

AMENDED IN ASSEMBLY MAY 27, 2011

AMENDED IN ASSEMBLY APRIL 4, 2011

AMENDED IN ASSEMBLY MARCH 8, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 5

Introduced by Assembly Member Fuentes

December 6, 2010

~~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. An act to amend Section 44661.5 of, and to amend and add Sections 44660, 44661, 44662, and 44664 of, the Education Code, relating to teachers.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 5, as amended, Fuentes. ~~Certificated school employees: performance~~ *Teachers: best practices teacher evaluation.*

Existing law states the intent of the Legislature that school district governing boards establish a uniform system of evaluation and assessment of the performance of all certificated personnel within each school district of the state. Existing law requires the governing board of 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 on a continuing basis as it reasonably relates to the progress of pupils toward the established standards and, if applicable, the state adopted academic content standards as measured by state adopted criterion referenced

assessments, the instructional techniques and strategies used by the employee, the employee's adherence to curricular objectives, and the establishment and maintenance of a suitable learning environment, within the scope of the employee's responsibilities.

This bill would provide that the provisions described above would become inoperative on July 1 of the first fiscal year following the fiscal year in which the deficit factor, as specified, is reduced to zero. The bill would state findings and declarations of the Legislature regarding the nature of effective teachers and of the teaching profession. Commencing on July 1 of the first fiscal year following the fiscal year in which the deficit factor, as specified, is reduced to zero, the bill would require the governing board of each school district to adopt and implement a locally negotiated best practices teacher evaluation system, described as one in which each teacher is evaluated on a continuing basis on the degree to which he or she accomplishes specific objectives and multiple observations of instructional and other professional practices are conducted by trained evaluators.

~~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 school 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 July 1, 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. In developing the evaluation system, the bill would require the governing board of a school district to include, by mutual agreement with the exclusive bargaining representative of the certificated employees in the school district, in accordance with specified statutes regarding collective bargaining, all procedures and components of the evaluation system established pursuant to these provisions. 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 for one year in an instructional support program for certificated employees, as adopted by the governing board~~

of the school district, 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. Section 44660 of the Education Code is amended
2 to read:

3 44660. (a) It is the intent of the Legislature that governing
4 boards establish a uniform system of evaluation and assessment
5 of the performance of all certificated personnel within each school
6 district of the state, including schools conducted or maintained by
7 county superintendents of education. The system shall involve the
8 development and adoption by each school district of objective
9 evaluation and assessment guidelines which may, at the discretion
10 of the governing board, be uniform throughout the district or, for
11 compelling reasons, be individually developed for territories or
12 schools within the district, provided that all certificated personnel
13 of the district shall be subject to a system of evaluation and
14 assessment adopted pursuant to this article.

15 This

16 (b) This article does not apply to certificated personnel who are
17 employed on an hourly basis in adult education classes.

18 (c) This section shall become inoperative on July 1 of the first
19 fiscal year following the fiscal year in which the deficit factor set
20 forth in Section 42238.146 is reduced to zero.

21 SEC. 2. Section 44660 is added to the Education Code, to read:

22 44660. (a) The Legislature finds and declares all of the
23 following:

1 (1) *Teaching is a professional endeavor, in which effective*
2 *practice is driven by an understanding of knowledge in the field*
3 *and a commitment to all pupils and their families.*

4 (2) *Excellent teaching requires knowledge, skills, artistry,*
5 *passion, and commitment.*

6 (3) *Effective teachers integrate ethical concern for children and*
7 *society, extensive subject matter competence, thoughtfully selected*
8 *pedological practices, and a depth of knowledge about their pupils,*
9 *including knowledge of child and adolescent development and*
10 *learning, an understanding of their individual strengths, interests,*
11 *and needs, and knowledge about their families and communities.*

12 (4) *Effective teachers share a common set of professional and*
13 *ethical obligations that includes a profound and fundamental*
14 *commitment to the growth and success of the individual pupils in*
15 *their care as well as to the strengthening and continual*
16 *revitalization of our democratic society.*

17 (b) *The Legislature further finds and declares that the primary*
18 *purpose of an evaluation system is to ensure that teachers meet*
19 *the highest professional standards of effective teaching, thereby*
20 *resulting in high levels of pupil learning.*

21 (c) *This section shall become operative on July 1 of the first*
22 *fiscal year following the fiscal year in which the deficit factor set*
23 *forth in Section 42238.146 is reduced to zero.*

