

AMENDED IN ASSEMBLY MARCH 16, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 1034

Introduced by Assembly Member Gatto

February 18, 2011

~~An act to amend, repeal, and add Section 44956 of the Education Code, relating to education employment, and declaring the urgency thereof, to take effect immediately. An act to amend Sections 47604.33 and 47605 of, and to add Section 49068.7 to, the Education Code, relating to charter schools.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1034, as amended, Gatto. ~~Education employment: right to reappointment. Charter schools.~~

(1) The Charter Schools Act of 1992 permits teachers and parents to petition the governing board of a school district to approve a charter school to operate independently from the existing school district structure as a method of accomplishing, among other things, improved pupil learning. Existing law requires each charter school to annually prepare and submit specified reports to its chartering authority and the county superintendent of schools.

This bill would require each charter school, at least 6 months prior to applying for renewal of the charter, to additionally report specified information relating to pupil demographics and academic progress.

This bill would require each school district to draft and implement a policy to collect data that clearly defines the reasons that pupils transferred from charter schools to traditional public schools after the commencement of the school year, and would classify this data as public records for purposes of the California Public Records Act. Because

this bill would create additional duties for charter schools and school districts, it would impose a state-mandated local program.

(2) Existing law prohibits the governing board of a school district from denying a petition for the establishment of a charter school unless the governing board finds that the petition does not contain specified information, including admission requirements, as applicable.

This bill would eliminate the provision relating to admission requirements.

(3) Existing law authorizes, if the number of pupils who wish to attend a charter school exceeds its capacity, for preference to be extended to pupils currently attending the charter school and pupils who reside in the district.

Existing law additionally authorizes for other preferences to be extended, on an individual school basis, if consistent with the law.

This bill would delete the authorization for other preferences to be extended.

(4) 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 provides that when employees are terminated pursuant to a reduction in workforce, a school district is required to terminate the employees in order of seniority. Existing law requires that a permanent employee terminated pursuant to these provisions, for the period of 39 months from the date of the termination, and who has not reached 65 years of age in the meantime, have the preferred right to reappointment, in order of seniority.~~

~~This bill would eliminate the age limit of 65 years. The bill would eliminate the 39-month limitation for employees terminated commencing with the 2007–08 school year, and would restore the 39-month limitation commencing on July 1, 2015.~~

~~The bill would make various technical, nonsubstantive changes.~~

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

~~Vote: $\frac{2}{3}$ -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 47604.33 of the Education Code is*
2 *amended to read:*

3 47604.33. (a) Each charter school shall annually prepare and
4 submit the following reports to its chartering authority and the
5 county superintendent of schools, or only to the county
6 superintendent of schools if the county board of education is the
7 chartering authority:

8 (1) On or before July 1, a preliminary budget. For a charter
9 school in its first year of operation, the information submitted
10 pursuant to subdivision (g) of Section 47605 satisfies this
11 requirement.

12 (2) On or before December 15, an interim financial report. This
13 report shall reflect changes through October 31.

14 (3) On or before March 15, a second interim financial report.
15 This report shall reflect changes through January 31.

16 (4) On or before September 15, a final unaudited report for the
17 full prior year.

18 ***(b) At least six months prior to applying for renewal of the***
19 *charter, a charter school shall prepare and submit a report that*
20 *includes all of the following to its chartering authority and the*
21 *county superintendent of schools, or only to the county*
22 *superintendent of schools if the county board of education is the*
23 *chartering authority:*

24 ***(1) The pupil population served by the school at the beginning***
25 *and end of each school year during the period the charter is in*
26 *effect, showing the number of pupils with special needs, English*
27 *learner pupils, and the total number of pupils served,*
28 *disaggregated by race, ethnicity, and socioeconomic status, as*
29 *determined by eligibility in any free or reduced-price meal*
30 *program.*

31 ***(2) Data that shows the academic progress of the pupils enrolled***
32 *in the school, disaggregated by pupil race, ethnicity, and*
33 *socioeconomic status, as determined by eligibility in any free or*
34 *reduced-price meal program.*

35 ~~(b)~~

36 ***(c) The chartering authority shall use any financial information***
37 *it obtains from the charter school, including, but not limited to,*
38 *the reports required by this section, to assess the fiscal condition*

1 of the charter school pursuant to subdivision (d) of Section
2 47604.32.

