

ASSEMBLY BILL

No. 1044

Introduced by Assembly Member Baker

(Coauthors: Assembly Members Travis Allen, Bigelow, Chang, Beth Gaines, Grove, Hadley, Harper, Kim, Lackey, Mayes, Melendez, Obernolte, Olsen, Patterson, Steinorth, and Wilk)

February 26, 2015

An act to amend and repeal Sections 44955, 44955.5, 44956, 44956.5, 44957, 44958, 44959, and 44959.5 of, and to add Section 45000 to, the Education Code, relating to school employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1044, as introduced, Baker. School employees: reduction in workforce.

(1) Under existing law, when school employees are terminated pursuant to a reduction in workforce, a school district is required to terminate the employees in order of seniority. Existing law authorizes a school district to deviate from the order of seniority for those purposes for specified reasons.

This bill would make these provisions inoperative on July 1, 2018, and would repeal them as of January 1, 2019.

(2) Existing law authorizes the governing board of a school district to terminate the services of any permanent or probationary certificated employees of the school district during the time period between 5 days after the enactment of the Budget Act and August 15 of the fiscal year to which the Budget Act applies if the governing board of the school district determines that its total revenue limit per unit of average daily attendance for the fiscal year of that Budget Act has not increased by at least 2%, and if the governing board of the school district determines

it is therefore necessary to decrease the number of permanent employees in the school district.

This bill would make these provisions inoperative on July 1, 2018, and would repeal them as of January 1, 2019.

(3) Existing law provides that, when the services of permanent or probationary employees are terminated pursuant to a reduction in workforce, those terminated employees have a preferred right to reappointment and an opportunity for substitute service in order of seniority, as specified.

This bill would make these provisions inoperative on July 1, 2018, and would repeal them as of January 1, 2019.

(4) Existing law prohibits, for purposes of complying with those procedures, a school district from including time spent employed in an administrative position by a certificated employee, who transfers to a teaching position and who was initially employed in an administrative position on or after July 1, 1983, in determining seniority, except in the case of a schoolsite administrator, as specified.

This bill would make these provisions inoperative on July 1, 2018, and would repeal them as of January 1, 2019.

(5) Existing law prohibits a school district from counting as a part of the service required as a condition precedent to the classification of the employee as a permanent employee of the school district the period of absence for certain terminated probationary employees.

This bill would make these provisions inoperative on July 1, 2018, and would repeal them as of January 1, 2019.

(6) Existing law extends the effective period of specified rights, and provides additional rights to certain permanent certificated employees, as specified.

This bill would make these provisions inoperative on July 1, 2018, and would repeal them as of January 1, 2019.

(7) Existing law provides that certain statutory layoff provisions are inapplicable to certain probationary certificated employees who are covered by a collective agreement which contains provisions for the layoff and reassignment of those employees.

This bill would make these provisions inoperative on July 1, 2018, and would repeal them as of January 1, 2019.

(8) This bill would require, by July 1, 2018, each governing board of a school district, in consultation with the exclusive representative of the certificated staff, if any, to adopt policies regarding the dismissal of permanent and probationary employees when a reduction in

workforce is required due to declining enrollment or insufficient funding to be used commencing with the 2018–19 school year. The bill would require those adopted policies to include as a significant factor in determining the order of dismissal the evaluation rating of certificated employees, as specified. The bill would permit a school district to deviate from using the evaluation rating of certificated employees as a significant factor in determining the order of dismissal of certificated employees if the school district demonstrates specified conditions. By requiring school districts to perform additional duties, this bill would impose a state-mandated local program. The bill would provide that, to the extent these provisions conflict with any provision of a collective bargaining agreement entered into before January 1, 2016, by a public school employer and an exclusive bargaining representative, the provisions shall not apply to the school district until the expiration or renewal of that collective bargaining agreement.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

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

1 SECTION 1. Section 44955 of the Education Code is amended
2 to read:

3 44955. (a) ~~No~~A permanent employee shall *not* be deprived
4 of his or her position for causes other than those specified in
5 Sections 44907 and 44923, and Sections 44932 to 44947, inclusive,
6 and ~~no~~ a probationary employee shall *not* be deprived of his or
7 her position for cause other than as specified in Sections 44948 to
8 44949, inclusive.

