

ASSEMBLY BILL

No. 1269

Introduced by Assembly Member Portantino

February 18, 2011

An act to amend Section 45308 of the Education Code, relating to classified employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1269, as introduced, Portantino. Classified employees: layoff: reemployment.

Existing law requires that when classified employees are subject to layoff for lack of work or lack of funds, the order of layoff within the class be determined by length of service, providing that the employee who has been employed the shortest time in the class, plus higher classes, be laid off first. Existing law requires that reemployment be in the reverse order of layoff.

This bill would delete the provisions requiring that reemployment be in the reverse order of layoff, and instead require that reemployment be in order of seniority.

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

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

- 1 SECTION 1. Section 45308 of the Education Code is amended
- 2 to read:
- 3 45308. (a) Classified employees shall be subject to layoff for
- 4 lack of work or lack of funds. ~~Whenever~~ *If* a classified employee
- 5 is laid off, the order of layoff within the class shall be determined

1 by length of service. The employee who has been employed the
2 shortest time in the class, plus higher classes, shall be laid off first.
3 Reemployment shall be in ~~the reverse order of layoff~~ *order of*
4 *seniority*.

5 ~~For~~

6 (b) *For* purposes of this section, in school districts with an
7 average daily attendance below 400,000, for service commencing
8 or continuing after July 1, 1971, "length of service" means all
9 hours in paid status, whether during the school year, a holiday,
10 recess, or during any period that a school is in session or closed,
11 but does not include any hours compensated solely on an overtime
12 basis as provided for in Section 45128. Nothing in this section
13 shall preclude the governing board of a school district from entering
14 into an agreement with the exclusive representative of the classified
15 employees that defines "length of service" to mean the hire date.
16 For purposes of this section, in school districts with an average
17 daily attendance of 400,000 or more, for service commencing or
18 continuing after January 1, 1986, "length of service" shall be
19 determined by the date of hire.

20 If a governing board enters into an agreement with the exclusive
21 representative of classified employees that defines "length of
22 service" to mean the hire date, the governing board may define
23 "length of service" to mean the hire date for a classification of
24 employee not represented by any exclusive bargaining unit.

25 ~~Nothing~~

26 (c) *Nothing* contained in this section shall preclude the granting
27 of "length of service" credit for time spent on unpaid illness leave,
28 unpaid maternity leave, unpaid family care leave, or unpaid
29 industrial accident leave. In addition, for military leave of absence,
30 "length of service" credit shall be granted pursuant to Section
31 45297. In the event an employee returns to work following any
32 other unpaid leave of absence, no further seniority shall be accrued
33 for the time not worked.

34 ~~"Hours~~

35 (d) "*Hours* in paid status" shall not be interpreted to mean any
36 service performed prior to entering into a probationary or
37 permanent status in the classified service of the district except
38 service in restricted positions as provided in this chapter.

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