3 (e)

4 (d) The cost of performing the duties required by this section
5 shall be funded with supervisory oversight fees collected pursuant
6 to Section 47613.

7 *SEC. 2. Section 47605 of the Education Code is amended to*
8 *read:*

9 47605. (a) (1) Except as set forth in paragraph (2), a petition
10 for the establishment of a charter school within a school district
11 may be circulated by one or more persons seeking to establish the
12 charter school. A petition for the establishment of a charter school
13 shall identify a single charter school that will operate within the
14 geographic boundaries of that school district. A charter school
15 may propose to operate at multiple sites within the school district,
16 as long as each location is identified in the charter school petition.
17 The petition may be submitted to the governing board of the school
18 district for review after either of the following conditions are met:

19 (A) The petition has been signed by a number of parents or legal
20 guardians of pupils that is equivalent to at least one-half of the
21 number of pupils that the charter school estimates will enroll in
22 the school for its first year of operation.

23 (B) The petition has been signed by a number of teachers that
24 is equivalent to at least one-half of the number of teachers that the
25 charter school estimates will be employed at the school during its
26 first year of operation.

27 (2) A petition that proposes to convert an existing public school
28 to a charter school that would not be eligible for a loan pursuant
29 to subdivision (b) of Section 41365 may be circulated by one or
30 more persons seeking to establish the charter school. The petition
31 may be submitted to the governing board of the school district for
32 review after the petition has been signed by not less than 50 percent
33 of the permanent status teachers currently employed at the public
34 school to be converted.

35 (3) A petition shall include a prominent statement that a
36 signature on the petition means that the parent or legal guardian
37 is meaningfully interested in having his or her child or ward attend
38 the charter school, or in the case of a teacher’s signature, means
39 that the teacher is meaningfully interested in teaching at the charter
40 school. The proposed charter shall be attached to the petition.

1 (4) After receiving approval of its petition, a charter school that
2 proposes to establish operations at one or more additional sites
3 shall request a material revision to its charter and shall notify the
4 authority that granted its charter of those additional locations. The
5 authority that granted its charter shall consider whether to approve
6 those additional locations at an open, public meeting. If the
7 additional locations are approved, they shall be a material revision
8 to the charter school's charter.

9 (5) A charter school that is unable to locate within the
10 jurisdiction of the chartering school district may establish one site
11 outside the boundaries of the school district, but within the county
12 in which that school district is located, if the school district within
13 the jurisdiction of which the charter school proposes to operate is
14 notified in advance of the charter petition approval, the county
15 superintendent of schools and the Superintendent are notified of
16 the location of the charter school before it commences operations,
17 and either of the following circumstances exist:

18 (A) The school has attempted to locate a single site or facility
19 to house the entire program, but a site or facility is unavailable in
20 the area in which the school chooses to locate.

21 (B) The site is needed for temporary use during a construction
22 or expansion project.

23 (6) Commencing January 1, 2003, a petition to establish a charter
24 school may not be approved to serve pupils in a grade level that
25 is not served by the school district of the governing board
26 considering the petition, unless the petition proposes to serve pupils
27 in all of the grade levels served by that school district.

