

AMENDED IN ASSEMBLY APRIL 8, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 2584

Introduced by Assembly Member Torlakson

February 19, 2010

~~An act to amend Section 45277.5 of the Education Code, relating to public school employees.~~ *An act to add Sections 45266.5 and 88026.25 to the Education Code, relating to school district employees.*

LEGISLATIVE COUNSEL'S DIGEST

AB 2584, as amended, Torlakson. ~~Public school employees: merit system.~~ *Schools: district employees.*

(1) Existing law requires school districts and community college districts adopting the merit system in existing law for classified employees to appoint a personnel commission. Existing law requires the personnel commission to appoint a personnel director of the commission who is responsible to the commission for carrying out all procedures in the administration of the classified personnel in accordance with the requirements of existing law and rules of the commission.

This bill would require the personnel commission, consistent with the commission rules applicable to all classified employees, to determine the compensation for, evaluate, and supervise the personnel director. The bill would require the personnel commission to make an annual performance evaluation of the personnel director, thus imposing a state-mandated local program. The bill would authorize the exclusive representatives of classified employees of the applicable school or community college district and the district administration to participate in the annual performance evaluation of the director of the personnel

commission by completing an evaluation or comment form distributed by the commission. The bill would require the personnel commission to review the submitted evaluation and comment forms, if any, and would require the commission to consider them as part of the overall evaluation process. The bill would require the personnel commission to be responsible for completing the final evaluation.

The bill would grant the personnel commission the authority to impose discipline upon the personnel director if cause has been established in accordance with commission rules applicable to all classified employees. The bill, in order to ensure due process for the personnel director, would grant the personnel director the option of requesting a hearing from an impartial hearing officer regarding disciplinary action imposed on the personnel director. The bill would require the method for selecting the hearing officer to be designated in commission rules and would bind the commission by the findings of the hearing officer. The bill would require actions taken by the personnel commission relating to the employment of the personnel director, as specified, be ratified by the governing board of the applicable school district or community college district, and would make these actions, when ratified, final and binding on the commission.

The bill would require that the procedures authorized by the bill be integrated into the regular personnel commission activities and be conducted within the amount otherwise budgeted for the personnel commission of the district.

To the extent that these provisions would impose additional duties on local officials, the bill would establish a state-mandated local program.

(2) 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.

~~Existing law requires all vacancies in the classified service of a school district that has adopted the merit system to be filled from applicants on eligibility lists that are made up from promotional examinations or other specified methods. Existing law requires that, if a vacancy is filled~~

~~from applicants on an eligibility list, the appointment is to be made from the eligible candidates having the first 3 ranks on the list.~~

~~Existing law, until January 1, 2012, in a school district with a pupil population over 400,000, authorizes an appointment to be made from other than the first 3 ranks on the eligibility list if specialized licenses, certifications, knowledge, or ability that cannot reasonably be acquired during the probationary period or a specific gender is required for successful job performance of a position, in which case the appointment is required to be made from among the highest 3 ranks of applicants on the list who meet the special requirements. Existing law makes these provisions apply only to specified classifications of positions and to classifications that have been designated as management.~~

~~This bill would slightly expand the scope of these provisions by making them applicable to a school district with a pupil population over 399,999.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes. State-mandated local program: ~~no~~-yes.

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

1 SECTION 1. Section 45266.5 is added to the Education Code,
2 to read:

3 45266.5. (a) The personnel commission, consistent with the
4 commission rules applicable to all classified employees, shall
5 determine compensation for, evaluate, and supervise the personnel
6 director appointed pursuant to Section 45264 or contracted for
7 pursuant to Section 45265.

8 (b) (1) The personnel commission shall perform an annual
9 written performance evaluation of the commission's personnel
10 director.

11 (2) The school district administration and the exclusive
12 representatives of classified employees of the district may
13 participate in the annual performance evaluation of the director
14 of the personnel commission by completing an evaluation or
15 comment form distributed by the commission. The personnel
16 commission shall review the submitted evaluation and comment
17 forms, if any, and shall consider them as part of the overall
18 evaluation process. The personnel commission shall be responsible
19 for completing the final evaluation.

