

AMENDED IN ASSEMBLY JULY 1, 1995
AMENDED IN ASSEMBLY JUNE 21, 1995
AMENDED IN ASSEMBLY JUNE 19, 1995
AMENDED IN SENATE APRIL 25, 1995
AMENDED IN SENATE APRIL 17, 1995

SENATE BILL

No. 1054

Introduced by Senator Solis

February 24, 1995

An act to amend Sections 45183, 45253, 45271, 45272, 45273, 45274, 45283, 45292, and 45300 of, and to repeal Sections 45105.1, 45257, and 45282 of, the Education Code, relating to school district employees.

LEGISLATIVE COUNSEL'S DIGEST

SB 1054, as amended, Solis. School districts: classified employees.

(1) Existing law provides for the classified service of employees in a school district. Existing law authorizes the governing board of a school district to establish positions as part of the classified service and employ persons in public service employment positions that are funded by the Comprehensive Employment and Training Act (hereafter CETA).

The bill would repeal the provisions authorizing the governing board of a school district to establish and employ persons in positions that are funded by the CETA.

(2) Under existing law pertaining to the classified service of employees in a school district, assignments to duties for which differential compensation is designated, except as specified, are required to be made on the basis of seniority, as specified.

This bill would revise this provision instead to require assignments of duties to bargaining unit employees to be made on the basis of seniority and would authorize the governing boards of school districts and the exclusive representative of the classified employees, as specified, to waive this seniority requirement.

(3) Existing law requires a personnel commission to prepare its annual budget, hold a public hearing on it, as specified, and submit its proposed budget to the county superintendent of schools for approval. Existing law requires the county superintendent of schools to hold a public hearing, as specified, if he or she proposes to reject the budget as submitted by the commission. Existing law authorizes the county superintendent, after the hearing, to reject the budget or, with the concurrence of the commission, amend it. Existing law requires, in the absence of agreement between the commission and the county superintendent, that the budget of the preceding year determine the amount of the new budget and that the commission determine the items of expenditure.

This bill would require the county superintendent to contract with the Office of Administrative Hearings of the State of California for a public hearing on the proposed rejection of a budget submitted by the personnel commission of a county office of education, thereby imposing a state-mandated local program. The bill would provide that, in the absence of an agreement between the personnel commission and the Office of Administrative Hearings, the amount of the new budget is determined by the budget of the preceding year, and the commission determines the items of expenditure. The bill would provide that these procedures apply if an individual serves as both the county superintendent of schools and the superintendent of a school district within the county.



(4) Existing law provides for a merit system for the classified service of employees of a school district under which a personnel commission is required to be appointed. The personnel commission is required to make the classification of employees and positions within the jurisdiction of the governing board of the school district or within the jurisdiction of the personnel commission. Existing law exempts from classification certain positions, including, positions established for the employment of professional experts on a temporary basis for a specific project by the governing board of the school district or by the commission, as specified. Existing law also specifies that nothing in the classification provisions shall be construed to exclude the employment of architectural and engineering firms employed on a temporary basis, as specified.

This bill would repeal the provision pertaining to the employment of architectural and engineering firms.

(5) Existing law provides, under the merit system for classified service of employees of a school district, that any employee serving in a certificated position whose position is by virtue of change of law deemed to be in classified service shall become a member of the classified service without examination and with retention of full seniority rights, except as specified.

This bill would add to those persons who shall become part of the classified service without examination an employee whose position is deemed to be in classified service pursuant to an evaluation of the duties of the employees, as specified, and subject to a specified provision of law, thereby imposing a state-mandated local program.

(6) Under existing law relating to the merit system for classified service of employees of a school district, all vacancies in the classified service are required to be filled pursuant to specified provisions and pursuant to the rules of the commission, from applicants on eligibility lists that are made up, in part, from promotional examinations. Under existing law, applicants are to be placed on the eligibility lists in the order of their relative merit as determined by competitive examinations.



This bill would specify that the commission shall place applicants on the eligibility lists in the order of their relative merit as determined by competitive examinations.

(7) Under existing law relating to the merit system for classified service of employees of a school district, where a structured objective examination is to be administered to the entire field of candidates in an entrance level classification, a single member oral examination may be used.

This bill would instead authorize a single member oral examination to be used where a structured objective examination is to be administered to the entire field of candidates.