24 SEC. 3. *Section 44661 of the Education Code is amended to*
25 *read:*

26 44661. (a) *In the development and adoption of guidelines and*
27 *procedures pursuant to this article, the governing board shall avail*
28 *itself of the advice of the certificated instructional personnel in the*
29 *district's organization of certificated personnel; provided, however,*
30 *that the development and adoption of guidelines pursuant to this*
31 *article shall also be subject to the provisions of Article 1*
32 *(commencing with Section 7100) of Chapter 2 of Part 5 of Division*
33 *1 of Title 1.*

34 (b) *This section shall become inoperative on July 1 of the first*
35 *fiscal year following the fiscal year in which the deficit factor set*
36 *forth in Section 42238.146 is reduced to zero.*

37 SEC. 4. *Section 44661 is added to the Education Code, to read:*

38 44661. (a) *The governing board of each school district shall*
39 *adopt and implement a best practices teacher evaluation system*
40 *as set forth in this article.*

1 (b) *The best practices teacher evaluation system required to be*
2 *adopted pursuant to this article shall be locally negotiated pursuant*
3 *to Chapter 10.7 (commencing with Section 3540) of Division 4 of*
4 *Title 1 of the Government Code. If the certificated employees of*
5 *the school district do not have an exclusive bargaining*
6 *representative, the governing board of the school district shall*
7 *adopt objective evaluation and support components, as applicable,*
8 *that are consistent with this article.*

9 (c) *This section shall become operative on July 1 of the first*
10 *fiscal year following the fiscal year in which the deficit factor set*
11 *forth in Section 42238.146 is reduced to zero.*

12 SEC. 5. *Section 44661.5 of the Education Code is amended to*
13 *read:*

14 44661.5. (a) When developing and adopting objective
15 evaluation and assessment guidelines pursuant to Section 44660,
16 a school district may, by mutual agreement between the exclusive
17 representative of the certificated employees of the school district
18 and the governing board of the school district, include any objective
19 standards from the National Board for Professional Teaching
20 Standards or any objective standards from the California Standards
21 for the Teaching Profession if the standards to be included are
22 consistent with this article. If the certificated employees of the
23 school district do not have an exclusive representative, the school
24 district may adopt objective evaluation and assessment guidelines
25 consistent with this section.

26 (b) *This section shall become inoperative on July 1 of the first*
27 *fiscal year following the fiscal year in which the deficit factor set*
28 *forth in Section 42238.146 is reduced to zero.*

29 SEC. 6. *Section 44662 of the Education Code is amended to*
30 *read:*

31 44662. (a) The governing board of each school district shall
32 establish standards of expected pupil achievement at each grade
33 level in each area of study.

34 (b) The governing board of each school district shall evaluate
35 and assess certificated employee performance as it reasonably
36 relates to:

37 (1) The progress of pupils toward the standards established
38 pursuant to subdivision (a) and, if applicable, the state adopted
39 academic content standards as measured by state adopted criterion
40 referenced assessments.

1 (2) The instructional techniques and strategies used by the
2 employee.

3 (3) The employee’s adherence to curricular objectives.

4 (4) The establishment and maintenance of a suitable learning
5 environment, within the scope of the employee’s responsibilities.

6 (c) The governing board of each school district shall establish
7 and define job responsibilities for certificated noninstructional
8 personnel, including, but not limited to, supervisory and
9 administrative personnel, whose responsibilities cannot be
10 evaluated appropriately under the provisions of subdivision (b)
11 and shall evaluate and assess the performance of those
12 noninstructional certificated employees as it reasonably relates to
13 the fulfillment of those responsibilities.

14 (d) Results of an employee’s participation in the Peer Assistance
15 and Review Program for Teachers established by Article 4.5
16 (commencing with Section 44500) shall be made available as part
17 of the evaluation conducted pursuant to this section.

18 (e) The evaluation and assessment of certificated employee
19 performance pursuant to this section shall not include the use of
20 publishers’ norms established by standardized tests.

21 (f) Nothing in this section shall be construed as in any way
22 limiting the authority of school district governing boards to develop
23 and adopt additional evaluation and assessment guidelines or
24 criteria.

