

AMENDED IN SENATE JUNE 22, 2016

AMENDED IN SENATE MAY 24, 2016

AMENDED IN ASSEMBLY APRIL 14, 2016

AMENDED IN ASSEMBLY MARCH 29, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 2336

Introduced by Assembly Member Olsen
(Coauthors: Assembly Members Baker, Bonilla, Lackey, and
O'Donnell)
(Coauthor: Senator Vidak)

February 18, 2016

An act to ~~amend, repeal, and add Sections 56060 and 56061~~ and *amend Section 56061 of, and to add and repeal Section 56061.5 of,* the Education Code, relating to special education.

LEGISLATIVE COUNSEL'S DIGEST

AB 2336, as amended, Olsen. Special education: substitute teachers.

Existing law authorizes a person holding a valid credential authorizing substitute teaching to serve as a substitute for an appropriately credentialed special education ~~teacher for up to 20 cumulative schooldays~~. *teacher, as specified. Existing law prohibits an employer from employing an inappropriately credentialed substitute teacher for a period of more than 20 cumulative school days for each special education teacher absent during each school year.* Existing law authorizes the Superintendent of Public Instruction to approve an extension beyond 20 cumulative schooldays, as provided. Existing law requires the county superintendent of schools to perform various duties

with respect to the schools of his or her county, including a duty to monitor and review their certificated employee assignment practices.

This bill instead would prohibit an employer from employing an inappropriately credentialed substitute teacher for a period of more than 20 cumulative school days for each special education teacher absent, or if there is a vacancy, during each school year.

This bill would, until January 1, 2022, ~~authorize~~ *authorize additionally authorize, subject to the issuance of specified federal guidance,* a person holding a valid emergency 30-day substitute teacher permit to serve as a substitute in a special education classroom for up to 40 cumulative schooldays per vacancy when specified conditions are met. The bill would require an employing authority to report annually to its county office of education, as part of the monitoring and review of certificated employee assignment practices, the number of permitholders employed pursuant to these provisions and the length of time they were employed. By imposing additional duties on local educational agencies, the bill would impose a state-mandated local program. ~~The~~

This bill would make conforming changes and nonsubstantive changes.

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 56060 of the Education Code is amended~~
- 2 ~~to read:~~
- 3 56060. (a) ~~Except as provided in subdivision (b) of Section~~
- 4 ~~56061, a noncredentialed person shall not substitute for any special~~
- 5 ~~education certificated position.~~
- 6 (b) ~~This section shall become inoperative on January 1, 2022,~~
- 7 ~~and as of that date is repealed, unless a later enacted statute, that~~
- 8 ~~is enacted before January 1, 2022, deletes or extends that date.~~
- 9 SEC. 2. ~~Section 56060 is added to the Education Code, to read:~~

1 56060. ~~(a) A noncredentialed person shall not substitute for~~
2 ~~any special education certificated position.~~

3 ~~(b) This section shall become operative on January 1, 2022.~~

4 SEC. 3.

5 SECTION 1. Section 56061 of the Education Code is amended
6 to read:

7 56061. (a) A person holding a valid credential authorizing
8 substitute teaching may serve as a substitute for the appropriately
9 credentialed special education teacher as follows:

10 (1)

11 (a) Except as provided in ~~paragraphs (2) subdivisions (b) and~~
12 ~~(3), (c)~~, the employer shall not employ an inappropriately
13 credentialed substitute teacher for a period of more than 20
14 cumulative schooldays for each special education teacher ~~absent~~
15 ~~absent, or if there is a vacancy~~, during each school year.

16 (2)

17 (b) Upon application by the district or county office, the
18 Superintendent may approve an extension of 20 schooldays in
19 addition to those authorized by ~~paragraph (1) subdivision (a)~~.

20 (3)

21 (c) Only in extraordinary circumstances may an additional
22 number of days be granted beyond the 40 schooldays provided for
23 by ~~paragraphs (1) subdivisions (a) and (2) (b)~~. Those additional
24 days shall be granted in writing by the Superintendent. The
25 Superintendent shall report to the state board on all requests granted
26 for an additional number of days pursuant to this ~~paragraph~~.
27 ~~subdivision~~.

28 (b) (1) ~~A person holding a valid emergency 30-day substitute~~
29 ~~teacher permit may serve as a substitute in a special education~~
30 ~~classroom for up to 40 cumulative schooldays per vacancy,~~
31 ~~provided all of the following conditions have been met:~~

32 (A) ~~The permitholder is filling an immediate staffing need due~~
33 ~~to a vacant position and is not substituting for a teacher who is~~
34 ~~absent.~~

35 (B) ~~The employing authority has completed and filed a~~
36 ~~Statement of Need pursuant to Section 80025 of Title 5 of the~~
37 ~~California Code of Regulations.~~

38 (C) ~~The employing authority has complied with the hiring~~
39 ~~hierarchy pursuant to Section 44225.7.~~