(8) Under existing law relating to the merit system for classified service of employees of a school district, a personnel commission is required by rule to provide for an open competitive examination and a promotional examination for certain positions.

This bill would repeal that provision.

(9) Under existing law relating to the merit system for classified service of employees of a school district, certain school districts that divide themselves into smaller areas for assignment of classified personnel may establish an eligibility list in an assignment area in which the eligibility list was exhausted even though there are available eligibles in another assignment area. Existing law provides that the life of the new area eligibility list shall be not less than one year and may be extended for up to an additional year.

This bill would instead provide that for the certain school districts that divide themselves into smaller areas for assignment of classified personnel the commission may establish area eligibility lists in those areas where the district eligibility list is exhausted. Appointments to positions within the area would be required to be made from the first 3 ranks of persons on the area eligibility list. The life of the list may be extended up to an additional period of 2 years.

(10) Existing law relating to the merit system for classified service of employees of a school district authorizes the personnel commission to provide for continuous examination of eligibles for classes of positions that the commission



determines cannot be practicably filled by promotional examination only.

This bill would instead authorize the commission to provide for continuous examination of eligibles.

(11) Existing law provides for the establishment of eligibility lists for specified periods and authorizes those lists to be extended for an additional period of one year or less in the discretion of the personnel commission.

This bill would authorize eligibility lists to be extended for an additional period of 2 years or less at the discretion of the commission.

(12) 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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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 45105.1 of the Education Code is
 2 repealed.
 3 SEC. 2. Section 45183 of the Education Code is
 4 amended to read:
 5 45183. (a) Assignment of duties to bargaining unit
 6 employees for which differential compensation is
 7 designated, other than a temporary assignment of less
 8 than 20 working days, shall be made on the basis of
 9 seniority among those employees within the appropriate
 10 class who request such an assignment.
 11 (b) This section may be waived by agreement
 12 between the governing board of a school district and the



1 exclusive representative of the unit of classified
2 employees to be affected by the waiver.

3 SEC. 3. Section 45253 of the Education Code is
4 amended to read:

5 45253. (a) The commission shall prepare an annual
6 budget for its own office which, upon the approval of the
7 county superintendent of schools, shall be included by the
8 governing board in the regular budget of the school
9 district. The annual budget of the commission may
10 include amounts for the purposes of Section 45255.

11 (b) The budget shall be prepared for a public hearing
12 by the commission to be held not later than May 30 of each
13 year, or at a date agreed upon between the governing
14 board and the personnel commission to coincide with the
15 process of adoption of the school district budget. The
16 commission shall forward a copy of its proposed budget
17 to the governing board indicating the time, date and
18 place for the public hearing of the budget and shall invite
19 board and district administration representatives to
20 attend and present their views. The commission shall
21 fully consider the views of the governing board prior to
22 adoption of its proposed budget. The commission shall
23 then forward its proposed budget to the county
24 superintendent of schools for action.

25 (c) If the county superintendent of schools proposes to
26 reject the budget as submitted by the commission of a
27 school district, he or she shall, within 30 days after the
28 commission's submission of the budget, hold a public
29 hearing on the proposed rejection within the affected
30 district. He or she shall have informed both the
31 commission and the governing board of the date, time
32 and place of the hearing. He or she may after the public
33 hearing either reject, or, with the concurrence of the
34 commission, amend the proposed budget. In the absence
35 of agreement between the personnel commission and the
36 county superintendent, the budget of the preceding year
37 shall determine the amount of the new budget, and the
38 items of expenditure shall be determined by the
39 commission.



1 (d) If the county superintendent of schools proposes to
2 reject the budget as submitted by the personnel
3 commission of a county office of education, the county
4 superintendent shall contract with the Office of
5 Administrative Hearings of the State of California for a
6 public hearing on the proposed rejection. The Office of
7 Administrative Hearings shall render findings on the
8 proposed budget. In the absence of an agreement
9 between the personnel commission and the Office of
10 Administrative Hearings, the budget of the preceding
11 year shall determine the amount of the new budget, and
12 the items of expenditure shall be determined by the
13 commission.

14 (e) The procedures of subdivision (d) apply if an
15 individual serves as both the county superintendent of
16 schools and the superintendent of a school district within
17 the county.

