

AMENDED IN SENATE FEBRUARY 9, 2005

CALIFORNIA LEGISLATURE—2005—06 FIRST EXTRAORDINARY SESSION

**Senate Constitutional Amendment**

**No. 1**

**Introduced by Senator George Runner**

January 13, 2005

---

Senate Constitutional Amendment No. 1— A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by adding Section 6.1 to Article IX thereof, relating to educational employment.

LEGISLATIVE COUNSEL'S DIGEST

SCA 1, as amended, George Runner. School districts: employment decisions.

The California Constitution requires the Legislature to provide for a system of common schools.

The Education Employment Relations Act governs employer-employee relations within the public school system, and requires a school district governing board and the exclusive bargaining representative of school district employees to meet and negotiate regarding various aspects of public school employment.

Existing statutes also require evaluation and assessment of each certificated employee on a continuing basis.

This measure would require that any employment decision, as defined, by a school district, including a county office of education or charter school, be based solely on employee performance, as assessed annually, and on the needs of the school district and its pupils, and would provide that employee seniority may not be considered in making an employment decision, as defined. As to administrators and teachers, the measure would require that performance be assessed based upon an appropriate combination, as determined by the

governing board of the school district, of individual annual performance evaluations and improvements in pupil academic achievement as measured by state-adopted standardized tests.

The measure would also provide that an employee hired by a school district on or after the effective date of this measure may be granted tenure or permanent employment status only if his or her 10 most recent annual performance assessments by a school district have been satisfactory *or better*.

The measure would specify that its provisions supersede the provisions of any collective bargaining agreement entered into, or renewed or extended, on or after the effective date of the measure.

Vote:  $\frac{2}{3}$ . Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

1 *Resolved by the Senate, the Assembly concurring,* That the  
2 Legislature of the State of California at its 2005-06 First  
3 Extraordinary Session commencing on the sixth day of January  
4 2005, two-thirds of the membership of each house concurring,  
5 hereby proposes to the people of the State of California, that the  
6 Constitution of the State be amended as follows:

7 That Section 6.1 is added to Article IX thereof, to read:

8 SEC. 6.1. (a) Notwithstanding any other provision of this  
9 Constitution, any employment decision by a school district shall  
10 be based solely on employee performance, as assessed annually,  
11 and on the needs of the school district and its pupils, as  
12 determined by the governing board of the school district, and  
13 employee seniority shall not be considered in making an  
14 employment decision. As to school administrators and teachers,  
15 employee performance shall be assessed based upon an  
16 appropriate combination, as determined by the governing board  
17 of the school district, of individual annual performance  
18 evaluations and improvements in pupil academic achievement as  
19 measured by state-adopted standardized tests. The system used to  
20 assess the performance of employees, including the specific  
21 criteria and the relative weight given to each criterion, shall be  
22 discussed and adopted at a public meeting of the governing board  
23 of the school district. The school district shall post on its Web  
24 site a description of the system used to evaluate performance, and  
25 shall submit that information to the State Board of Education for  
26 posting on the Web site of the board.

1 (b) Notwithstanding any other provision of this Constitution,  
2 an employee hired by a school district on or after the effective  
3 date of this section may be granted tenure or other permanent  
4 employment status only if his or her 10 most recent annual  
5 performance assessments by a school district have been  
6 satisfactory *or better*, as determined by the criteria used to  
7 determine employee performance pursuant to subdivision (a).

8 (c) This section supersedes the conflicting provisions of any  
9 collective bargaining agreement that is entered into, or renewed  
10 or extended, on or after the effective date of this section.

11 (d) The following definitions govern the interpretation of this  
12 section:

13 (1) “Employment decision” means hiring, promoting,  
14 demoting, or terminating an employee, *fixing or increasing the*  
15 *compensation of an employee*, or transferring or assigning an  
16 employee within the district.

17 (2) “Governing board of the school district” means the entity  
18 that makes employment decisions for the school district.

19 (3) “Annual performance assessments” means the  
20 assessments, conducted annually, pursuant to the system used to  
21 assess performance adopted by the governing board of the school  
22 district pursuant to subdivision (a).

23 (4) “School district” means a unified school district,  
24 elementary school district, high school district, county office of  
25 education, or charter school.