9 (b) ~~Whenever~~(1) ~~If in any~~ a school year the average daily
10 attendance in all of the schools of a *school* district for the first six
11 months ~~in which~~ *that* school is in session shall have declined below
12 the corresponding period of either of the previous two school years,
13 ~~whenever~~ *if* the governing board *of a school district* determines

1 that attendance in a *school* district will decline in the following
 2 year as a result of the termination of an interdistrict tuition
 3 agreement as ~~defined~~ *described* in Section 46304, ~~whenever if~~ a
 4 particular kind of service is to be reduced or discontinued not later
 5 than the beginning of the following school year, or ~~whenever if~~
 6 the amendment of state law requires the modification of curriculum,
 7 and ~~when in the opinion of~~ *if* the governing board of the *school*
 8 district *determines* it ~~shall have become~~ necessary by reason of
 9 any of these conditions to decrease the number of permanent
 10 employees in the *school* district, the governing board *of the school*
 11 *district* may terminate the services of not more than a
 12 corresponding percentage of the certificated employees of the
 13 *school* district, permanent as well as probationary, at the close of
 14 the school year. Except as otherwise provided by statute, the
 15 services of ~~no a permanent employee may~~ *shall not* be terminated
 16 under ~~the provisions of~~ this section while ~~any a~~ probationary
 17 employee, or any other employee with less seniority, is retained
 18 to render a service ~~which said that the~~ permanent employee is
 19 certificated and competent to render.

20 ~~In~~

21 (2) *In* computing a decline in average daily attendance for
 22 purposes of this ~~section~~ *subdivision* for a newly formed or
 23 reorganized school district, each school of the *school* district shall
 24 be deemed to have been a school of the newly formed or
 25 reorganized *school* district for both of the two previous school
 26 years.

27 ~~As~~

28 (3) *As* between employees who first rendered paid service to
 29 the *school* district on the same date, the governing board *of the*
 30 *school district* shall determine the order of termination solely on
 31 the basis of needs of the *school* district and the ~~students thereof.~~
 32 *pupils of the school district*. Upon the request of ~~any an~~ employee
 33 whose order of termination is so determined, the governing board
 34 *of the school district* shall furnish in ~~writing~~ *writing*, no later than
 35 five days ~~prior to~~ *before* the commencement of the hearing held
 36 in accordance with Section 44949, a statement of the specific
 37 criteria used in determining the order of termination and the
 38 application of the criteria in ranking each employee relative to the
 39 other employees in the group. ~~This~~ *The* requirement that the
 40 governing board *of the school district* provide, on request, a written

1 statement of reasons for determining the order of termination shall
2 not be interpreted to give affected employees any legal right or
3 interest that would not exist without ~~such a~~ *the* requirement.

4 (c) (1) Notice of ~~such the~~ termination of services shall be given
5 before ~~the 15th of May in the manner prescribed in May 15~~
6 *pursuant to* Section 44949, and services of ~~such those~~ employees
7 shall be terminated in the inverse of the order in which they were
8 employed, as determined by the *governing board of the school*
9 *district* in accordance with the provisions of Sections 44844 and
10 44845. ~~In the event that~~ *If* a permanent or probationary employee
11 is not given the notices and a right to a hearing as provided for in
12 Section 44949, he or she shall be deemed reemployed for the
13 ensuing school year.

