

Assembly Bill No. 2243

Passed the Assembly August 28, 2008

Chief Clerk of the Assembly

Passed the Senate August 20, 2008

Secretary of the Senate

This bill was received by the Governor this _____ day
of _____, 2008, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

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, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 2243, 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 authorize 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) This bill also would make other clarifying and conforming changes.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

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

SECTION 1. Section 35520.5 is added to the Education Code, to read:

35520.5. (a) For a petition described in Section 35521, the county superintendents of schools of the affected counties by mutual agreement shall determine which county committee shall be designated the lead agency, as defined in Section 21067 of the Public Resources Code, for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(b) If an agreement is not attained pursuant to subdivision (a) within 30 days of the filing of the petition pursuant to Section 35704, the lead agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) shall be the county committee for which the county superintendent of schools, serving as the secretary of the committee pursuant to Section 4012, has the greatest number of pupils under his or her jurisdiction, as compared to the other affected counties, in the territory proposed for reorganization.

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

35706. (a) Within 120 days of the commencement of the first public hearing on the petition, the county committee shall 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 two or more separate school districts, as the petition may be augmented, or shall approve or disapprove a

petition for the transfer of territory, as the petition may be augmented.

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

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

35707. (a) Except for petitions for the transfer of territory or petitions to form one or more school districts that meet the conditions described in subdivision (b) of Section 35710, the county committee expeditiously shall transmit the petition to the state board together with its recommendations on the petition. It also shall report whether any of the following, in the opinion of the committee, would be true regarding the proposed reorganization as described in the petition:

(1) It adversely would affect the school district organization of the county.

(2) It would comply with Section 35753.

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

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

35710. (a) For all other petitions to transfer territory, if the county committee finds that the conditions enumerated in paragraphs (1) to (10), inclusive, of subdivision (a) of Section 35753 substantially are met, the county committee may approve the petition and, if approved, shall notify the county superintendent of schools who shall 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 either of the following:

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

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

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

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

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

(3) The secretary of the county committee designated as the lead agency pursuant to Section 35710.3 or subdivision (a) of Section 35520.5 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 the requirements of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

(c) A petition to form one or more school districts that meets the conditions described in subdivision (b), but is not approved by the county committee, shall be transmitted to the state board pursuant to subdivision (a) of Section 35707 and heard by the state board pursuant to Section 35708. The state board, rather than the county committee, shall be the lead agency, as defined in Section 21067 of the Public Resources Code, for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code) for each petition transmitted pursuant to this subdivision, including a petition disapproved by the county committee after determining the project is exempt from the California Environmental Quality Act pursuant to paragraph (5) of subdivision (b) of Section 21080 of the Public Resources Code.

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

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

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

35711. (a) A person questioning the finding of the county committee pursuant to Section 35709 or 35710 that the action to transfer territory or form one or more school districts will not adversely affect the racial or ethnic integration of the schools of the districts affected may appeal a decision that is based on the finding. The appeal shall be made to the state board within 30 days. The appeal shall be based upon factual and statistical evidence.

(b) If the state board denies the appeal, the decision of the county committee shall stand. If the state board approves the appeal, it shall review the findings of the county committee at a regular meeting of the state board.

(c) The state board shall notify the county committee on its decision on the appeal. If the state board approves the appeal, the county committee shall transmit a copy of the proceedings to the state board within 30 days after receipt of notice. The state board shall review the transcript, considering all factors involved. The state board may reverse, or may affirm, the decision of the county committee, or if it appears that inadequate consideration was given to the effect of the transfer on integration of the schools of the districts affected, it shall direct the county committee to reconsider its decision and for this purpose to hold another hearing.

SEC. 7. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to provide timely assistance to pupils who will benefit from the increased educational program articulation and program offerings of reorganized school districts, and so that school districts attain the fiscal benefits and cost savings of school district reorganization to help mitigate the current school fiscal deficit, it is necessary that this act take effect immediately.

Approved _____, 2008

Governor