

AMENDED IN ASSEMBLY MARCH 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1619

Introduced by Assembly Member Gonzalez

February 6, 2014

An act to amend Sections 1296, 44908, 44910, 44929.21, and 44948.3 of, and to repeal Sections 44929.23, 44948, 44948.2, and 44948.5; of, the Education Code, relating to permanent school employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1619, as amended, Gonzalez. Permanent *school* employees: regional occupational centers or programs.

(1) Existing law provides that a certificated employee of a school district of any type or class or a county superintendent of schools, with an average daily attendance of 250 or more, who completes 2 consecutive years and is reelected for the next succeeding school year to a *teaching* position requiring certification, shall become and be classified as a permanent employee of the school district or county superintendent. Existing law authorizes the governing board of a school district of any type or class having an average daily attendance of less than 250 pupils to classify as a permanent employee of the district any employee who, after having been employed by the school district for 3 complete consecutive school years in a position or positions requiring certification qualifications, is reelected for the next succeeding school year to a position requiring certification qualifications. If that classification is not made, existing law provides that the employee shall not attain permanent status and may be reelected from year to year thereafter without becoming a permanent employee until a change in classification is made.

This bill would provide that a certificated employee of a school district of any type or class or of a county superintendent of schools, regardless of the average daily attendance of the school district or county superintendent of schools, who completes 2 consecutive years and is ~~so~~ reelected *to a position requiring certification* shall become and be classified as a permanent employee.

(2) Existing law provides that a probationary employee who, in any one school year, has served for at least 75% of the number of days the regular schools of the district in which he or she is employed are maintained is deemed to have served a complete school year.

This bill would ~~instead~~ provide that a probationary employee is *also* deemed to have served a complete school year if the employee, in any one school year, serves for at least 75% of a full-time equivalent position.

(3) Existing law authorizes the establishment of regional occupational centers or programs to provide career technical education and technical training to students. Existing law requires instruction in those centers or programs to only be given by a qualified teacher holding a certificate, as provided, but prohibits service by a person as an instructor in classes conducted at regional occupational centers or programs from being included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a school district.

This bill would instead provide service by a person as an instructor in classes conducted at regional occupational centers or programs shall be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee of a school district.

(4) Existing law provides that first- and 2nd-year probationary employees of a school district may be dismissed during the school year for unsatisfactory performance or for cause, pursuant to specified procedures. Existing law specifies that those provisions do not apply to probationary employees in a school district having an average daily attendance of less than 250 pupils. Existing law prohibits the governing board of a school district with an average daily attendance of less than 250 pupils from dismissing probationary employees during the school year, except for cause, pursuant to separate procedures. However, existing law authorizes the governing board of a school district having an average daily attendance of less than 250 pupils to elect to dismiss probationary employees pursuant to the procedures applicable to

probationary employees of a school district having an average daily attendance of 250 or more pupils.

This bill would delete the procedures specific to probationary employees of a school district with an average daily attendance of less than 250 pupils, thereby subjecting all probationary employees, regardless of the average daily attendance of the school district, to the same dismissal procedures. The bill would also delete obsolete references, update references, and make conforming and nonsubstantive changes.

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 1296 of the Education Code is amended
2 to read:

3 1296. (a) A person who, after being employed for two
4 complete consecutive school years by a county superintendent of
5 schools in a ~~teaching~~ position in ~~those~~ schools or classes
6 *maintained by the county superintendent of schools* requiring
7 certification qualifications and whose salary is paid from the county
8 school service fund, is reelected for the next succeeding school
9 year to such a position in those schools or classes, shall be
10 classified as and become a permanent employee of the county
11 superintendent of schools.

12 (b) The county superintendent of schools shall notify the
13 employee, on or before March 15 of the employee's second
14 complete consecutive year of employment by the superintendent
15 in a ~~teaching~~ position in schools or classes maintained by the
16 county superintendent of schools requiring certification
17 qualifications, of the decision to reelect or not reelect the employee
18 for the next succeeding school year to such a position in those
19 schools. If the county superintendent of schools does not give
20 notice pursuant to this section on or before March 15, the employee
21 shall be deemed reelected for the next succeeding school year.