28 (b) No later than 30 days after receiving a petition, in accordance
29 with subdivision (a), the governing board of the school district
30 shall hold a public hearing on the provisions of the charter, at
31 which time the governing board of the school district shall consider
32 the level of support for the petition by teachers employed by the
33 district, other employees of the district, and parents. Following
34 review of the petition and the public hearing, the governing board
35 of the school district shall either grant or deny the charter within
36 60 days of receipt of the petition, provided, however, that the date
37 may be extended by an additional 30 days if both parties agree to
38 the extension. In reviewing petitions for the establishment of
39 charter schools pursuant to this section, the chartering authority
40 shall be guided by the intent of the Legislature that charter schools

1 are and should become an integral part of the California educational
2 system and that establishment of charter schools should be
3 encouraged. The governing board of the school district shall grant
4 a charter for the operation of a school under this part if it is satisfied
5 that granting the charter is consistent with sound educational
6 practice. The governing board of the school district shall not deny
7 a petition for the establishment of a charter school unless it makes
8 written factual findings, specific to the particular petition, setting
9 forth specific facts to support one or more of the following
10 findings:

11 (1) The charter school presents an unsound educational program
12 for the pupils to be enrolled in the charter school.

13 (2) The petitioners are demonstrably unlikely to successfully
14 implement the program set forth in the petition.

15 (3) The petition does not contain the number of signatures
16 required by subdivision (a).

17 (4) The petition does not contain an affirmation of each of the
18 conditions described in subdivision (d).

19 (5) The petition does not contain reasonably comprehensive
20 descriptions of all of the following:

21 (A) (i) A description of the educational program of the school,
22 designed, among other things, to identify those whom the school
23 is attempting to educate, what it means to be an “educated person”
24 in the 21st century, and how learning best occurs. The goals
25 identified in that program shall include the objective of enabling
26 pupils to become self-motivated, competent, and lifelong learners.

27 (ii) If the proposed school will serve high school pupils, a
28 description of the manner in which the charter school will inform
29 parents about the transferability of courses to other public high
30 schools and the eligibility of courses to meet college entrance
31 requirements. Courses offered by the charter school that are
32 accredited by the Western Association of Schools and Colleges
33 may be considered transferable and courses approved by the
34 University of California or the California State University as
35 creditable under the “A” to “G” admissions criteria may be
36 considered to meet college entrance requirements.

37 (B) The measurable pupil outcomes identified for use by the
38 charter school. “Pupil outcomes,” for purposes of this part, means
39 the extent to which all pupils of the school demonstrate that they

1 have attained the skills, knowledge, and attitudes specified as goals
2 in the school's educational program.

3 (C) The method by which pupil progress in meeting those pupil
4 outcomes is to be measured.

5 (D) The governance structure of the school, including, but not
6 limited to, the process to be followed by the school to ensure
7 parental involvement.

8 (E) The qualifications to be met by individuals to be employed
9 by the school.

10 (F) The procedures that the school will follow to ensure the
11 health and safety of pupils and staff. These procedures shall include
12 the requirement that each employee of the school furnish the school
13 with a criminal record summary as described in Section 44237.

14 (G) The means by which the school will achieve a racial and
15 ethnic balance among its pupils that is reflective of the general
16 population residing within the territorial jurisdiction of the school
17 district to which the charter petition is submitted.

18 ~~(H) Admission requirements, if applicable.~~

19 ~~(I)~~

20 (H) The manner in which annual, independent financial audits
21 shall be conducted, which shall employ generally accepted
22 accounting principles, and the manner in which audit exceptions
23 and deficiencies shall be resolved to the satisfaction of the
24 chartering authority.

25 ~~(J)~~

26 (I) The procedures by which pupils can be suspended or
27 expelled.

28 ~~(K)~~

29 (J) The manner by which staff members of the charter schools
30 will be covered by the State Teachers' Retirement System, the
31 Public Employees' Retirement System, or federal social security.

32 ~~(L)~~

33 (K) The public school attendance alternatives for pupils residing
34 within the school district who choose not to attend charter schools.

35 ~~(M)~~

36 (L) A description of the rights of any employee of the school
37 district upon leaving the employment of the school district to work
38 in a charter school, and of any rights of return to the school district
39 after employment at a charter school.

