

**ASSEMBLY BILL**

**No. 5**

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**Introduced by Assembly Member Fuentes**

December 6, 2010

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An act to add Section 44665.5 to, and to add Article 10.7 (commencing with Section 44655) to, and to repeal Article 11 (commencing with Section 44660) of, Chapter 3 of Part 25 of Division 3 of Title 2 of, the Education Code, relating to certificated school employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 5, as introduced, Fuentes. Certificated school employees: performance evaluation.

Existing law requires the governing board of each school district to develop and adopt objective evaluation and assessment guidelines to evaluate the performance of its certificated employees and encourages each district to establish an evaluation and assessment system that is uniform throughout the district. Existing law requires each school district to establish standards of expected pupil achievement at each grade level in each area of study and to evaluate and assess certificated employee performance as it reasonably relates to specified factors.

This bill would make those provisions inoperative on June 30, 2012, and would repeal them on January 1, 2013. The bill, commencing with the 2012–13 school year, instead would require the governing board of a school district to adopt and implement a fair, transparent, and rigorous evaluation system based on a uniform standard for certificated employees, as specified. The bill would require the governing board of a school district, in developing the evaluation system, to consult with the exclusive bargaining representative of the certificated employees

in the school district, in accordance with specified statutes regarding collective bargaining, on all procedures and components of the evaluation. The bill would require a permanent certificated employee who is deemed to be performing in an unsatisfactory manner at the end of his or her evaluation process to participate in an instructional support program for certificated employees, as adopted by the governing board of the school district, for one year for the purpose of improving the performance of the employee.

By requiring school districts to perform additional duties, the 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, 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. Article 10.7 (commencing with Section 44655)  
2 is added to Chapter 3 of Part 25 of Division 3 of Title 2 of the  
3 Education Code, to read:

4  
5 Article 10.7. Evaluation and Support System for Certificated  
6 Employees  
7

8 44655. (a) Commencing with the 2012–13 school year, the  
9 governing board of a school district shall adopt and implement a  
10 fair, transparent, and rigorous evaluation system for certificated  
11 employees based on a uniform standard. The purposes of the  
12 evaluation system shall be to improve instruction for all pupils in  
13 the school district and provide meaningful and continuous support  
14 to certificated employees.

15 (b) In developing the evaluation system for certificated  
16 employees pursuant to this article, the governing board of a school  
17 district shall consult with the exclusive bargaining representative  
18 of the certificated employees in the school district, in accordance

1 with the provisions of Chapter 10.7 (commencing with Section  
2 3540) of Division 4 of Title 1 of the Government Code, on all  
3 procedures and components of the evaluation pursuant to this  
4 article. If the certificated employees of the school district do not  
5 have an exclusive bargaining representative, the governing board  
6 of the school district shall adopt objective evaluation and support  
7 components, as applicable, that are consistent with this article.

8 44656. (a) In its evaluation system for certificated employees,  
9 the governing board of a school district shall include all of the  
10 following components:

11 (1) Evidence of the effectiveness of the employee as compared  
12 to the California Standards for the Teaching Profession.

13 (2) Evidence of the effectiveness of the employee in teaching  
14 the state academic content standards pursuant to Section 60605 or  
15 the common core standards in English language arts and  
16 mathematics adopted pursuant to Section 60605.8, as applicable.  
17 Evidence of effectiveness for purposes of this paragraph shall  
18 include, but not be limited to, evidence of pupil progress toward  
19 the standards specified in this paragraph as measured by all of the  
20 following:

21 (A) More than one year of data from the state adopted criterion  
22 referenced assessments established pursuant to Section 60605.

23 (B) More than one year of data from any locally developed pupil  
24 assessment that is valid and reliable and adopted by the governing  
25 board of the school district.

26 (C) Data from formative assessments as determined by the  
27 governing board of a school district to evaluate a certificated  
28 employee pursuant to this section.

