

AMENDED IN SENATE APRIL 25, 2011

AMENDED IN SENATE MARCH 24, 2011

**SENATE BILL**

**No. 772**

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**Introduced by Senator Alquist**

February 18, 2011

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An act to add Sections 35122, 47611.7, and 87000.5 to the Education Code, relating to education personnel.

LEGISLATIVE COUNSEL'S DIGEST

SB 772, as amended, Alquist. Education personnel: compensation.

Existing law establishes the system of public elementary and secondary schools in this state, and provides for the establishment of the local educational agencies, including school districts, that establish and operate the schools and provide instruction to pupils throughout the state. Existing law also establishes the California Community Colleges as one of the segments of public postsecondary education in the state.

This bill would prohibit a school district or a ~~community college district~~ *charter school*, on and after January 1, 2012, from entering into, or renewing, a contract that provides a pay increase within the contract for any employee who is not eligible to be represented by an exclusive representative, in any fiscal year in which classified or certificated employees of that *school district or that charter school* have been terminated, provided notice of possible termination, or not provided with a cost-of-living adjustment, or that provides a pay increase in the fiscal year during which the contract is executed, relative to the ~~immediate~~ *immediately* past contract for that same position, for any employee who is not eligible to be represented by an exclusive representative, in any fiscal year when, in that same fiscal year, or the

immediately past fiscal year, classified or certificated employees of that school district or that charter school have been terminated, provided notice of possible termination, or not provided with a cost-of-living adjustment. *This provision would not apply to an employee who is terminated for cause, or provided with notice of possible termination for cause, due to a disciplinary action.*

*This bill would prohibit a community college district, on and after January 1, 2012, from entering into, or renewing, a contract that provides a pay increase within the contract for any employee who is not eligible to be represented by an exclusive representative, in any fiscal year in which classified or certificated employees of that district have experienced termination or reduction of salary due to state budget cutbacks, or that provides a pay increase in the fiscal year during which the contract is executed, relative to the immediately past contract for that same position, for any employee who is not eligible to be represented by an exclusive representative, in any fiscal year when, in that same fiscal year, or the immediately past fiscal year, classified or certificated employees of that district have experienced termination or reduction of salary due to state budget cutbacks. This provision would not apply to an employee who is terminated for cause due to a disciplinary action.*

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

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

1 SECTION 1. Section 35122 is added to the Education Code,  
 2 to read:  
 3 35122. ~~Notwithstanding any other provision of~~  
 4 (a) *Notwithstanding any other* law, on or after January 1, 2012,  
 5 a school district shall not enter into, or renew, a contract that  
 6 provides for either of the following:  
 7 (a)  
 8 (1) A pay increase for any employee who, pursuant to Section  
 9 3543.4 of the Government Code, is not eligible to be represented  
 10 by an exclusive representative, in any fiscal year in which classified  
 11 or certificated employees of that school district have been  
 12 terminated, provided notice of possible termination, or not provided  
 13 with a cost-of-living adjustment.  
 14 (b)

1 (2) A pay increase in the fiscal year during which the contract  
2 is executed, relative to the ~~immediate~~ *immediately* past contract  
3 for that same position, for any employee who, pursuant to Section  
4 3543.4 of the Government Code, is not eligible to be represented  
5 by an exclusive representative, if in that same fiscal year, or the  
6 immediately past fiscal year, classified or certificated employees  
7 of that school district have been terminated, provided notice of  
8 possible termination, or not provided with a cost-of-living  
9 adjustment.

10 (b) *This section does not apply to an employee who is terminated*  
11 *for cause, or provided with notice of possible termination for cause,*  
12 *due to a disciplinary action.*

13 SEC. 2. Section 47611.7 is added to the Education Code, to  
14 read:

15 47611.7. (a) *Notwithstanding any other law, on or after*  
16 *January 1, 2012, a charter school shall not enter into, or renew,*  
17 *a contract that provides for either of the following:*

18 (1) *A pay increase for any employee who, pursuant to Section*  
19 *3543.4 of the Government Code, is not eligible to be represented*  
20 *by an exclusive representative, in any fiscal year in which classified*  
21 *or certificated employees of that charter school have been*  
22 *terminated, provided notice of possible termination, or not provided*  
23 *with a cost-of-living adjustment.*

24 (2) *A pay increase in the fiscal year during which the contract*  
25 *is executed, relative to the immediately past contract for that same*  
26 *position, for any employee who, pursuant to Section 3543.4 of the*  
27 *Government Code, is not eligible to be represented by an exclusive*  
28 *representative, if in that same fiscal year, or the immediately past*  
29 *fiscal year, classified or certificated employees of that charter*  
30 *school have been terminated, provided notice of possible*  
31 *termination, or not provided with a cost-of-living adjustment.*

32 (b) *This section does not apply to an employee who is terminated*  
33 *for cause, or provided with notice of possible termination for cause,*  
34 *due to a disciplinary action.*

35 ~~SEC. 2.~~

36 SEC. 3. Section 87000.5 is added to the Education Code, to  
37 read:

38 87000.5. ~~Notwithstanding any other provision of~~  
39 (a) *Notwithstanding any other law, on or after January 1, 2012,*

1 a community college district shall not enter into, or renew, a  
2 contract that provides for either of the following:

3 (a)

4 (1) A pay increase for any employee who, pursuant to Section  
5 3543.4 of the Government Code, is not eligible to be represented  
6 by an exclusive representative, in any fiscal year in which classified  
7 or certificated employees of that community college district have  
8 ~~been terminated, provided notice of possible termination, or not~~  
9 ~~provided with a cost-of-living adjustment.~~ *experienced either of*  
10 *the following due to state budget cutbacks:*

11 (A) *Termination.*

12 (B) *Reduction of salary.*

13 (b)

14 (2) A pay increase in the fiscal year during which the contract  
15 is executed, relative to the ~~immediate~~ *immediately* past contract  
16 for that same position, for any employee who, pursuant to Section  
17 3543.4 of the Government Code, is not eligible to be represented  
18 by an exclusive representative, if in that same fiscal year, or the  
19 immediately past fiscal year, classified or certificated employees  
20 of that community college district have ~~been terminated, provided~~  
21 ~~notice of possible termination, or not provided with a cost-of-living~~  
22 ~~adjustment.~~ *experienced either of the following due to state budget*  
23 *cutbacks:*

24 (A) *Termination.*

25 (B) *Reduction of salary.*

26 (b) *This section does not apply to an employee who is terminated*  
27 *for cause due to a disciplinary action.*