40 ~~(N)~~

1 (M) The procedures to be followed by the charter school and
2 the entity granting the charter to resolve disputes relating to
3 provisions of the charter.

4 (⊖)

5 (N) A declaration whether or not the charter school shall be
6 deemed the exclusive public school employer of the employees of
7 the charter school for the purposes of Chapter 10.7 (commencing
8 with Section 3540) of Division 4 of Title 1 of the Government
9 Code.

10 (⊕)

11 (O) A description of the procedures to be used if the charter
12 school closes. The procedures shall ensure a final audit of the
13 school to determine the disposition of all assets and liabilities of
14 the charter school, including plans for disposing of any net assets
15 and for the maintenance and transfer of pupil records.

16 (c) (1) Charter schools shall meet all statewide standards and
17 conduct the pupil assessments required pursuant to Sections 60605
18 and 60851 and any other statewide standards authorized in statute
19 or pupil assessments applicable to pupils in noncharter public
20 schools.

21 (2) Charter schools shall, on a regular basis, consult with their
22 parents, legal guardians, and teachers regarding the school's
23 educational programs.

24 (d) (1) In addition to any other requirement imposed under this
25 part, a charter school shall be nonsectarian in its programs,
26 admission policies, employment practices, and all other operations,
27 shall not charge tuition, and shall not discriminate against any
28 pupil on the basis of the characteristics listed in Section 220. Except
29 as provided in paragraph (2), admission to a charter school shall
30 not be determined according to the place of residence of the pupil,
31 or of his or her parent or legal guardian, within this state, except
32 that an existing public school converting partially or entirely to a
33 charter school under this part shall adopt and maintain a policy
34 giving admission preference to pupils who reside within the former
35 attendance area of that public school.

36 (2) (A) A charter school shall admit all pupils who wish to
37 attend the school.

38 (B) However, if the number of pupils who wish to attend the
39 charter school exceeds the school's capacity, attendance, except
40 for existing pupils of the charter school, shall be determined by a

1 public random drawing. Preference shall be extended to pupils
2 currently attending the charter school and pupils who reside in the
3 district except as provided for in Section 47614.5.—Other
4 preferences may be permitted by the chartering authority on an
5 individual school basis and only if consistent with the law.

6 (C) In the event of a drawing, the chartering authority shall
7 make reasonable efforts to accommodate the growth of the charter
8 school and in no event shall take any action to impede the charter
9 school from expanding enrollment to meet pupil demand.

10 (3) If a pupil is expelled or leaves the charter school without
11 graduating or completing the school year for any reason, the charter
12 school shall notify the superintendent of the school district of the
13 pupil's last known address within 30 days, and shall, upon request,
14 provide that school district with a copy of the cumulative record
15 of the pupil, including a transcript of grades or report card, and
16 health information. This paragraph applies only to pupils subject
17 to compulsory full-time education pursuant to Section 48200.

18 (e) The governing board of a school district shall not require
19 any employee of the school district to be employed in a charter
20 school.

21 (f) The governing board of a school district shall not require
22 any pupil enrolled in the school district to attend a charter school.

23 (g) The governing board of a school district shall require that
24 the petitioner or petitioners provide information regarding the
25 proposed operation and potential effects of the school, including,
26 but not limited to, the facilities to be utilized by the school, the
27 manner in which administrative services of the school are to be
28 provided, and potential civil liability effects, if any, upon the school
29 and upon the school district. The description of the facilities to be
30 used by the charter school shall specify where the school intends
31 to locate. The petitioner or petitioners shall also be required to
32 provide financial statements that include a proposed first-year
33 operational budget, including startup costs, and cashflow and
34 financial projections for the first three years of operation.

35 (h) In reviewing petitions for the establishment of charter
36 schools within the school district, the governing board of the school
37 district shall give preference to petitions that demonstrate the
38 capability to provide comprehensive learning experiences to pupils
39 identified by the petitioner or petitioners as academically low

1 achieving pursuant to the standards established by the department
2 under Section 54032 as it read prior to July 19, 2006.