25 (g) *This section shall become inoperative on July 1 of the first*
26 *fiscal year following the fiscal year in which the deficit factor set*
27 *forth in Section 42238.146 is reduced to zero.*

28 *SEC. 7. Section 44662 is added to the Education Code, to read:*
29 *44662. (a) A best practices teacher evaluation system has the*
30 *following attributes:*

31 *(1) Each teacher is evaluated on the degree to which he or she*
32 *accomplishes the following objectives:*

33 *(A) Engages and supports all pupils in learning, evidence of*
34 *which may include, but is not limited to, evidence of high*
35 *expectations and active pupil engagement for each pupil.*

36 *(B) Creates and maintains effective environments for pupil*
37 *learning.*

38 *(C) Understands and organizes subject matter for pupil learning,*
39 *evidence of which may include, but is not limited to, extensive*
40 *subject matter, content standards, and curriculum competence.*

1 (D) Plans instruction and designs learning experiences for all
2 pupils, evidence of which may include, but is not limited to, use of
3 differentiated instruction and practices based upon pupil progress
4 and use of culturally responsive instruction, including, but not
5 limited to, incorporation of multicultural information and content
6 into the delivery of curriculum, to eliminate the achievement gap.

7 (E) Uses pupil assessment information to inform instruction
8 and to improve learning, evidence of which shall include, but is
9 not limited to, use of formative and summative assessments to
10 adjust instructional practices to meet the needs of individual pupils.

11 For certified employees who directly instruct English learner pupils
12 in acquiring English language fluency, the assessment information
13 shall include the results of assessments adopted pursuant to
14 Chapter 7 (commencing with Section 60810) of Part 33 of Division
15 4.

16 (F) Develops as a professional educator, evidence of which may
17 include, but is not limited to, consistent and positive relationships
18 with pupils, parents, staff, and administrators, use of collaborative
19 professional practices for improving instructional strategies,
20 participation in identified professional growth opportunities, and
21 use of meaningful self-assessment to improve as a professional
22 educator.

23 (G) Contributes to pupil academic growth based upon multiple
24 measures, which may include, but are not limited to, classroom
25 work, local and state academic assessments, and pupil grades,
26 classroom participation, presentations and performances, and
27 projects and portfolios. Measures used for assessing pupil
28 academic growth shall be valid and reliable for the purpose of
29 teacher evaluation, provided that the evaluation and assessment
30 of certificated employee performance pursuant to this section shall
31 not include the use of publisher's norms established by
32 standardized tests. For certificated employees who directly instruct
33 English learner pupils in acquiring English, measures shall include
34 the degree to which pupils acquire the English language
35 development standards adopted pursuant to Section 60811 for the
36 purpose of improving a pupil's English proficiency. Pupil data
37 used for purposes of teacher evaluation shall be confidential in
38 the same manner as all other elements of a teacher's personnel
39 file.

1 (2) *Multiple observations of instructional and other professional*
 2 *practices are conducted by evaluators who have received*
 3 *appropriate training and who have demonstrated competence in*
 4 *teacher evaluation, as determined by the school district.*

5 (A) *Multiple observations may include, but are not limited to,*
 6 *classroom observations, one-on-one discussions, and review of*
 7 *classroom materials and course of study.*

8 (B) *Observations shall be conducted using a uniform evaluation*
 9 *tool.*

10 (C) *Prior to each observation, the observer shall meet with the*
 11 *teacher to discuss the purpose of the observation.*

12 (D) *After each observation, the observer shall meet with the*
 13 *teacher to discuss recommendations, as necessary, with regard to*
 14 *areas of improvement in the performance of the teacher.*

15 (b) *This section shall not be interpreted to prohibit a locally*
 16 *negotiated evaluation process from designating certificated*
 17 *employees to conduct, or participate in, evaluations of other*
 18 *certificated employees for purposes of determining needs for*
 19 *professional development or providing corrective advice for the*
 20 *certificated employee being evaluated. A certificated employee*
 21 *who conducts, or participates in, an evaluation pursuant to this*
 22 *article shall not be deemed to be exercising a management or*
 23 *supervisory function as defined by subdivision (g) or (m) of Section*
 24 *3540.1 of the Government Code.*

25 (c) *This section shall become operative on July 1 of the first*
 26 *fiscal year following the fiscal year in which the deficit factor set*
 27 *forth in Section 42238.146 is reduced to zero.*

28 SEC. 8. *Section 44664 of the Education Code is amended to*
 29 *read:*

30 44664. (a) *Evaluation and assessment of the performance of*
 31 *each certificated employee shall be made on a continuing basis as*
 32 *follows:*

