
SENATE COMMITTEE ON EDUCATION

Senator Carol Liu, Chair
2015 - 2016 Regular

Bill No: AB 215
Author: Alejo
Version: June 2, 2015
Urgency: No
Consultant: Lenin Del Castillo
Hearing Date: July 8, 2015
Fiscal: No

Subject: Local agency employment contracts: maximum cash settlement

SUMMARY

This bill reduces the maximum cash settlement that may be paid to a school district superintendent upon termination from 18 times of that employee's monthly salary to 12 times of the employee's monthly salary, and also prohibits a cash settlement in the case of a termination in which the school district believes and subsequently confirms that the superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices.

BACKGROUND

Existing law:

- 1) Permits, if the contract with a school district superintendent is terminated, a cash settlement equal to the monthly salary of the superintendent multiplied by the number of months left on the unexpired term of the contract up to a maximum of 18 months.
- 2) Permits a cash settlement of up to six months times the monthly salary in the case of a superintendent who is terminated because the school district believes and subsequently confirms through an independent audit that the superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices.

ANALYSIS

This bill:

- 1) Reduces the maximum cash settlement that a local agency employer can provide to a district superintendent upon termination from 18 months of that employee's monthly salary to 12 months of the employee's salary.
- 2) Prohibits a local agency employer from providing a cash or noncash settlement to a superintendent upon termination if the local agency believes, and subsequently confirms, pursuant to an independent audit, that the superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices. This provision applies only to a contract for employment executed on or after January 1, 2016.

STAFF COMMENTS

- 1) ***Need for the bill.*** According to the author's office, "the combination of high paying salaries and high superintendent turnover is a costly issue. By placing a cap on district superintendent's severance pay, we can save money for students, begin to improve our school administrative processes, and demonstrate fiscal discipline in the administration of taxpayer dollars."

This bill reduces from 18 times the monthly salary to 12 times the monthly salary the maximum cash settlement that may be paid to a school district superintendent whose employment has been terminated. In the case of a termination in which the school district believes and subsequently confirms that the superintendent has engaged in fraud, misappropriation of funds, or other illegal fiscal practices, this bill reduces the maximum cash settlement from six times the monthly salary to zero.

According to the California Department of Education (CDE), the average annual salaries for unified school district superintendents, by district size, in 2012-13, is as follows:

- a) One hundred sixteen thousand six hundred six dollars for districts with less than 1,500 average daily attendance (ADA);
- b) One hundred fifty-one thousand nine hundred twelve dollars for districts with 1,500 to 4,999 ADA;
- c) One hundred eighty-three thousand five hundred fifty-seven dollars for districts with 5,000 to 9,999 ADA;
- d) Two hundred six thousand two hundred ninety-two dollars for districts with 10,000 to 19,999 ADA; and
- e) Two hundred twenty-seven thousand one hundred eighty-three dollars for districts with more than 20,000 ADA.

The author's office indicates that the highest salaries range from \$265,773 to \$322,159, which would translate to a range in cash settlements from \$398,660 to \$483,239 under existing law. Some settlements have generated public scrutiny. In one instance, a school district put its superintendent on a paid leave of absence for six months and then provided an 18-month cash settlement, essentially providing a 24 month "buy-out" at a cost of approximately \$325,000.

- 2) ***Arguments in opposition.*** The Association of California School Administrators (ASCA) indicates that this bill "unfairly singles out school superintendents (arguably the most visible local official) and reduces the Early Termination Clause for a breach of contract to up to 12 months. Claiming that Early Termination Clauses occur more frequently with school superintendents can in part be attributed to the number of school districts (1,000) nearly twice the total number of cities (482) and counties (58) combined." ACSA further argues that superintendents are at-will employees, who have no due process rights and can be terminated any time with cause. When a

superintendent is released from his or her duties, it can be difficult to find another superintendent's job and the release is often career ending. "Early Termination Clauses are not considered extra pay nor are they a gift of public funds." Rather, cash settlements are "damages paid to an employee who is released by breach of contract."

- 3) ***Unintended consequences.*** While the purpose of the bill is to save money for students by placing a cap on school district superintendents' severance pay, it could have several unintended consequences that the Committee may wish to consider. First, by reducing and/or eliminating some of the "protections" in place for superintendents in current law, the bill could provide potential disincentives for highly-qualified candidates to become a superintendent. This could also affect the school district's recruitment efforts and its ability to hire a quality superintendent. One could argue the bill unfairly punishes superintendents by placing limitations on paid leaves of absence.

Further, the bill could increase superintendent turnover by reducing the penalty districts pay for terminations prior to the fulfillment of a contract. While the bill would reduce the cost of a cash settlement in which there is more than 12 months remaining on a contract, it is not clear that it will necessarily reduce the cost of cash settlements overall. For example, to the extent that the relatively high cost of a settlement serves as a disincentive to terminate a contract, reducing the cost of a settlement could have the opposite effect and increase terminations. This would then increase the cost of such settlements.

- 4) ***Related and prior legislation.*** The early versions of AB 280 (Alejo, 2013) were nearly identical to this measure and proposed to place a cap on the severance pay of a school district's superintendent. However, the bill was amended to deal with prohibitions for firearms dealers and eventually held in the Senate Appropriations Committee.

SUPPORT

None received.

OPPOSITION

Association of California School Administrators
California School Boards Association
Small School Districts' Association

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