3 (i) Upon the approval of the petition by the governing board of
4 the school district, the petitioner or petitioners shall provide written
5 notice of that approval, including a copy of the petition, to the
6 applicable county superintendent of schools, the department, and
7 the state board.

8 (j) (1) If the governing board of a school district denies a
9 petition, the petitioner may elect to submit the petition for the
10 establishment of a charter school to the county board of education.
11 The county board of education shall review the petition pursuant
12 to subdivision (b). If the petitioner elects to submit a petition for
13 establishment of a charter school to the county board of education
14 and the county board of education denies the petition, the petitioner
15 may file a petition for establishment of a charter school with the
16 state board, and the state board may approve the petition, in
17 accordance with subdivision (b). A charter school that receives
18 approval of its petition from a county board of education or from
19 the state board on appeal shall be subject to the same requirements
20 concerning geographic location to which it would otherwise be
21 subject if it received approval from the entity to which it originally
22 submitted its petition. A charter petition that is submitted to either
23 a county board of education or to the state board shall meet all
24 otherwise applicable petition requirements, including the
25 identification of the proposed site or sites where the charter school
26 will operate.

27 (2) In assuming its role as a chartering agency, the state board
28 shall develop criteria to be used for the review and approval of
29 charter school petitions presented to the state board. The criteria
30 shall address all elements required for charter approval, as
31 identified in subdivision (b), and shall define “reasonably
32 comprehensive” as used in paragraph (5) of subdivision (b) in a
33 way that is consistent with the intent of this part. Upon satisfactory
34 completion of the criteria, the state board shall adopt the criteria
35 on or before June 30, 2001.

36 (3) A charter school for which a charter is granted by either the
37 county board of education or the state board based on an appeal
38 pursuant to this subdivision shall qualify fully as a charter school
39 for all funding and other purposes of this part.

1 (4) If either the county board of education or the state board
2 fails to act on a petition within 120 days of receipt, the decision
3 of the governing board of the school district to deny a petition
4 shall, thereafter, be subject to judicial review.

5 (5) The state board shall adopt regulations implementing this
6 subdivision.

7 (6) Upon the approval of the petition by the county board of
8 education, the petitioner or petitioners shall provide written notice
9 of that approval, including a copy of the petition, to the department
10 and the state board.

11 (k) (1) The state board may, by mutual agreement, designate
12 its supervisory and oversight responsibilities for a charter school
13 approved by the state board to any local educational agency in the
14 county in which the charter school is located or to the governing
15 board of the school district that first denied the petition.

16 (2) The designated local educational agency shall have all
17 monitoring and supervising authority of a chartering agency,
18 including, but not limited to, powers and duties set forth in Section
19 47607, except the power of revocation, which shall remain with
20 the state board.

21 (3) A charter school that has been granted its charter through
22 an appeal to the state board and elects to seek renewal of its charter
23 shall, prior to expiration of the charter, submit its petition for
24 renewal to the governing board of the school district that initially
25 denied the charter. If the governing board of the school district
26 denies the school's petition for renewal, the school may petition
27 the state board for renewal of its charter.

28 (l) Teachers in charter schools shall hold a Commission on
29 Teacher Credentialing certificate, permit, or other document
30 equivalent to that which a teacher in other public schools would
31 be required to hold. These documents shall be maintained on file
32 at the charter school and are subject to periodic inspection by the
33 chartering authority. It is the intent of the Legislature that charter
34 schools be given flexibility with regard to noncore, noncollege
35 preparatory courses.

36 (m) A charter school shall transmit a copy of its annual,
37 independent financial audit report for the preceding fiscal year, as
38 described in subparagraph ~~(H)~~ (H) of paragraph (5) of subdivision
39 (b), to its chartering entity, the Controller, the county
40 superintendent of schools of the county in which the charter school

1 is sited, unless the county board of education of the county in
 2 which the charter school is sited is the chartering entity, and the
 3 department by December 15 of each year. This subdivision does
 4 not apply if the audit of the charter school is encompassed in the
 5 audit of the chartering entity pursuant to Section 41020.