- 33 (1) *At least once each school year for probationary personnel.*
- 34 (2) *At least every other year for personnel with permanent status.*
- 35 (3) *At least every five years for personnel with permanent status*
 36 *who have been employed at least 10 years with the school district,*
 37 *are highly qualified, if those personnel occupy positions that are*
 38 *required to be filled by a highly qualified professional by the*
 39 *federal No Child Left Behind Act of 2001 (20 U.S.C. Sec. 6301;*
 40 *et seq.), as defined in ~~20 U.S.C. Sec. 7801~~ Section 7801 of Title*

1 20 of the United States Code, and whose previous evaluation rated
2 the employee as meeting or exceeding standards, if the evaluator
3 and certificated employee being evaluated agree. The certificated
4 employee or the evaluator may withdraw consent at any time.

5 (b) The evaluation shall include recommendations, if necessary,
6 as to areas of improvement in the performance of the employee.
7 If an employee is not performing his or her duties in a satisfactory
8 manner according to the standards prescribed by the governing
9 board, the employing authority shall notify the employee in writing
10 of that fact and describe the unsatisfactory performance. The
11 employing authority shall thereafter confer with the employee
12 making specific recommendations as to areas of improvement in
13 the employee's performance and endeavor to assist the employee
14 in his or her performance. If any permanent certificated employee
15 has received an unsatisfactory evaluation, the employing authority
16 shall annually evaluate the employee until the employee achieves
17 a positive evaluation or is separated from the district.

18 (c) Any evaluation performed pursuant to this article which
19 contains an unsatisfactory rating of an employee's performance
20 in the area of teaching methods or instruction may include the
21 requirement that the certificated employee shall, as determined
22 necessary by the employing authority, participate in a program
23 designed to improve appropriate areas of the employee's
24 performance and to further pupil achievement and the instructional
25 objectives of the employing authority. If a district participates in
26 the Peer Assistance and Review Program for Teachers established
27 pursuant to Article 4.5 (commencing with Section 44500), any
28 certificated employee who receives an unsatisfactory rating on an
29 evaluation performed pursuant to this section shall participate in
30 the Peer Assistance and Review Program for Teachers.

31 (d) Hourly and temporary hourly certificated employees, other
32 than those employed in adult education classes who are excluded
33 by the provisions of Section 44660, and substitute teachers may
34 be excluded from the provisions of this section at the discretion
35 of the governing board.

36 (e) *This section shall become inoperative on July 1 of the first*
37 *fiscal year following the fiscal year in which the deficit factor set*
38 *forth in Section 42238.146 is reduced to zero.*

39 *SEC. 9. Section 44664 is added to the Education Code, to read:*

1 44664. (a) Evaluation and assessment of the performance of
2 each certificated employee shall be made on a continuing basis
3 as follows:

4 (1) At least once each school year for probationary personnel.

5 (2) At least every other year for personnel with permanent
6 status.

7 (3) Except as may be provided in the best practices teacher
8 evaluation system locally negotiated pursuant to subdivision (b)
9 of Section 44661, at least every three years for personnel with
10 permanent status who have been employed at least 10 years with
11 the school district, are highly qualified, if those personnel occupy
12 positions that are required to be filled by a highly qualified
13 professional by the federal No Child Left Behind Act of 2001 (20
14 U.S.C. Sec. 6301 et seq.), as defined in Section 7801 of Title 20 of
15 the United States Code, and whose previous evaluation rated the
16 employee as meeting or exceeding standards, if the evaluator and
17 certificated employee being evaluated agree. The certificated
18 employee or the evaluator may withdraw consent at any time.

19 (b) The evaluation shall include recommendations, if necessary,
20 as to areas of improvement in the performance of the employee.
21 If an employee is not performing his or her duties in a satisfactory
22 manner according to the standards prescribed by the governing
23 board, the employing authority shall notify the employee in writing
24 of that fact and describe the unsatisfactory performance. The
25 employing authority shall thereafter confer with the employee
26 making specific recommendations as to areas of improvement in
27 the employee's performance and endeavor to assist the employee
28 in his or her performance. If any permanent certificated employee
29 has received an unsatisfactory evaluation, the employing authority
30 shall annually evaluate the employee until the employee achieves
31 a positive evaluation or is separated from the district.

