

ASSEMBLY BILL

No. 2481

Introduced by Assembly Member Mendoza

February 21, 2008

An act to add Section 45034.5 to the Education Code, relating to teacher salaries.

LEGISLATIVE COUNSEL'S DIGEST

AB 2481, as introduced, Mendoza. Teacher salaries: Teacher Recovery Act.

Existing law authorizes local educational agencies to employ persons as certificated personnel. Existing law requires that, if any school district fails to pay the salary of any certificated employee who has on file a contract of employment held valid by the legal adviser of the county superintendent of schools having jurisdiction over the district, the county superintendent of schools is authorized to transfer sufficient money from the funds of the district to the county school service fund and pay the salary of the certificated employee from that fund.

This bill would enact the Teacher Recovery Act. The bill would require a school district that uses state funds apportioned to that district for the payment of the salaries of certificated personnel, to reimburse certificated employees for any additional income taxes payable because of an overpayment error made by that district, and would afford specified additional rights to certificated employees whose salaries have been overpaid or underpaid by the district. The bill would, until the matter is resolved, prohibit the district from using any state funds apportioned to that district for the payment of the salaries or expenses of the members of the governing board of that district or of the superintendent or assistant superintendents of that district if a certificated employee or

an employee organization representing certificated employees of a school district files, with the governing board of that district, a declaration made under penalty of perjury to the effect that any outstanding underpayment or overpayment of a certificated employee of that district has not been resolved. By creating a new crime, this bill would impose a state mandated local program.

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 no reimbursement is required by this act for a specified reason.

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 45034.5 is added to the Education Code,
2 to read:

3 45034.5. (a) This section shall be known, and may be cited,
4 as the Teacher Recovery Act.

5 (b) Notwithstanding any other provision of law, a school district
6 that uses state funds apportioned to that district for the payment
7 of the salaries of certificated personnel shall comply with all of
8 the following:

9 (1) The school district shall reimburse a certificated employee
10 for any additional income taxes payable because of an overpayment
11 error made by that district.

12 (2) The school district shall release a certificated employee from
13 his or her duties, without either docking his or her pay or charging
14 him or her for vacation or sick leave, when a certificated employee
15 deems it necessary to visit district payroll personnel to rectify
16 payroll errors. If a certificated employee finds it necessary to visit
17 district payroll personnel on his or her own time, the school district
18 shall reimburse that employee for the time spent in accomplishing
19 that task, including travel time, at that person’s hourly rate of
20 salary, and reimburse that person for mileage.

21 (3) If an underpayment is made by the school district, the school
22 district shall pay the amount of the underpayment, plus interest
23 equal to that earned by the Pooled Money Investment Account

1 pursuant to Section 16314 of the Government Code, to the affected
2 certificated employee by the end of the next pay period.

3 (4) If an overpayment is made by the school district, the affected
4 certificated employee may consult a payroll specialist employed
5 by an employee organization or an independent payroll specialist.
6 No schedule for the employee's reimbursement of the amount
7 overpaid may be made, and no deduction relating to the
8 overpayment may be made from that employee's salary, unless
9 the employee has had an opportunity to consult with a payroll
10 specialist under this paragraph and the employee has agreed, in
11 writing, to the amount to be repaid and the term and manner of the
12 repayment.

13 (5) If a discrepancy arises with respect to an amount to be paid
14 with respect to a certificated employee's retirement benefits, that
15 discrepancy shall be resolved, prior to the issuance of the annual
16 report of the status of that employee's retirement benefits, or the
17 school district shall be responsible for the payment of the entire
18 amount necessary for that employee's retirement benefits to be
19 held harmless for the year covered by that annual report.

20 (6) If a certificated employee or an employee organization
21 representing certificated employees of a school district files, with
22 the governing board of that district, a declaration made under
23 penalty of perjury to the effect that any outstanding underpayment
24 or overpayment of a certificated employee of that district has not
25 been resolved, the school district shall not use any state funds
26 apportioned to that district for the payment of the salaries or
27 expenses of the members of the governing board of that district or
28 of the superintendent or assistant superintendents of that district
29 until that matter is resolved.

30 SEC. 2. No reimbursement is required by this act pursuant to
31 Section 6 of Article XIII B of the California Constitution because
32 the only costs that may be incurred by a local agency or school
33 district will be incurred because this act creates a new crime or
34 infraction, eliminates a crime or infraction, or changes the penalty
35 for a crime or infraction, within the meaning of Section 17556 of
36 the Government Code, or changes the definition of a crime within
37 the meaning of Section 6 of Article XIII B of the California
38 Constitution.

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