6 *SEC. 3. Section 49068.7 is added to the Education Code, to*
 7 *read:*

8 *49068.7. Each school district shall draft and implement a policy*
 9 *to collect data from parents who have transferred pupils into*
 10 *traditional public schools from charter schools after the*
 11 *commencement of the school year. The data shall clearly define*
 12 *the reasons for pupil transfer from a charter school into a*
 13 *traditional public school. Subject to existing law regarding privacy*
 14 *and personal directory information, the data shall be classified*
 15 *as public records, subject to the California Public Records Act*
 16 *(Chapter 3.5 (commencing with Section 6250) of Division 7 of*
 17 *Title 1 of the Government Code).*

18 *SEC. 4. If the Commission on State Mandates determines that*
 19 *this act contains costs mandated by the state, reimbursement to*
 20 *local agencies and school districts for those costs shall be made*
 21 *pursuant to Part 7 (commencing with Section 17500) of Division*
 22 *4 of Title 2 of the Government Code.*

23 ~~SECTION 1. Section 44956 of the Education Code is amended~~
 24 ~~to read:~~

25 ~~44956. A permanent employee whose services have been~~
 26 ~~terminated commencing with the 2007-08 school year, as provided~~
 27 ~~in Section 44955, shall have the following rights:~~

28 ~~(a) An employee shall have the preferred right to reappointment,~~
 29 ~~in the order of original employment as determined by the governing~~
 30 ~~board in accordance with the provisions of Sections 44831 to~~
 31 ~~44855, inclusive, if the number of employees is increased or the~~
 32 ~~discontinued service is reestablished, with no requirements that~~
 33 ~~were not imposed upon other employees who continued in service;~~
 34 ~~provided, that a probationary or other employee with less seniority~~
 35 ~~shall not be employed to render a service that the employee is~~
 36 ~~certificated and competent to render. However, prior to~~
 37 ~~reappointing any employee to teach a subject that he or she has~~
 38 ~~not previously taught, and for which he or she does not have a~~
 39 ~~teaching credential or that is not within the employee's major area~~
 40 ~~of postsecondary study or the equivalent thereof, the governing~~

1 board shall require the employee to pass a subject matter
2 competency test in the appropriate subject.

3 (b) The right to reappointment described in subdivision (a) may
4 be waived by the employee, without prejudice, for not more than
5 one school year, unless the governing board extends this right, but
6 the waiver shall not deprive the employee of his or her right to
7 subsequent offers of reappointment.

8 (c) Notwithstanding subdivision (a), a school district may
9 deviate from the order of seniority in reappointing a certificated
10 employee for either of the following reasons:

11 (1) The school district demonstrates a specific need for personnel
12 to teach a specific course or course of study, or to provide services
13 authorized by a services credential with a specialization in either
14 pupil personnel services or health for a school nurse, and the
15 employee has special training and experience necessary to teach
16 that course or course of study, or to provide those services, which
17 others with more seniority do not possess.

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

20 (d) For an employee who is reappointed, the period of his or
21 her absence shall be treated as a leave of absence and shall not be
22 considered as a break in the continuity of his or her service, he or
23 she shall retain the classification and order of employment he or
24 she had when his or her services were terminated, and credit for
25 prior service under any state or district retirement system shall not
26 be affected by the termination, but the period of his or her absence
27 shall not count as a part of the service required for retirement.

28 (e) During the period of his or her preferred right to
29 reappointment, an employee, in the order of original employment,
30 shall be offered prior opportunity for substitute service during the
31 absence of any other employee who has been granted a leave of
32 absence or who is temporarily absent from duty. However, his or
33 her services may be terminated upon the return to duty of the other
34 employee and the substitute service shall not affect the retention
35 of his or her previous classification and rights. If, in any school
36 year the employee serves as a substitute in any position requiring
37 certification for any 21 days or more within a period of 60
38 schooldays, the compensation the employee receives for substitute
39 service in that 60-day period, including his or her first 20 days of

1 substitute service, shall be not less than the amount the employee
2 would have received if he or she were being reappointed.