1 ~~(D) By the time the employing authority has reason to believe~~
2 ~~that the assignment will last more than 20 schooldays, and by no~~
3 ~~later than the 20th day of the assignment, the employing authority~~
4 ~~has developed and implemented a plan to provide not less than six~~
5 ~~hours of training to the permitholder in all of the following areas:~~

6 ~~(i) Classroom management.~~

7 ~~(ii) Developing and implementing lesson plans.~~

8 ~~(iii) Implementing the requirements of each pupil's~~
9 ~~individualized education program.~~

10 ~~(iv) Other areas as deemed necessary by the employing~~
11 ~~authority.~~

12 ~~(E) The employing authority has assigned a credentialed teacher~~
13 ~~or teachers to provide ongoing support to the permitholder.~~

14 ~~(2) An employing authority shall report annually to its county~~
15 ~~office of education, as part of the assignment monitoring required~~
16 ~~pursuant to Section 44258.9, the number of permitholders~~
17 ~~employed pursuant to this subdivision and the length of time they~~
18 ~~were employed.~~

19 ~~(e) For purposes of this section, "employing authority" includes~~
20 ~~school districts, county offices of education, nonpublic,~~
21 ~~nonsectarian schools and agencies, and charter schools.~~

22 ~~(d) This section shall become inoperative on January 1, 2022,~~
23 ~~and as of that date is repealed, unless a later enacted statute, that~~
24 ~~is enacted before January 1, 2022, deletes or extends that date.~~

25 ~~SEC. 4. Section 56061 is added to the Education Code, to read:~~

26 ~~56061. (a) A person holding a valid credential authorizing~~
27 ~~substitute teaching may serve as a substitute for the appropriately~~
28 ~~credentialed special education teacher as follows:~~

29 ~~(1) Except as provided in paragraphs (2) and (3), the employer~~
30 ~~shall not employ an inappropriately credentialed substitute teacher~~
31 ~~for a period of more than 20 cumulative schooldays for each special~~
32 ~~education teacher absent during each school year.~~

33 ~~(2) Upon application by the district or county office, the~~
34 ~~Superintendent may approve an extension of 20 schooldays in~~
35 ~~addition to those authorized by paragraph (1).~~

36 ~~(3) Only in extraordinary circumstances may an additional~~
37 ~~number of days be granted beyond the 40 schooldays provided for~~
38 ~~by paragraphs (1) and (2). Those additional days shall be granted~~
39 ~~in writing by the Superintendent. The Superintendent shall report~~

1 to the state board on all requests granted for an additional number
2 of days pursuant to this paragraph.

3 ~~(b) This section shall become operative on January 1, 2022.~~

4 SEC. 2. Section 56061.5 is added to the Education Code, to
5 read:

6 56061.5. (a) (1) Notwithstanding Sections 56060 and 56061,
7 a person holding a valid emergency 30-day substitute teacher
8 permit may serve as a substitute in a special education classroom
9 for up to 40 cumulative schooldays per vacancy, provided all of
10 the following conditions have been met:

11 (A) The permitholder is filling an immediate staffing need due
12 to a vacant position and is not substituting for a teacher who is
13 absent.

14 (B) The employing authority has completed and filed a Statement
15 of Need pursuant to Section 80025 of Title 5 of the California Code
16 of Regulations.

17 (C) The employing authority has complied with the hiring
18 hierarchy pursuant to Section 44225.7.

19 (D) By the time the employing authority has reason to believe
20 that the assignment will last more than 20 schooldays, and by no
21 later than the 20th day of the assignment, the employing authority
22 has developed and implemented a plan to provide not less than
23 six hours of training to the permitholder in all of the following
24 areas:

25 (i) Classroom management.

26 (ii) Developing and implementing lesson plans.

27 (iii) Implementing the requirements of each pupil's
28 individualized education program.

29 (iv) Other areas as deemed necessary by the employing
30 authority.

31 (E) The employing authority has assigned a credentialed teacher
32 or teachers to provide ongoing support to the permitholder.

33 (2) An employing authority shall report annually to its county
34 office of education, as part of the assignment monitoring required
35 pursuant to Section 44258.9, the number of permitholders employed
36 pursuant to this subdivision and the length of time they were
37 employed.

38 (b) For purposes of this section, "employing authority" includes
39 school districts, county offices of education, nonpublic,
40 nonsectarian schools and agencies, and charter schools.

1 (c) This section shall become operative on the date that the
2 United States Department of Education provides guidance to state
3 education agencies or local educational agencies that applicable
4 federal law does not prohibit substitute teachers from filling an
5 absence or a vacancy in a special education classroom on an
6 emergency, temporary, or provisional basis.

7 (d) This section shall become inoperative on January 1, 2022,
8 and as of that date is repealed, unless a later enacted statute, that
9 is enacted before January 1, 2022, deletes or extends that date.

10 ~~SEC. 5.~~

11 SEC. 3. If the Commission on State Mandates determines that
12 this act contains costs mandated by the state, reimbursement to
13 local agencies and school districts for those costs shall be made
14 pursuant to Part 7 (commencing with Section 17500) of Division
15 4 of Title 2 of the Government Code.