32 (c) Any evaluation performed pursuant to this article which
33 contains an unsatisfactory rating of an employee's performance
34 in the area of teaching methods or instruction may include the
35 requirement that the certificated employee shall, as determined
36 necessary by the employing authority, participate in a program
37 designed to improve appropriate areas of the employee's
38 performance and to further pupil achievement and the instructional
39 objectives of the employing authority. If a district participates in
40 the Peer Assistance and Review Program for Teachers established

1 pursuant to Article 4.5 (commencing with Section 44500), any
2 certificated employee who receives an unsatisfactory rating on an
3 evaluation performed pursuant to this section shall participate in
4 the Peer Assistance and Review Program for Teachers.

5 (d) Hourly and temporary hourly certificated employees, other
6 than those employed in adult education classes who are excluded
7 by the provisions of Section 44660, and substitute teachers may
8 be excluded from the provisions of this section at the discretion of
9 the governing board.

10 (e) This section shall become operative on July 1 of the first
11 fiscal year following the fiscal year in which the deficit factor set
12 forth in Section 42238.146 is reduced to zero.

13 SEC. 10. If the Commission on State Mandates determines that
14 this act contains costs mandated by the state, reimbursement to
15 local agencies and school districts for those costs shall be made
16 pursuant to Part 7 (commencing with Section 17500) of Division
17 4 of Title 2 of the Government Code.

18 SECTION 1. ~~Article 10.7 (commencing with Section 44655)~~
19 ~~is added to Chapter 3 of Part 25 of Division 3 of Title 2 of the~~
20 ~~Education Code, to read:~~

21
22 ~~Article 10.7. Evaluation and Support System for Certificated~~
23 ~~Employees~~
24

25 ~~44655. (a) Commencing with the 2012-13 school year, the~~
26 ~~governing board of a school district shall adopt and implement a~~
27 ~~fair, transparent, and rigorous evaluation system for certificated~~
28 ~~employees based on a uniform standard. The purposes of the~~
29 ~~evaluation system shall be to improve instruction for all pupils in~~
30 ~~the school district and provide meaningful and continuous support~~
31 ~~to certificated employees.~~

32 ~~(b) In developing the evaluation system for certificated~~
33 ~~employees pursuant to this article, the governing board of a school~~
34 ~~district shall, by mutual agreement with the exclusive bargaining~~
35 ~~representative of the certificated employees in the school district,~~
36 ~~in accordance with the provisions of Chapter 10.7 (commencing~~
37 ~~with Section 3540) of Division 4 of Title 1 of the Government~~
38 ~~Code, include all procedures and components of the evaluation~~
39 ~~system established pursuant to this article. If the certificated~~
40 ~~employees of the school district do not have an exclusive~~

1 bargaining representative, the governing board of the school district
2 shall adopt objective evaluation and support components, as
3 applicable, that are consistent with this article.

4 44656. (a) In its evaluation system for certificated employees,
5 the governing board of a school district shall include all of the
6 following components:

7 (1) Evidence of the effectiveness of the certificated employee
8 as compared to the California Standards for the Teaching
9 Profession.

10 (2) Evidence of the effectiveness of the certificated employee
11 in teaching the state academic content standards pursuant to Section
12 60605 or the common core standards in English language arts and
13 mathematics adopted pursuant to Section 60605.8, as applicable.
14 Evidence of effectiveness for purposes of this paragraph shall
15 include, but not be limited to, evidence of pupil progress toward
16 the standards specified in this paragraph as measured by all of the
17 following:

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

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

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

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

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

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

1 ~~(C) Data from formative assessments as determined by the~~
2 ~~governing board of a school district to evaluate a certificated~~
3 ~~employee pursuant to this section.~~

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

9 ~~(B) Prior to each observation, the observer shall meet with the~~
10 ~~certificated employee to discuss the purpose of the observation.~~

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

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

19 ~~(e) For purposes of evaluating certificated employees who~~
20 ~~provide instruction to pupils in courses whose progress toward the~~
21 ~~standards cannot be measured by utilizing assessment data, the~~
22 ~~governing board of a school district shall determine an alternative~~
23 ~~method to measure pupil progress toward the standards.~~

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

29 ~~44657. (a) Evaluation of the performance of each certificated~~
30 ~~employee pursuant to this article shall be made on a continuing~~
31 ~~basis as follows:~~

32 ~~(1) At least once every school year for probationary employees.~~

33 ~~(2) At least every other year for permanent employees.~~

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

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

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

14 (e) ~~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.~~