3 ~~(f) During the period of the employee’s preferred right to
4 reappointment, the governing board of the school district, if it is
5 also the governing board of one or more other school districts,
6 may assign him or her to service, which he or she is certificated
7 and competent to render, in the other district or districts. However,
8 the compensation the employee receives may in the discretion of
9 the governing board be the same as he or she would have received
10 had he or she been serving in the district from which his or her
11 services were terminated, and his or her service in the other district
12 or districts shall be counted toward the period required for both
13 state and local retirement, as defined by Section 22102, as though
14 rendered in the district from which his or her services were
15 terminated, and a permanent employee in the other district or
16 districts shall not be displaced by him or her.~~

17 ~~It is the intent of this subdivision that the employees of a school
18 district, the governing board of which is also the governing board
19 of one or more other school districts, shall not be at a disadvantage
20 as compared with employees of a unified school district.~~

21 ~~(g) At any time prior to the completion of one year after the
22 employee’s return to service, he or she may continue or make up,
23 with interest, his or her own contributions to a state or district
24 retirement system, for the period of his or her absence, but it shall
25 not be obligatory on the state or district to match these
26 contributions.~~

27 ~~(h) If the employee becomes disabled or reaches retirement age
28 at any time before his or her return to service, he or she shall
29 receive, in any state or district retirement system of which he or
30 she was a member, all benefits to which he or she would have been
31 entitled had the disability or retirement occurred at the time of his
32 or her termination of service, plus any benefits he or she may have
33 qualified for thereafter, as though still employed.~~

34 ~~(i) This section shall become inoperative on July 1, 2015, and,
35 as of January 1, 2016, is repealed, unless a later enacted statute,
36 that becomes operative on or before January 1, 2016, deletes or
37 extends the dates on which it becomes inoperative and is repealed.~~

38 ~~SEC. 2. Section 44956 is added to the Education Code, to read:~~

1 ~~44956. A permanent employee whose services have been~~
2 ~~terminated as provided in Section 44955 shall have the following~~
3 ~~rights:~~

4 ~~(a) For the period of 39 months from the date of the termination,~~
5 ~~an employee shall have the preferred right to reappointment, in~~
6 ~~the order of original employment as determined by the governing~~
7 ~~board in accordance with the provisions of Sections 44831 to~~
8 ~~44855, inclusive, if the number of employees is increased or the~~
9 ~~discontinued service is reestablished, with no requirements that~~
10 ~~were not imposed upon other employees who continued in service,~~
11 ~~provided that a probationary or other employee with less seniority~~
12 ~~shall not be employed to render a service that the employee is~~
13 ~~certificated and competent to render. However, prior to~~
14 ~~reappointing any employee to teach a subject that he or she has~~
15 ~~not previously taught, and for which he or she does not have a~~
16 ~~teaching credential or that is not within the employee's major area~~
17 ~~of postsecondary study or the equivalent thereof, the governing~~
18 ~~board shall require the employee to pass a subject matter~~
19 ~~competency test in the appropriate subject.~~

20 ~~(b) The right to reappointment described in subdivision (a) may~~
21 ~~be waived by the employee, without prejudice, for not more than~~
22 ~~one school year, unless the governing board extends this right, but~~
23 ~~the waiver shall not deprive the employee of his or her right to~~
24 ~~subsequent offers of reappointment.~~

25 ~~(c) Notwithstanding subdivision (a), a school district may~~
26 ~~deviate from the order of seniority in reappointing a certificated~~
27 ~~employee for either of the following reasons:~~