22 Such an employee shall have the same rights and duties as
23 employees of school districts to which Section 44929.21 applies.
24 Sections 44842, 44929.21, and 44948.3 are applicable to these
25 employees.

1 ~~(e) As used in this section, “teaching position” means any~~
 2 ~~certificated position designated as of January 1, 1983, by the county~~
 3 ~~board of education or the county superintendent of schools as a~~
 4 ~~teaching position for the purpose of granting probationary or~~
 5 ~~permanent status.~~

6 SEC. 2. Section 44908 of the Education Code is amended to
 7 read:

8 44908. A probationary employee who, in any one school year,
 9 has served for *at least 75 percent of the number of days the regular*
 10 *schools of the school district in which he or she is employed are*
 11 *maintained* or at least 75 percent of a full-time equivalent position
 12 shall be deemed to have served a complete school year. In case of
 13 evening schools, 75 percent of the number of days the evening
 14 schools of the school district are in session shall be deemed a
 15 complete school year.

16 SEC. 3. Section 44910 of the Education Code is amended to
 17 read:

18 44910. Service by a person as an instructor in classes conducted
 19 at regional occupational centers or programs, as authorized pursuant
 20 to Section 52301, shall be included in computing the service
 21 required as a prerequisite to attainment of, or eligibility to,
 22 classification as a permanent employee of a school district.

23 SEC. 4. Section 44929.21 of the Education Code is amended
 24 to read:

25 44929.21. (a) An employee of a school district of any type or
 26 class who, after having been employed by the district for two
 27 complete consecutive school years in a position or positions
 28 requiring certification qualifications, is reelected for the next
 29 succeeding school year to a position requiring certification
 30 qualifications shall, at the commencement of the succeeding school
 31 *year year*, be classified as and become a permanent employee of
 32 the school district.

33 (b) The governing board of the school district shall notify the
 34 employee, on or before March 15 of the employee’s second
 35 complete consecutive school year of employment by the school
 36 district in a position or positions requiring certification
 37 qualifications, of the decision to reelect or not reelect the employee
 38 for the next succeeding school year to the position. In the event
 39 that the governing board of the school district does not give notice

1 pursuant to this section on or before March 15, the employee shall
2 be deemed reelected for the next succeeding school year.

3 SEC. 5. Section 44929.23 of the Education Code is repealed.

4 SEC. 6. Section 44948 of the Education Code is repealed.

5 SEC. 7. Section 44948.2 of the Education Code is repealed.

6 SEC. 8. Section 44948.3 of the Education Code is amended to
7 read:

8 44948.3. (a) First and second year probationary employees
9 may be dismissed during the school year for unsatisfactory
10 performance determined pursuant to Article 11 (commencing with
11 Section 44660) of Chapter 3, or for cause pursuant to Section
12 44932. Any dismissal pursuant to this section shall be in
13 accordance with all of the following procedures:

14 (1) The superintendent of the school district or the
15 superintendent's designee shall give 30 days' prior written notice
16 of dismissal, not later than March 15 in the case of second year
17 probationary employees. The notice shall include a statement of
18 the reasons for the dismissal and notice of the opportunity to
19 appeal. In the event of a dismissal for unsatisfactory performance,
20 a copy of the evaluation conducted pursuant to Section 44664 shall
21 accompany the written notice.

22 (2) The probationary employee shall have 15 days from receipt
23 of the notice of dismissal to submit to the governing board of the
24 school district a written request for a hearing. The governing board
25 of the school district may establish procedures for the appointment
26 of an administrative law judge to conduct the hearing and submit
27 a recommended decision to the board. The failure of a probationary
28 employee to request a hearing within 15 days from receipt of a
29 dismissal notice shall constitute a waiver of the right to a hearing.

30 (b) The governing board of the school district, pursuant to this
31 section, may suspend a probationary employee for a specified
32 period of time without pay as an alternative to dismissal.

33 SEC. 9. Section 44948.5 of the Education Code is repealed.