14 ~~The~~

15 (2) *The governing board of the school district* shall make
16 assignments and reassignments in ~~such a~~ manner that employees
17 shall be retained to render any service ~~which~~ their seniority and
18 qualifications entitle them to render. However, ~~prior to~~ *before*
19 assigning or reassigning ~~any a~~ certificated employee to teach a
20 subject ~~which that~~ he or she has not previously taught, and for
21 which he or she does not have a teaching credential or ~~which that~~
22 is not within the employee's major area of postsecondary study or
23 the equivalent thereof, the *governing board of the school district*
24 shall require the employee to pass a subject matter competency
25 test in the appropriate subject.

26 (d) Notwithstanding subdivision (b), a school district may
27 deviate from terminating a certificated employee in order of
28 seniority for either of the following reasons:

29 (1) The *school* district demonstrates a specific need for personnel
30 to teach a specific course or course of study, or to provide services
31 authorized by a services credential with a specialization in either
32 pupil personnel services or health for a school nurse, and that the
33 certificated employee has special training and experience necessary
34 to teach that course or course of study or to provide those services,
35 ~~which that~~ others with more seniority do not possess.

36 (2) For purposes of maintaining or achieving compliance with
37 constitutional requirements related to equal protection of the laws.

38 (e) *This section shall become inoperative on July 1, 2018, and,*
39 *as of January 1, 2019, is repealed, unless a later enacted statute,*

1 *that becomes operative on or before January 1, 2019, deletes or*
2 *extends the dates on which it becomes inoperative and is repealed.*

3 SEC. 2. Section 44955.5 of the Education Code is amended to
4 read:

5 44955.5. (a) During the time period between five days after
6 the enactment of the Budget Act and August 15 of the fiscal year
7 to which that Budget Act applies, if the governing board of a school
8 district determines that its total revenue limit per unit of average
9 daily attendance for the fiscal year of that Budget Act has not
10 increased by at least 2 percent, and if ~~in the opinion of the~~
11 governing board *of the school district determines* it is therefore
12 necessary to decrease the number of permanent employees in the
13 school district, the governing board *of the school district* may
14 terminate the services of any permanent or probationary certificated
15 employees of the school district, including employees holding a
16 position that requires an administrative or supervisory credential.
17 The termination shall be pursuant to Sections 44951 and 44955
18 but, notwithstanding anything to the contrary in Sections 44951
19 and 44955, in accordance with a schedule of notice and hearing
20 adopted by the governing board: *board of the school district.*

21 ~~(b) This section is inoperative from July 1, 2002, to July 1, 2003,~~
22 ~~inclusive, and from July 1, 2011, to July 1, 2012, inclusive.~~

23 *(b) This section shall become inoperative on July 1, 2018, and,*
24 *as of January 1, 2019, is repealed, unless a later enacted statute,*
25 *that becomes operative on or before January 1, 2019, deletes or*
26 *extends the dates on which it becomes inoperative and is repealed.*

27 SEC. 3. Section 44956 of the Education Code is amended to
28 read:

29 44956. ~~Any~~ A permanent employee whose services have been
30 terminated as provided in Section 44955 shall have the following
31 rights:

32 (a) For the period of 39 months from the date of the termination,
33 ~~any~~ an employee who in the meantime has not attained the age of
34 65 years shall have the preferred right to reappointment, in the
35 order of original employment as determined by the governing
36 board *of the school district* in accordance with Sections 44831 to
37 44855, inclusive, if the number of employees is increased or the
38 discontinued service is reestablished, with no requirements that
39 were not imposed upon other employees who continued in service;
40 provided, that no probationary or other employee with less seniority

1 shall be employed to render a service that the employee is
2 certificated and competent to render. However, ~~prior to~~ *before*
3 reappointing ~~any~~ *an* employee to teach a subject that he or she has
4 not previously taught, and for which he or she does not have a
5 teaching credential or that is not within the employee's major area
6 of postsecondary study or the equivalent thereof, the governing
7 board *of the school district* shall require the employee to pass a
8 subject matter competency test in the appropriate subject.

