

ASSEMBLY BILL

No. 2307

Introduced by Assembly Member Butler

February 24, 2012

An act to amend Sections 45101 and 45113 of the Education Code, relating to classified school employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 2307, as introduced, Butler. Classified school employees.

Existing law requires the governing board of a school district to employ persons for positions not requiring certification qualifications and to classify those employees and positions and requires that they be known as the classified service. Existing law requires the governing board of a school district to prescribe written rules and regulations governing the personnel management of the classified service whereby classified employees are designated as permanent employees of the district after serving a prescribed period of probation that is prohibited from exceeding one year. Existing law defines a permanent classified employee for purposes of provisions governing the classified service.

This bill would change the definition of "permanent employee." The bill would define a permanent employee to mean an employee who has served the prescribed period of probation and would provide that a permanent employee remains a permanent employee of the school district when the employee is moved to another classification. The bill would provide that if a permanent employee is placed on a reemployment list after his or her services are terminated and the employee is subsequently reemployed, the employee continues being a permanent employee of the school district. The bill also would provide that a permanent employee who passes probation remains a permanent

employee of the school district when the employee moves to another classification.

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 45101 of the Education Code is amended
2 to read:

3 45101. Definitions as used in this chapter:

4 (a) "Classification" means that each position in the classified
5 service shall have a designated title, a regular minimum number
6 of assigned hours per day, days per week, and months per year, a
7 specific statement of the duties required to be performed by the
8 employees in ~~each such~~ *the* position, and the regular monthly salary
9 ranges for each ~~such~~ position.

10 (b) "Permanent" as used in the phrase "permanent employee"
11 ~~includes tenure in the classification in which the employee passed~~
12 ~~the required probationary period, and includes all of the incidents~~
13 ~~of that classification~~ *means an employee who has served the*
14 *prescribed period of probation. A permanent employee remains a*
15 *permanent employee of the district when the employee is moved*
16 *to another classification. A permanent employee who is placed on*
17 *a reemployment list and is subsequently reemployed in the same*
18 *school district that placed him or her on the reemployment list*
19 *continues being a permanent employee when reemployed.*

20 (c) "Regular" as used in the phrase "regular classified employee"
21 or any similar phrase, refers to a classified employee who has
22 probationary or permanent status.

23 (d) "Demotion" means assignment to an inferior position or
24 status, without the employee's written voluntary consent.

25 (e) "Disciplinary action" includes any action whereby an
26 employee is deprived of any classification or any incident of any
27 classification in which he has permanence, including dismissal,
28 suspension, demotion, or any reassignment, without his voluntary
29 consent, except a layoff for lack of work or lack of funds.

30 (f) "Reclassification" means the upgrading of a position to a
31 higher classification as a result of the gradual increase of the duties
32 being performed by the incumbent in such position.

1 (g) “Layoff for lack of funds or layoff for lack of work” includes
2 any reduction in hours of employment or assignment to a class or
3 grade lower than that in which the employee has permanence,
4 voluntarily consented to by the employee, in order to avoid
5 interruption of employment by layoff.

6 (h) “Cause” relating to disciplinary actions against classified
7 employees means those grounds for discipline, or offenses,
8 enumerated in the law or the written rules of a public school
9 employer. ~~No disciplinary action may~~ *Disciplinary action shall*
10 *not* be maintained for any “cause” other than as defined herein.

11 ~~The provisions of this~~ *This* section shall not apply to school
12 districts to which the provisions of Article 6 (commencing with
13 Section 45240) of this chapter are applicable.

14 ~~The provisions of this~~ *This* section shall not apply to any school
15 district ~~which~~ *that*, during the 1973–74 school year, had an average
16 daily attendance of 100,000 or more.

17 SEC. 2. Section 45113 of the Education Code is amended to
18 read:

19 45113. (a) The governing board of a school district shall
20 prescribe written rules and regulations, governing the personnel
21 management of the classified service, which shall be printed and
22 made available to employees in the classified service, the public,
23 and those concerned with the administration of this section,
24 whereby these employees are designated as permanent employees
25 of the district after serving a prescribed period of probation which
26 shall not exceed one year. *A permanent employee who passes*
27 *probation shall remain a permanent employee of the school district*
28 *when the employee moves to another classification.* A permanent
29 employee who accepts a promotion and fails to complete the
30 probationary period for that promotional position, shall be
31 employed in the classification from which he or she was promoted.

32 (b) Any employee designated as a permanent employee shall
33 be subject to disciplinary action only for cause as prescribed by
34 rule or regulation of the governing board, but the governing board’s
35 determination of the sufficiency of the cause for disciplinary action
36 shall be conclusive.

37 (c) The governing board shall adopt rules of procedure for
38 disciplinary proceedings which shall contain a provision for
39 informing the employee by written notice of the specific charges
40 against him or her, a statement of the employee’s right to a hearing

1 on those charges, and the time within which the hearing may be
 2 requested which shall be not less than five days after service of
 3 the notice to the employee, and a card or paper, the signing and
 4 filing of which shall constitute a demand for hearing, and a denial
 5 of all charges. The burden of proof shall remain with the governing
 6 board, and any rule or regulation to the contrary shall be void.

7 (d) ~~No disciplinary~~ *Disciplinary* action shall *not* be taken for
 8 any cause ~~which that~~ arose ~~prior to~~ *before* the employee's
 9 becoming permanent, ~~nor~~ *or* for any cause ~~which that~~ arose more
 10 than two years preceding the date of the filing of the notice of
 11 cause unless the cause was concealed or not disclosed by the
 12 employee when it could be reasonably assumed that the employee
 13 should have disclosed the facts to the employing district.

14 (e) ~~Nothing in this section shall be construed to~~ *This section*
 15 *does not* prohibit the governing board, pursuant to the terms of an
 16 agreement with an employee organization under Chapter 10.7
 17 (commencing with Section 3540) of Division 4 of Title 1 of the
 18 Government Code, from delegating its authority to determine
 19 whether sufficient cause exists for disciplinary action against
 20 classified employees, excluding peace officers as defined in Section
 21 830.32 of the Penal Code, to an impartial third party hearing
 22 officer. However, the governing board shall retain authority to
 23 review the determination under the standards set forth in Section
 24 1286.2 of the Code of Civil Procedure.

25 (f) This section shall apply only to districts not incorporating
 26 the merit system as outlined in Article 6 (commencing with Section
 27 45240) of this chapter.