

Senate Bill No. 1054

CHAPTER 652

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.

[Approved by Governor October 5, 1995. Filed
with Secretary of State October 6, 1995.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1054, 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 an administrative law judge to conduct 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 require the administrative judge to render findings and proposed amendments, if any, which the personnel commission may or may not accept. If the personnel commission rejects the findings and proposed amendments, if any, of the administrative law judge, 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 applicants for both open and promotional examinations.

(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.

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

SECTION 1. Section 45105.1 of the Education Code is repealed.

SEC. 2. Section 45183 of the Education Code is amended to read:

45183. (a) Assignment of duties to bargaining unit employees for which differential compensation is designated, other than a temporary assignment of less than 20 working days, shall be made on the basis of seniority among those employees within the appropriate class who request such an assignment.

(b) This section may be waived by agreement between the governing board of a school district and the exclusive representative of the unit of classified employees to be affected by the waiver.

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

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

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

(c) If the county superintendent of schools proposes to reject the budget as submitted by the commission of a school district, he or she shall, within 30 days after the commission's submission of the budget, hold a public hearing on the proposed rejection within the affected district. He or she shall have informed both the commission and the governing board of the date, time and place of the hearing. He or she may after the public hearing either reject, or, with the concurrence



of the commission, amend the proposed budget. In the absence of agreement between the personnel commission and the county superintendent, the budget of the preceding year shall determine the amount of the new budget, and the items of expenditure shall be determined by the commission.

(d) If the county superintendent of schools proposes to reject the budget as submitted by the personnel commission of a county office of education, the county superintendent shall contract with the Office of Administrative Hearings of the State of California for an administrative law judge to conduct a public hearing on the proposed rejection. The administrative law judge shall render findings and any proposed amendments, if any, to the proposed budget. The personnel commission may accept or reject the findings and proposed amendments. If the personnel commission rejects the findings and proposed amendments, if any, of the administrative law judge, the budget of the preceding year shall determine the amount of the new budget, and the items of expenditure shall be determined by the commission.

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

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

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

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

Any employee serving in a classified position whose position is by virtue of change of law deemed to be in the certificated service shall without examination become an employee of the certificated service and shall be deemed to have the necessary certification qualifications for that position. Full seniority rights will be retained, except that no seniority credit will be allowed by virtue of previous classified service in case of layoff for lack of funds or lack of work. Any such person who has been continuously employed in a regular position in the classified service for the length of time necessary to acquire permanency as a certificated employee shall be deemed to be a permanent certificated employee of the district. Any such person serving in a regular position in the classified service for an amount of time less than that deemed to be necessary to acquire permanency as a certificated employee shall be a certificated probationary employee of the district. That regular classified service shall be considered as



probationary service toward the attainment of permanency by a certificated employee of the district.

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

45272. (a) All vacancies in the classified service shall be filled pursuant to this article and the rules of the commission, from applicants on eligibility lists which, wherever practicable, as determined by the commission, shall be made up from promotional examinations, or appointments may be made by means of transfer, demotion, reinstatement, and reemployment in accordance with the rules of the commission. All applicants for promotional examinations shall have the required amount of service in classes designated by the commission or meet the minimum qualifications of education, training, experience, and length of service, which shall be determined by the commission to be appropriate for the class for which they have applied. Any promotional applicant who has served the required amount of time in a designated class or who meets the minimum qualifications for admission to a promotional examination shall be admitted to the examination. The commission shall place applicants on the eligibility lists in the order of their relative merit as determined by competitive examinations. The final scores of candidates shall be rounded to the nearest whole percent for all eligibles. All eligibles with the same percentage score will be considered as having the same rank. Appointments shall be made from the eligibles having the first three ranks on the list who are ready and willing to accept the position.

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

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



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

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

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

For classes of positions deemed by the commission to require an oral examination, the oral examination board shall include at least two members. Where a structured objective examination is to be administered to the entire field of candidates, a single member oral examination board may be utilized. A “structured objective examination” means, for this purpose, an examination for which the examiner exercises no discretion in the selection of the questions or in the evaluation of the answers.

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

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

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

45274. Examination records, including any recordings and the rating sheet of each member of the oral board for each candidate, shall be retained by the personnel commission for a period of not less than 90 days after promulgation of an eligibility list. The commission shall prescribe procedures whereby candidates may review and protest any part of an examination. In promotional examinations for classes for which continuous examination procedures have not been authorized, the review and protest period shall be held prior to regular appointment from the eligibility list. Examination records shall not be available to the public or to any person for any purpose not directly connected with the examination and shall be considered confidential but shall, within reasonable time limits, be made available to a candidate or his or her representative.

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



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

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

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

45292. The commission may provide for the continuous examination of applicants for both open and promotional examinations.

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

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

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

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

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

Notwithstanding Section 17580 of the Government Code, unless otherwise specified, the provisions of this act shall become operative



on the same date that the act takes effect pursuant to the California Constitution.

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