9 (b) The right to reappointment described in subdivision (a) may
10 be waived by the employee, without prejudice, for not more than
11 one school year, unless the *governing board of the school district*
12 extends this right, but the waiver shall not deprive the employee
13 of his or her right to subsequent offers of reappointment.

14 (c) Notwithstanding subdivision (a), a school district may
15 deviate from reappointing a certificated employee in order of
16 seniority for either of the following reasons:

17 (1) The *school* district demonstrates a specific need for personnel
18 to teach a specific course or course of study, or to provide services
19 authorized by a services credential with a specialization in either
20 pupil personnel services or health for a school nurse, and that the
21 employee has special training and experience necessary to teach
22 that course or course of study, or to provide those services, that
23 others with more seniority do not possess.

24 (2) For purposes of maintaining or achieving compliance with
25 constitutional requirements related to equal protection of the laws.

26 (d) As to ~~any~~ *an* employee who is reappointed, the period of
27 his or her absence shall be treated as a leave of absence and shall
28 not be considered as a break in the continuity of his or her service,
29 he or she shall retain the classification and order of employment
30 he or she had when his or her services were terminated, and credit
31 for prior service under any state or *school* district retirement system
32 shall not be affected by ~~such~~ *the* termination, but the period of his
33 or her absence shall not count as a part of the service required for
34 retirement.

35 (e) During the period of his or her preferred right to
36 reappointment, an employee shall, in the order of original
37 employment, be offered prior opportunity for substitute service
38 during the absence of any other employee who has been granted
39 a leave of absence or who is temporarily absent from duty;
40 provided, that his or her services may be terminated upon the return

1 to duty of the other employee and that substitute service shall not
 2 affect the retention of his or her previous classification and rights.
 3 If, in any school year the employee serves as a substitute in any
 4 position requiring certification for 21 days or more within a period
 5 of 60 schooldays, the compensation the employee receives for
 6 substitute service in that 60-day period, including his or her first
 7 20 days of substitute service, shall ~~be~~ *not be* less than the amount
 8 the employee would receive if he or she were being reappointed.

9 (f) (1) During the period of the employee’s preferred right to
 10 reappointment, the governing board of the *school* district, if it is
 11 also the governing board of one or more other *school* districts,
 12 may assign him or her to service, which he or she is certificated
 13 and competent to render, in another *school* district or districts;
 14 provided, that the compensation he or she receives ~~therefor~~ *for the*
 15 *service* may, in the discretion of the governing ~~board,~~ *board of the*
 16 *school district*, be the same as he or she would have received had
 17 he or she been serving in the *school* district from which his or her
 18 services were terminated, that his or her service in the other *school*
 19 district or districts shall be counted toward the period required for
 20 both state and local retirement as though rendered in the *school*
 21 district from which his or her services were terminated, and that
 22 no permanent employee in the other *school* district or districts shall
 23 be displaced by him or her.

24 (2) It is the intent of this subdivision that the employees of a
 25 school district, the governing board of which is also the governing
 26 board of one or more other school districts, shall not be at a
 27 disadvantage as compared with employees of a unified school
 28 district.

29 (g) At any time ~~prior to~~ *before* the completion of one year after
 30 his or her return to service, he or she may continue or make up,
 31 with interest, his or her own contributions to any state or *school*
 32 district retirement ~~system;~~ *system* for the period of his or her
 33 absence, but it shall not be obligatory on *the* state or *school* district
 34 to match those contributions.

35 (h) Should he or she become disabled or reach retirement age
 36 at any time before his or her return to service, he or she shall
 37 receive, in any state or *school* district retirement system of which
 38 he or she was a member, all benefits to which he or she would
 39 have been entitled had such event occurred at the time of his or
 40 her termination of service, plus any benefits he or she may have

1 qualified for ~~thereafter~~, *after his or her termination of service*, as
2 though still employed.