1 (c) (1) *The personnel commission shall have the authority to*
 2 *impose discipline, including dismissal, upon the personnel director*
 3 *if cause has been established in accordance with commission rules*
 4 *applicable to all classified employees. However, the commission*
 5 *shall not take a disciplinary action pursuant to this paragraph*
 6 *that is inconsistent with any collective bargaining agreement or*
 7 *contract in effect as of January 1, 2011, and under which the*
 8 *personnel director works.*

9 (2) *The personnel director, as a member of the classified service,*
 10 *shall have all the rights, benefits, and burdens of a classified*
 11 *employee.*

12 (3) *In order to ensure due process for the personnel director,*
 13 *the personnel director shall have the option of requesting a hearing*
 14 *from an impartial hearing officer regarding disciplinary action*
 15 *imposed on the personnel director. The method for selecting the*
 16 *hearing officer shall be designated in commission rules and the*
 17 *findings of the hearing officer shall be binding upon the*
 18 *commission.*

19 (d) *Actions taken by the personnel commission relating to the*
 20 *employment of the personnel director pursuant to this section shall*
 21 *be ratified by the governing board of the applicable school district.*
 22 *When ratified, these actions shall be final and binding on the*
 23 *commission.*

24 (e) *The procedures authorized by this section shall be integrated*
 25 *into the regular personnel commission activities, and shall be*
 26 *conducted within the amount otherwise budgeted for the personnel*
 27 *commission of the district.*

28 SEC. 2. *Section 88026.25 is added to the Education Code, to*
 29 *read:*

30 88026.25. (a) *The personnel commission, consistent with the*
 31 *commission rules applicable to all classified employees, shall*
 32 *determine compensation for, evaluate, and supervise the personnel*
 33 *director appointed pursuant to Section 88084 or contracted for*
 34 *pursuant to Section 88085.*

35 (b) (1) *The personnel commission shall perform an annual*
 36 *written performance evaluation of the commission's personnel*
 37 *director.*

38 (2) *The community college district administration and the*
 39 *exclusive representatives of classified employees of the district*
 40 *may participate in the annual performance evaluation of the*

1 *director of the personnel commission by completing an evaluation*
2 *or comment form distributed by the commission. The personnel*
3 *commission shall review the submitted evaluation and comment*
4 *forms, if any, and shall consider them as part of the overall*
5 *evaluation process. The personnel commission shall be responsible*
6 *for completing the final evaluation.*

7 *(c) (1) The personnel commission shall have the authority to*
8 *impose discipline, including dismissal, upon the personnel director*
9 *if cause has been established in accordance with commission rules*
10 *applicable to all classified employees. However, the commission*
11 *shall not take a disciplinary action pursuant to this paragraph*
12 *that is inconsistent with any collective bargaining agreement or*
13 *contract that is in effect as of January 1, 2011, and under which*
14 *the personnel director works.*

15 *(2) The personnel director, as a member of the classified service,*
16 *shall have all the rights, benefits, and burdens of a classified*
17 *employee.*

18 *(3) In order to ensure due process for the personnel director,*
19 *the personnel director shall have the option of requesting a hearing*
20 *from an impartial hearing officer regarding disciplinary action*
21 *imposed on the personnel director. The method for selecting the*
22 *hearing officer shall be designated in commission rules and the*
23 *findings of the hearing officer shall be binding upon the*
24 *commission.*

25 *(d) Actions taken by the personnel commission relating to the*
26 *employment of the personnel director pursuant to this section shall*
27 *be ratified by the governing board of the applicable community*
28 *college district. When ratified, these actions shall be final and*
29 *binding on the commission.*

30 *(e) The procedures authorized by this section shall be integrated*
31 *into the regular personnel commission activities, and shall be*
32 *conducted within the amount otherwise budgeted for the personnel*
33 *commission of the district.*