18 SEC. 4. Section 45257 of the Education Code is
19 repealed.

20 SEC. 5. Section 45271 of the Education Code is
21 amended to read:

22 45271. Any employee serving in a certificated position
23 whose position is by virtue of change of law or based upon
24 an evaluation made pursuant to subdivision (a) of Section
25 44065 of the duties of the employee and subject to Section
26 ~~48285-45285~~ shall be deemed to be in the classified service
27 shall without examination become a member of the
28 classified service in accordance with the terms of Sections
29 45269 and 45270. Full seniority rights shall be retained,
30 except that no seniority credit shall be allowed by virtue
31 of previous certificated service in case of layoff for lack of
32 funds or lack of work.

33 Any employee serving in a classified position whose
34 position is by virtue of change of law deemed to be in the
35 certificated service shall without examination become an
36 employee of the certificated service and shall be deemed
37 to have the necessary certification qualifications for that
38 position. Full seniority rights will be retained, except that
39 no seniority credit will be allowed by virtue of previous
40 classified service in case of layoff for lack of funds or lack

1 of work. Any such person who has been continuously
2 employed in a regular position in the classified service for
3 the length of time necessary to acquire permanency as a
4 certificated employee shall be deemed to be a permanent
5 certificated employee of the district. Any such person
6 serving in a regular position in the classified service for an
7 amount of time less than that deemed to be necessary to
8 acquire permanency as a certificated employee shall be
9 a certificated probationary employee of the district. That
10 regular classified service shall be considered as
11 probationary service toward the attainment of
12 permanency by a certificated employee of the district.

13 SEC. 6. Section 45272 of the Education Code is
14 amended to read:

15 45272. (a) All vacancies in the classified service shall
16 be filled pursuant to this article and the rules of the
17 commission, from applicants on eligibility lists which,
18 wherever practicable, as determined by the commission,
19 shall be made up from promotional examinations, or
20 appointments may be made by means of transfer,
21 demotion, reinstatement, and reemployment in
22 accordance with the rules of the commission. All
23 applicants for promotional examinations shall have the
24 required amount of service in classes designated by the
25 commission or meet the minimum qualifications of
26 education, training, experience, and length of service,
27 which shall be determined by the commission to be
28 appropriate for the class for which they have applied. Any
29 promotional applicant who has served the required
30 amount of time in a designated class or who meets the
31 minimum qualifications for admission to a promotional
32 examination shall be admitted to the examination. The
33 commission shall place applicants on the eligibility lists in
34 the order of their relative merit as determined by
35 competitive examinations. The final scores of candidates
36 shall be rounded to the nearest whole percent for all
37 eligibles. All eligibles with the same percentage score will
38 be considered as having the same rank. Appointments
39 shall be made from the eligibles having the first three



1 ranks on the list who are ready and willing to accept the
2 position.

3 (b) Upon the request of a majority of the members of
4 the governing board of a district, the commission may
5 exempt one or more executive secretarial positions from
6 the requirements of this section. Exemptions authorized
7 under this subdivision shall be limited to executive
8 secretarial positions reporting directly to members of the
9 governing board, the district superintendent, or ~~or~~ not
10 more than four principal deputies of the district
11 superintendent, or all of these positions.

12 Any person employed in an exempt executive
13 secretarial position shall continue to be afforded all of the
14 rights, benefits, and burdens of any other classified
15 employee serving in the regular service of the district,
16 except he or she shall not attain permanent status in an
17 executive secretarial position. Positions of executive
18 secretary shall be filled from an unranked list of eligible
19 employees who have been found to be qualified for the
20 positions as specified by the district superintendent and
21 determined by the personnel commission. Any person
22 whose services in an executive secretarial position are
23 discontinued for a cause other than a cause for
24 disciplinary action specified in this code or in a rule of the
25 commission shall have the right to return to a position in
26 a classification he or she previously occupied or, if that
27 classification no longer exists, in a similar classification, as
28 determined by the commission.

29 Nothing contained in this section shall authorize the
30 selection of eligible candidates in circumvention of the
31 affirmative action programs of any school district.

32 SEC. 7. Section 45273 of the Education Code is
33 amended to read:

34 45273. Examinations shall be administered
35 objectively, and shall consist of test parts that relate to job
36 performance.

37 For classes of positions deemed by the commission to
38 require an oral examination, the oral examination board
39 shall include at least two members. Where a structured
40 objective examination is to be administered to the entire



1 field of candidates, a single member oral examination
2 board may be utilized. A “structured objective
3 examination” means, for this purpose, an examination for
4 which the examiner exercises no discretion in the
5 selection of the questions or in the evaluation of the
6 answers.