3 (i) *This section shall become inoperative on July 1, 2018, and,*
4 *as of January 1, 2019, is repealed, unless a later enacted statute,*
5 *that becomes operative on or before January 1, 2019, deletes or*
6 *extends the dates on which it becomes inoperative and is repealed.*

7 SEC. 4. Section 44956.5 of the Education Code is amended to
8 read:

9 44956.5. (a) For a certificated employee initially employed
10 in an administrative position on or after July 1, 1983, who transfers
11 to a teaching position, the period of employment in the
12 administrative position shall not be included in determining
13 seniority for purposes of Sections 44955 and 44956, except for
14 ~~school-site~~ *schoolsite* administrators who shall earn up to a
15 maximum of three years seniority while serving as site
16 administrators.

17 (b) *This section shall become inoperative on July 1, 2018, and,*
18 *as of January 1, 2019, is repealed, unless a later enacted statute,*
19 *that becomes operative on or before January 1, 2019, deletes or*
20 *extends the dates on which it becomes inoperative and is repealed.*

21 SEC. 5. Section 44957 of the Education Code is amended to
22 read:

23 44957. ~~Any~~ A probationary employee whose services have
24 been terminated as provided in Section 44955 shall have the
25 following rights:

26 (a) For the period of 24 months from the date of ~~such the~~
27 termination, ~~any an~~ employee who in the meantime has not attained
28 the age of 65 years shall have the preferred right to reappointment,
29 subject to the prior rights to reappointment by all permanent
30 employees as set forth in Section 44956, in the order of original
31 employment as determined by the governing board *of the school*
32 *district* in accordance with ~~the provisions of~~ Sections 44831 to
33 44855, inclusive, if the number of employees is increased or the
34 discontinued service is reestablished, with no requirements that
35 were not imposed upon other employees who continued in service.
36 Except as otherwise provided, ~~no a~~ probationary or temporary
37 employee with less seniority shall *not* be employed to render a
38 service ~~which such that the~~ employee is certificated and competent
39 to render and provided that ~~such an the~~ employee shall be given a
40 priority over employees whose right to a position is derived

1 pursuant to Section 44918. However, ~~prior to~~ *before* reappointing
2 ~~any an~~ employee to teach a subject ~~which that~~ he or she has not
3 previously taught, and for which he or she does not have a teaching
4 credential or ~~which that~~ is not within the employee's major area
5 of postsecondary study or the equivalent thereof, the governing
6 board *of the school district* shall require the employee to pass a
7 subject matter competency test in the appropriate subject.

8 (b) Notwithstanding subdivision (a), a school district may
9 deviate from reappointing a probationary employee in order of
10 seniority for either of the following reasons:

11 (1) The *school* district demonstrates a specific need for personnel
12 to teach a specific course or course of study, or to provide services
13 authorized by a services credential with a specialization in either
14 pupil personnel services or health for a school nurse, and that the
15 employee has special training and experience necessary to teach
16 that course or course of study, or to provide those services, ~~which~~
17 *that* others with more seniority do not possess.

18 (2) For purposes of maintaining or achieving compliance with
19 constitutional requirements related to equal protection of the laws.

20 (c) As to ~~any such an~~ employee who is reappointed, the period
21 of his *or her* absence shall be treated as a leave of absence and
22 shall not be considered as a break in the continuity of his *or her*
23 service, he *or she* shall retain the classification and order of
24 employment he *or she* had when his *or her* services were
25 terminated, and credit for prior service under any state or *school*
26 district retirement system shall not be affected by ~~such the~~
27 termination; provided, however, that the period of his *or her*
28 absence shall not be counted as a part of the service required for
29 attaining permanent status in the *school* district or, except as
30 provided in subdivision (e), for retirement purposes.

31 (d) During the period of his *or her* preferred right to
32 reappointment, ~~any such the~~ employee shall, in the order of original
33 employment, and subject to the rights of permanent employees as
34 set forth in Section 44956, be offered prior opportunity for
35 substitute service during the absence of any other employee who
36 has been granted leave of absence or who is temporarily absent
37 from duty; provided, that his *or her* services may be terminated
38 upon a return to duty of ~~such the~~ other employee, that such
39 substitute service shall not affect the retention of his *or her*
40 previous classification and rights, and that such an employee shall

1 be given a priority over employees whose right to a substitute
2 position is derived pursuant to Section 44918.

