While most counties are projected to see lower enrollment over the next decade, particularly in Southern California, along the coast, and in much of the Central Valley, the projected declines are greatest in Los Angeles and Ventura Counties—roughly 20% lower by 2030–31. PPIC notes that the declines in Los Angeles County are particularly noteworthy:

county enrollment has already fallen over 10% in the past decade, and enrollment in 2030–31 is projected to be 30% lower than it was in 2010–11.



Trends in population growth, birth rates, migration in and out of the state will determine the rate of decline. PPIC notes that fertility rates have fallen by nearly 33% since 1990 in California, and the Department of Finance projects an additional 9% decline by 2040.

Governing board member compensation. The bill deletes the cap of \$2,000 per month as compensation for each member of the governing board of a school district with ADA for the prior year exceeding 300,000, who attends all meetings held, and instead authorizes board members’ salaries to be set forth by the local city charter law or applicable rules and regulations and as determined by a local compensation review committee.

According to the author, this change in how compensation for LAUSD governing board members is necessary to reflect Los Angeles City Charter’s Rule 804, which requires the total compensation for members of the board of education of the LAUSD to be set by a compensation committee, provides for how the membership of the committee will be appointed, and requires the committee to consider specified factors when establishing the annual salary and benefits.

Rule 804 also authorizes the LAUSD board of education, on an annual basis in years when the committee is not performing a compensation review, to increase the compensation and other benefits of individual or all board members beyond the amount established by the compensation committee, in an amount not to exceed 2% of the applicable total combined amount of compensation and benefits.

According to the author, the LAUSD Board Compensation Review Committee met and issued a resolution in 2017, as authorized by the Los Angeles City Charter, which resulted in an annual

salary of \$125,000 for full-time board members. Records show that the prior salary was \$45,637 for full-time board members (those with no outside income), and for part-time board members the annual salary is now capped at \$50,000, a raise from the previous figure of \$26,437.

According to the author, the LAUSD believes the provisions of the Los Angeles City Charter supersede the existing provisions in the Education Code relative to a cap of a monthly salary of \$2,000.

Transmission of fees to an employee organization. This bill eliminates the requirement that the governing board of a school district with a student population exceeding 400,000 that collects or deducts dues, agency fees, fair share fees, or any other fee or amount of money from the salary of a classified employee for the purpose of transmitting the money to an employee organization, to transmit the money to the employee organization within 15 *working days* of issuing the paycheck containing the deduction to the employee.

The result is that the LAUSD will be required to meet a similar provision that is applicable to all other school districts, which requires the fees to be transmitted within 15 days (not working days) of issuing paychecks. According to the author, the LAUSD will be able to meet this reduced timeline.

Recommended Committee amendment. *Staff recommends that the bill be amended* to reduce the ADA threshold for the sections amended by the bill to 250,000, due to declining enrollment trends noted above.

Arguments in support. The LAUSD writes, “For the last two decades, Los Angeles Unified has been experiencing a trend of declining student enrollment, most often attributed to declining birth rates and migration out of Los Angeles County. However, as a result of the COVID-19 health crisis, Los Angeles Unified is now especially seeing a drop in enrollment – experiencing a loss of 27,000 students or 6% of its total student population in this school year alone compared to the 2020-21 levels. Los Angeles Unified risks falling under the 400,000 ADA and will be no longer be able to operate under existing laws specifically authorized for LEAs with 400,000 students or more. SB 913 extends the application these specific statutory provisions for Los Angeles Unified by lowering the ADA condition to 300,000 students. This will enable the District to continue to utilize statutory provisions pertaining to the governance and operations of our schools.”

REGISTERED SUPPORT / OPPOSITION:

Support

Los Angeles Unified School District (sponsor)

Opposition

None on file

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