28 ~~(1) The school district demonstrates a specific need for personnel~~
29 ~~to teach a specific course or course of study, or to provide services~~
30 ~~authorized by a services credential with a specialization in either~~
31 ~~pupil personnel services or health for a school nurse, and the~~
32 ~~employee has special training and experience necessary to teach~~
33 ~~that course or course of study, or to provide those services, which~~
34 ~~others with more seniority do not possess.~~

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

37 ~~(d) For an employee who is reappointed, the period of his or~~
38 ~~her absence shall be treated as a leave of absence and shall not be~~
39 ~~considered as a break in the continuity of his or her service, he or~~
40 ~~she shall retain the classification and order of employment he or~~

1 she had when his or her services were terminated, and credit for
2 prior service under any state or district retirement system shall not
3 be affected by the termination, but the period of his or her absence
4 shall not count as a part of the service required for retirement.

5 (e) During the period of his or her preferred right to
6 reappointment, an employee, in the order of original employment,
7 shall be offered prior opportunity for substitute service during the
8 absence of any other employee who has been granted a leave of
9 absence or who is temporarily absent from duty. However, his or
10 her services may be terminated upon the return to duty of the other
11 employee and the substitute service shall not affect the retention
12 of his or her previous classification and rights. If, in any school
13 year the employee serves as a substitute in any position requiring
14 certification for any 21 days or more within a period of 60
15 schooldays, the compensation the employee receives for substitute
16 service in that 60-day period, including his or her first 20 days of
17 substitute service, shall be not less than the amount the employee
18 would have received if he or she were being reappointed.

19 (f) During the period of the employee's preferred right to
20 reappointment, the governing board of the school district, if it is
21 also the governing board of one or more other school districts,
22 may assign him or her to service, which he or she is certificated
23 and competent to render, in the other district or districts. However,
24 the compensation the employee receives may in the discretion of
25 the governing board be the same as he or she would have received
26 had he or she been serving in the district from which his or her
27 services were terminated, and his or her service in the other district
28 or districts shall be counted toward the period required for both
29 state and local retirement, as defined by Section 22102, as though
30 rendered in the district from which his or her services were
31 terminated, and a permanent employee in the other district or
32 districts shall not be displaced by him or her.

33 It is the intent of this subdivision that the employees of a school
34 district, the governing board of which is also the governing board
35 of one or more other school districts, shall not be at a disadvantage
36 as compared with employees of a unified school district.

37 (g) At any time prior to the completion of one year after the
38 employee's return to service, he or she may continue or make up,
39 with interest, his or her own contributions to a state or district
40 retirement system, for the period of his or her absence, but it shall

1 ~~not be obligatory on the state or district to match these~~
2 ~~contributions.~~

3 ~~(h) If the employee becomes disabled or reaches retirement age~~
4 ~~at any time before his or her return to service, he or she shall~~
5 ~~receive, in any state or district retirement system of which he or~~
6 ~~she was a member, all benefits to which he or she would have been~~
7 ~~entitled had the disability or retirement occurred at the time of his~~
8 ~~or her termination of service, plus any benefits he or she may have~~
9 ~~qualified for thereafter, as though still employed.~~

10 ~~(i) This section shall become operative on July 1, 2015.~~

11 ~~SEC. 3. This act is an urgency statute necessary for the~~
12 ~~immediate preservation of the public peace, health, or safety within~~
13 ~~the meaning of Article IV of the Constitution and shall go into~~
14 ~~immediate effect. The facts constituting the necessity are:~~

15 ~~In order to preserve the public and private investment in the~~
16 ~~training of certificated employees who have been subject to layoff~~
17 ~~from public school employment in unprecedented numbers in the~~
18 ~~past three years, and to ensure that these qualified employees~~
19 ~~remain in the teaching profession as opposed to seeking~~
20 ~~employment in other fields, it is necessary to temporarily extend~~
21 ~~their rights to rehire for the next three years, until state funding~~
22 ~~for public education increases, and thus, it is necessary that this~~
23 ~~act take effect immediately.~~