3 (e) At any time ~~prior to~~ before the completion of one year after
4 his or her return to service, an employee reappointed under ~~the~~
5 ~~provisions of~~ this section may elect to continue or to reinstate his
6 or her membership and interest in any state or school district
7 retirement system and to receive retirement benefits as if no
8 absence from service had occurred. In the event of ~~such that~~
9 election the employee shall pay into the retirement system the
10 amount of his or her share of contribution and the school district's
11 share of contribution attributable to the period of absence and the
12 amount of any contributions withdrawn, plus interest.

13 (f) *This section shall become inoperative on July 1, 2018, and,*
14 *as of January 1, 2019, is repealed, unless a later enacted statute,*
15 *that becomes operative on or before January 1, 2019, deletes or*
16 *extends the dates on which it becomes inoperative and is repealed.*

17 SEC. 6. Section 44958 of the Education Code is amended to
18 read:

19 44958. (a) (1) If the services of ~~any~~ a probationary employee
20 are terminated, or if such employee is dismissed, because of a
21 reduction in the attendance of pupils or the discontinuance of a
22 particular kind of service, and ~~such~~ the employee is reemployed
23 within a period of 39 months from the last day of the school year
24 within which his or her service was so terminated, or within 39
25 months after the cessation of hostilities, if such reduction in
26 attendance or discontinuance of service was due to war conditions,
27 the period of his or her absence shall not count as a part of the
28 service required as a condition precedent to the classification of
29 ~~such the~~ employee as a permanent employee of the school district,
30 but such absence shall not be construed as a break in the continuity
31 of the service of ~~such the~~ employee.

32 Every

33 (2) Every such probationary employee who has been reemployed
34 as indicated in this section shall have all of the rights enumerated
35 in Sections 44955 to 44961, inclusive, for permanent employees,
36 except the right of reappointment, subject only to the prior rights
37 of permanent employees.

38 ~~The~~

39 (3) The provisions of this section shall apply to ~~any~~ a
40 probationary employee who shall be or who shall have been

1 dismissed or terminated after January 1, 1949, because of reduction
 2 in attendance or discontinuance of a particular kind of service.

3 *(b) This section shall become inoperative on July 1, 2018, and,*
 4 *as of January 1, 2019, is repealed, unless a later enacted statute,*
 5 *that becomes operative on or before January 1, 2019, deletes or*
 6 *extends the dates on which it becomes inoperative and is repealed.*

7 SEC. 7. Section 44959 of the Education Code is amended to
 8 read:

9 44959. ~~As to any~~ *(a) A permanent certificated employee whose*
 10 *services have been terminated because of the effect of wars in*
 11 *which the United States is engaged upon the attendance of pupils*
 12 *or upon the maintenance of a particular kind of service, the*
 13 *effective period covered by all rights enumerated in Section 44956*
 14 *is extended until two years after the cessation of hostilities, and in*
 15 ~~addition thereto for a like~~ *for the same period these employees*
 16 *shall have the following additional rights:*

17 ~~(a)~~
 18 *(1) He or she may voluntarily accept termination of service in*
 19 *other than the order of original employment and retain all of the*
 20 *other rights herein provided: provided by this section.*

21 ~~(b)~~
 22 *(2) If he or she is engaged in any form of civilian or military*
 23 *war service, any credential or certificate he or she holds is*
 24 *continued in full force and effect until 90 days after the termination*
 25 *of his or her employment therein: civilian or military war service.*