29 (3) Evidence of the effectiveness of the employee in teaching  
30 the English language development standards adopted pursuant to  
31 Section 60811, as applicable, for the purpose of improving a pupil's  
32 English proficiency as specified under the federal No Child Left  
33 Behind Act of 2001 (20 U.S.C. Sec. 6301 et seq.). Evidence of  
34 effectiveness for purposes of this paragraph shall include evidence  
35 of pupil progress toward the standards specified in this paragraph  
36 as measured by all of the following assessments:

37 (A) More than one year of data from the state adopted  
38 assessment for English language proficiency pursuant to Section  
39 60810.

1 (B) More than one year of data from any locally developed pupil  
2 assessment that is valid and reliable and adopted by the governing  
3 board of the school district.

4 (C) Data from formative assessments as determined by the  
5 governing board of a school district to evaluate a certificated  
6 employee pursuant to this section.

7 (4) (A) Multiple observations of the certificated employee in  
8 an instructional setting. The observations shall be conducted by  
9 trained administrators and peers using a uniform tool for use in  
10 observing the certificated employee for the purpose of conducting  
11 an evaluation pursuant to this article.

12 (B) After each observation, the observer shall meet with the  
13 certificated employee to discuss recommendations, as necessary,  
14 with regard to areas of improvement in the performance of the  
15 employee.

16 (b) For purposes of this article “formative assessment” means  
17 assessment questions, tools, and processes that are embedded in  
18 instruction and used by teachers and pupils to provide timely  
19 feedback for purposes of adjusting instruction to improve learning.

20 (c) For the purposes of evaluating certificated employees who  
21 provide instruction to pupils whose progress toward the standards  
22 cannot be measured pursuant to paragraphs (2) and (3) of  
23 subdivision (a), the governing board of a school district shall  
24 determine an alternative method to measure pupil progress toward  
25 the standards.

26 (d) This section does not limit the authority of the governing  
27 board of a school district to adopt additional evaluation  
28 components. If the governing board adopts additional components  
29 those components shall be developed in accordance with  
30 subdivision (b) of Section 44655.

31 44657. (a) Evaluation of the performance of each certificated  
32 employee pursuant to this article shall be made on a continuing  
33 basis as follows:

34 (1) Each school year for probationary employees.

35 (2) Every other year for permanent employees.

36 (b) (1) The evaluation shall include recommendations, if  
37 necessary, as to areas of improvement in the performance of the  
38 employee. If an employee is performing his or her duties in an  
39 unsatisfactory manner, the employing authority shall notify the  
40 employee in writing of that assessment and describe the manner

1 in which the performance of the employee is unsatisfactory. After  
2 the employee receives the written assessment, the employing  
3 authority shall confer with the employee, making specific  
4 recommendations as to areas of improvement in the employee's  
5 performance as that performance to the evaluation components  
6 pursuant to Section 44656, and endeavor to assist the employee  
7 in his or her performance.

8 (2) A permanent certificated employee who is deemed to be  
9 performing in an unsatisfactory manner at the end of his or her  
10 evaluation process shall participate for one year in an instructional  
11 support program for certificated employees adopted by the  
12 governing board of the school district for the purpose of improving  
13 the performance of the employee.

14 (c) The governing board of a school district shall define the  
15 term "performing in an unsatisfactory manner" for purposes of  
16 this section by mutual agreement with the exclusive bargaining  
17 representative of the certificated employees of the district.

18 44658. This article shall become operative on July 1, 2012.

19 SEC. 2. Section 44665.5 is added to the Education Code, to  
20 read:

21 44665.5. This article shall become inoperative on July 1, 2012,  
22 and, as of January 1, 2013, is repealed, unless a later enacted  
23 statute, that becomes operative on or before January 1, 2013,  
24 deletes or extends the dates on which it becomes inoperative and  
25 is repealed.

26 SEC. 3. If the Commission on State Mandates determines that  
27 this act contains costs mandated by the state, reimbursement to  
28 local agencies and school districts for those costs shall be made  
29 pursuant to Part 7 (commencing with Section 17500) of Division  
30 4 of Title 2 of the Government Code.