

ASSEMBLY BILL

No. 32

Introduced by Assembly Member Silva

(Coauthors: Assembly Members Anderson, Bill Berryhill, Cook, Duvall, Fletcher, Fuller, Gaines, Garrick, Hagman, Jeffries, Knight, Miller, Nestande, and Audra Strickland)

(Coauthor: Senator Ashburn)

April 21, 2009

An act to amend Section 44955 of the Education Code, relating to school employees, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 32, as introduced, Silva. School employees: layoff notices.

(1) Existing law requires that, when a reduction in the number of certificated employees employed by a school district is authorized for specified reasons, the notice of the termination of the services of an employee in the subsequent school year be given, in a prescribed manner, before May 15.

This bill would express findings and declarations of the Legislature relating to the effect of the outcome of the May 19, 2009, special election on school district budgets. The bill would require that, in 2009 only, the deadline for the notice of termination of services be changed to June 15.

(2) The California Constitution authorizes the Governor to declare a fiscal emergency and to call the Legislature into special session for that purpose. The Governor issued a proclamation declaring a fiscal emergency, and calling a special session for this purpose, on December 19, 2008.

This bill would state that it addresses the fiscal emergency declared by the Governor by proclamation issued on December 19, 2008, pursuant to the California Constitution.

(3) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: 2/3. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) Pursuant to subdivision (c) of Section 44955 of the Education
4 Code, school districts are required to issue layoff notices before
5 May 15 to teachers whose termination is contemplated.

6 (b) The outcome of the May 19, 2009, statewide special election
7 will directly affect the May Revision of the proposed state budget
8 for the 2009–10 fiscal year and, therefore, have an important impact
9 on school district budgets.

10 (c) Thus, because of the scheduling of the May 19, 2009, special
11 election, school districts will need additional time to make informed
12 personnel decisions.

13 SEC. 2. Section 44955 of the Education Code is amended to
14 read:

15 44955. (a) No permanent employee shall be deprived of his
16 or her position for causes other than those specified in Sections
17 44907 and 44923, and Sections 44932 to 44947, inclusive, and no
18 probationary employee shall be deprived of his or her position for
19 cause other than as specified in Sections 44948 to 44949, inclusive.

20 (b) (1) Whenever in any school year the average daily
21 attendance in all of the schools of a district for the first six months
22 in which school is in session shall have declined below the
23 corresponding period of either of the previous two school years,
24 whenever the governing board determines that attendance in a
25 district will decline in the following year as a result of the
26 termination of an interdistrict-~~tuition~~ *education* agreement as
27 defined set forth in Section 46304, whenever a particular kind of
28 service is to be reduced or discontinued not later than the beginning
29 of the following school year, or whenever the amendment of state
30 law requires the modification of curriculum, and when in the

1 opinion of the governing board of the district it shall have become
 2 necessary by reason of any of these conditions to decrease the
 3 number of permanent employees in the district, the governing
 4 board may terminate the services of not more than a corresponding
 5 percentage of the certificated employees of the district, permanent
 6 as well as probationary, at the close of the school year. Except as
 7 otherwise provided by statute, the services of no permanent
 8 employee may be terminated under ~~the provisions of this section~~
 9 while any probationary employee, or any other employee with less
 10 seniority, is retained to render a service which ~~said~~ *that* permanent
 11 employee is certificated and competent to render.

12 ~~In~~

13 (2) *In* computing a decline in average daily attendance for
 14 purposes of this section for a newly formed or reorganized school
 15 district, each school of the district shall be deemed to have been
 16 a school of the newly formed or reorganized district for both of
 17 the two previous school years.

18 ~~As~~

19 (3) *As* between employees who first rendered paid service to
 20 the district on the same date, the governing board shall determine
 21 the order of termination solely on the basis of needs of the district
 22 and ~~the students thereof~~ *pupils of the district*. Upon the request of
 23 ~~any~~ *an* employee whose order of termination is so determined, the
 24 governing board shall furnish, in writing no later than five days
 25 prior to the commencement of the hearing held in accordance with
 26 Section 44949, a statement of the specific criteria used in
 27 determining the order of termination and the application of the
 28 criteria in ranking each employee relative to the other employees
 29 in the group. This requirement that the governing board provide,
 30 on request, a written statement of reasons for determining the order
 31 of termination shall not be interpreted to give affected employees
 32 any legal right or interest that would not exist without ~~such a~~ *that*
 33 requirement.

34 (c) (1) Notice of ~~such~~ termination of services shall be given
 35 before ~~the 15th of May~~ *June 15, 2009, and before May 15 in each*
 36 *year thereafter*, in the manner prescribed in Section 44949, and
 37 services of ~~such~~ *those* employees shall be terminated in the inverse
 38 of the order in which they were employed, as determined by the
 39 board in accordance with ~~the provisions of~~ Sections 44844 and
 40 44845. ~~In the event that~~ *If* a permanent or probationary employee

1 is not given the notices and a right to a hearing as provided for in
2 Section 44949, he or she shall be deemed reemployed for the
3 ensuing school year.

4 ~~The~~

5 (2) *The* governing board shall make assignments and
6 reassignments in such a manner that employees shall be retained
7 to render any service ~~which~~ *that* their seniority and qualifications
8 entitle them to render. However, prior to assigning or reassigning
9 any certificated employee to teach a subject ~~which~~ *that* he or she
10 has not previously taught, and for which he or she does not have
11 a teaching credential or ~~which~~ *that* is not within the employee's
12 major area of postsecondary study or the equivalent thereof, the
13 governing board shall require the employee to pass a subject matter
14 competency test in the appropriate subject.

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

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

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

27 SEC. 3. This act addresses the fiscal emergency declared by
28 the Governor by proclamation on December 19, 2008, pursuant
29 to subdivision (f) of Section 10 of Article IV of the California
30 Constitution.

31 SEC. 4. This act is an urgency statute necessary for the
32 immediate preservation of the public peace, health, or safety within
33 the meaning of Article IV of the Constitution and shall go into
34 immediate effect. The facts constituting the necessity are:

35 In order to allow school districts additional time to make
36 personnel decisions in view of the importance of the special
37 election to be held May 19, 2009, to school district budgets, it is
38 necessary that this act take effect immediately.

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