26 ~~(c)~~
 27 *(3) If, either before or after such termination, he or she engages*
 28 *in any form of war service for which provision is made in Section*
 29 *44800 or elsewhere in the laws of this state, he or she shall retain*
 30 *all rights granted by that war service legislation as though still*
 31 *employed. However, the right to reappointment shall be in the*
 32 *order of original employment, as determined in accordance with*
 33 ~~the provisions of Sections 44844 and 44845.~~

34 *(b) This section shall become inoperative on July 1, 2018, and,*
 35 *as of January 1, 2019, is repealed, unless a later enacted statute,*
 36 *that becomes operative on or before January 1, 2019, deletes or*
 37 *extends the dates on which it becomes inoperative and is repealed.*

38 SEC. 8. Section 44959.5 of the Education Code is amended to
 39 read:

1 44959.5. (a) The layoff provisions of Sections 44955, 44956,
2 44957, ~~44958~~ 44958, and 44959 shall not be applicable to
3 probationary certificated employees who are covered by a
4 collective agreement ~~which~~ *that* contains provisions for the layoff
5 and reassignment of ~~such~~ *those* employees.

6 (b) If layoff proceedings are commenced under procedures
7 prescribed by any of the sections referred to in subdivision (a),
8 ~~such~~ *those* proceedings shall continue in accordance with the
9 statutory procedures, notwithstanding the subsequent adoption of
10 a collective agreement or the inclusion in the coverage thereof of
11 employees not so covered at the time ~~such~~ *those* proceedings
12 commenced.

13 (c) If layoff proceedings are commenced under a collective
14 agreement ~~which~~ *that* contains provisions for the layoff of
15 probationary certificated employees, ~~such~~ *those* proceedings shall
16 continue in accordance with the agreement, notwithstanding the
17 subsequent termination of the agreement.

18 (d) This section shall only apply to a school district in which
19 the average daily attendance is 400,000 *pupils* or more and shall
20 not be interpreted to apply to the termination of ~~any~~ *a* probationary
21 certificated employee pursuant to Section 44948 or Section 44949.

22 (e) *This section shall become inoperative on July 1, 2018, and,*
23 *as of January 1, 2019, is repealed, unless a later enacted statute,*
24 *that becomes operative on or before January 1, 2019, deletes or*
25 *extends the dates on which it becomes inoperative and is repealed.*

26 SEC. 9. Section 45000 is added to the Education Code, to read:

27 45000. (a) By July 1, 2018, each governing board of a school
28 district, in consultation with the exclusive representative of the
29 certificated staff, if any, shall adopt policies regarding the dismissal
30 of permanent and probationary employees when a reduction in
31 workforce is required due to declining enrollment or insufficient
32 funding to be used commencing with the 2018–19 school year.

33 (b) Policies adopted pursuant to subdivision (a) shall include
34 as a significant factor in determining the order of dismissal the
35 evaluation rating of certificated employees pursuant to Section
36 44664.

37 (c) A school district may deviate from using the evaluation
38 rating of certificated employees as a significant factor in
39 determining the order of dismissal of certificated employees if the
40 school district demonstrates a specific need for personnel to teach

1 a specific course or course of study, or to provide services
2 authorized by a services credential with a specialization in either
3 pupil personnel services or health for a school nurse, and that the
4 certificated employee has special training and experience necessary
5 to teach that course or course of study or to provide those services
6 that others with higher evaluation ratings do not possess.

7 (d) To the extent that the provisions of this section conflict with
8 a provision of a collective bargaining agreement entered into by
9 a public school employer and an exclusive bargaining
10 representative before January 1, 2016, pursuant to Chapter 10.7
11 (commencing with Section 3540) of Division 4 of Title 1 of the
12 Government Code, the provisions of this section shall not apply
13 to the school district until expiration or renewal of that collective
14 bargaining agreement.

15 SEC. 10. If the Commission on State Mandates determines
16 that this act contains costs mandated by the state, reimbursement
17 to local agencies and school districts for those costs shall be made
18 pursuant to Part 7 (commencing with Section 17500) of Division
19 4 of Title 2 of the Government Code.