7 Unless specifically directed to evaluate candidates’
8 technical knowledge and skills, the oral examination
9 board shall confine itself to evaluating general fitness for
10 employment in the class. When the oral examination
11 board is directed to evaluate technical knowledge and
12 skills, at least two members of the board shall be
13 technically qualified in the specified occupational area.
14 Members of the governing board or personnel
15 commission shall not serve on an oral examination board.
16 A district employee may serve on an oral examination
17 board if he or she is not at the first or second level of
18 supervision over a vacant position in the class for which
19 the examination is held.

20 The personnel commission shall provide for the
21 proceedings of all oral examinations to be electronically
22 recorded. In no case will an oral examination board be
23 provided with confidential references on employees of
24 the district who are competing in promotional
25 examinations. Scores achieved by the candidate on other
26 parts of the examination shall not be made available to the
27 oral examination board.

28 SEC. 8. Section 45274 of the Education Code is
29 amended to read:

30 45274. Examination records, including any recordings
31 and the rating sheet of each member of the oral board for
32 each candidate, shall be retained by the personnel
33 commission for a period of not less than 90 days after
34 promulgation of an eligibility list. The commission shall
35 prescribe procedures whereby candidates may review
36 and protest any part of an examination. In promotional
37 examinations for classes for which continuous
38 examination procedures have not been authorized, the
39 review and protest period shall be held prior to regular
40 appointment from the eligibility list. Examination



1 records shall not be available to the public or to any
2 person for any purpose not directly connected with the
3 examination and shall be considered confidential but
4 shall, within reasonable time limits, be made available to
5 a candidate or his or her representative.

6 SEC. 9. Section 45282 of the Education Code is
7 repealed.

8 SEC. 10. Section 45283 of the Education Code is
9 amended to read:

10 45283. In any school district that has geographical
11 boundaries encompassing more than 200 square miles
12 and that divides the area it serves into smaller areas for
13 assignment of classified personnel, the personnel
14 commission may establish area eligibility lists in those
15 areas where the district eligibility list is exhausted.
16 Appointments to positions within the area shall be made
17 from the first three ranks of persons on the area eligibility
18 list, as determined by the commission, who are ready and
19 willing to accept the position. The life of the new area
20 eligibility list shall be not less than one year. The life of the
21 list may be extended for up to an additional period of two
22 years at the discretion of the commission. Seniority for the
23 purpose specified in Section 45308 shall continue to be
24 districtwide.

25 SEC. 11. Section 45292 of the Education Code is
26 amended to read:

27 45292. The commission may provide for the
28 continuous examination of eligibles.

29 SEC. 12. Section 45300 of the Education Code is
30 amended to read:

31 45300. Eligibility lists shall be established for a period
32 of not less than one year except that when a list is
33 exhausted for appointments to current vacancies,
34 through use and eligibles being unavailable, the
35 commission may, upon the recommendation of the
36 officer charged with certifying eligibles, and after due
37 notice to eligibles who may have made themselves
38 unavailable for appointment, terminate it before a year
39 has expired.



1 Eligibility lists may be established for a period of six
2 months upon the approval of the personnel commission
3 as long as the six-months' duration of such a list is noted
4 in the recruitment bulletin announcing the examination.
5 If a list is exhausted for appointments to current
6 vacancies, through use and eligibles being unavailable,
7 the commission may, upon the recommendation of the
8 officer charged with certifying eligibles, and after due
9 notice to eligibles who may have made themselves
10 unavailable for appointment, terminate it before the
11 expiration date.

12 A list may be extended for an additional period of two
13 years or less at the discretion of the commission.

14 SEC. 13. Notwithstanding Section 17610 of the
15 Government Code, if the Commission on State Mandates
16 determines that this act contains costs mandated by the
17 state, reimbursement to local agencies and school
18 districts for those costs shall be made pursuant to Part 7
19 (commencing with Section 17500) of Division 4 of Title
20 2 of the Government Code. If the statewide cost of the
21 claim for reimbursement does not exceed one million
22 dollars (\$1,000,000), reimbursement shall be made from
23 the State Mandates Claims Fund.

24 Notwithstanding Section 17580 of the Government
25 Code, unless otherwise specified, the provisions of this act
26 shall become operative on the same date that the act
27 takes effect pursuant to the California Constitution.