34 *SEC. 3. If the Commission on State Mandates determines that*
35 *this act contains costs mandated by the state, reimbursement to*
36 *local agencies and school districts for those costs shall be made*
37 *pursuant to Part 7 (commencing with Section 17500) of Division*
38 *4 of Title 2 of the Government Code.*

39 ~~SECTION 1. Section 45277.5 of the Education Code is~~
40 ~~amended to read:~~

1 45277.5. Notwithstanding Section 45277, in a school district
2 with a pupil population of over 399,999, all of the following shall
3 apply:

4 (a) An appointment may be made from other than the first three
5 ranks of eligible applicants on the eligibility list if one or more of
6 the following are required for successful job performance of a
7 position to be filled:

8 (1) The ability to speak, read, or write a language in addition
9 to English.

10 (2) A valid driver's license.

11 (3) Specialized licenses, certifications, knowledge, or ability,
12 as determined by the school district personnel commission, that
13 cannot reasonably be acquired during the probationary period.

14 (4) A specific gender if it is a bona fide occupational
15 qualification.

16 (b) The recruitment bulletin announcing the examination shall
17 indicate the special requirements that may be necessary for filling
18 one or more of the positions in the classification. If a position is
19 to be filled using the authority of this section, the appointment
20 shall be made from among the highest three ranks of eligible
21 candidates on the appropriate eligibility list who meet the special
22 requirements of the position and who are ready and willing to
23 accept the position.

24 (c) If there are insufficient applicants who meet the special
25 requirements, an employee who meets the special requirements
26 may receive provisional appointments that may accumulate to a
27 total of 90 working days. Successive provisional appointments of
28 90 working days or less each may be made in the absence of an
29 appropriate eligibility list containing applicants who meet the
30 special requirements if the personnel commission finds that the
31 requirements of subdivisions (a) and (b) of Section 45288 have
32 been met. These appointments may continue for the period of the
33 provisional appointment, but shall not be additionally extended if
34 certification can later be made from an appropriate eligibility list.

35 (d) This section applies only to the following classifications:

36 (1) Accountant.

37 (2) Administrative analyst.

38 (3) Administrative assistant.

39 (4) Assistant contract administration analyst.

40 (5) Assistant contracts supervisor.

- 1 ~~(6) Assistant realty agent.~~
- 2 ~~(7) Contracts administration analyst.~~
- 3 ~~(8) Contract assistant.~~
- 4 ~~(9) Coordinating contract assistant.~~
- 5 ~~(10) Educational research analyst.~~
- 6 ~~(11) Financial analyst.~~
- 7 ~~(12) Grants specialist.~~
- 8 ~~(13) Health care advocate.~~
- 9 ~~(14) Human resources specialist III.~~
- 10 ~~(15) Insurance representative II.~~
- 11 ~~(16) Insurance representative III.~~
- 12 ~~(17) Occupational health nurse.~~
- 13 ~~(18) Parent community facilitator.~~
- 14 ~~(19) Principal financial analyst.~~
- 15 ~~(20) Principal administrative analyst.~~
- 16 ~~(21) Senior administrative analyst.~~
- 17 ~~(22) Senior administrative assistant.~~
- 18 ~~(23) Senior financial analyst.~~
- 19 ~~(24) Senior internal auditor.~~
- 20 ~~(25) Web developer.~~
- 21 ~~(26) Any classifications that have been designated as~~
- 22 ~~management.~~
- 23 ~~(e) A school district that makes an appointment pursuant to this~~
- 24 ~~section shall study the effectiveness of this selection method,~~
- 25 ~~vacancy rates for each classification, and the length of time to hire~~
- 26 ~~for each classification, and submit a report on the study to the~~
- 27 ~~affected labor unions.~~
- 28 ~~(f) This section shall remain in effect only until January 1, 2012,~~
- 29 ~~and as of that date is repealed, unless a later enacted statute, that~~
- 30 ~~is enacted before January 1, 2012, deletes or extends that date.~~