

AMENDED IN ASSEMBLY APRIL 9, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

ASSEMBLY BILL

No. 1010

Introduced by Assembly Member Medina

February 26, 2015

An act to ~~amend Section 87482.5 of~~ *add Section 87482.3* to the Education Code, relating to community colleges.

LEGISLATIVE COUNSEL'S DIGEST

AB 1010, as amended, Medina. Community colleges: part-time, temporary employees.

(1) Existing law establishes the California Community Colleges under the administration of the Board of Governors of the California Community Colleges. Existing law authorizes the establishment of community college districts under the administration of community college governing boards, and authorizes these districts to provide instruction at community college campuses throughout the state.

Existing law requires that a person employed to teach adult or community college classes for not more than 67% of the hours per week of a full-time employee having comparable duties, excluding substitute service, be classified as a temporary employee and not become a contract employee.

This bill would ~~urge~~ *require* community college districts without a collective bargaining agreement with part-time, temporary faculty in effect as of January 1, 2016, to, *on or after January 1, 2016*, commence negotiations with the exclusive representatives for part-time, temporary faculty regarding the terms and conditions required by the ~~bill on or after January 1, 2016~~. The bill would ~~require community college districts with a collective bargaining agreement in effect as of January 1, 2016,~~

to comply with the provisions of the bill as part of any successor negotiations: *bill*. The bill would specify minimum standards for the treatment of part-time, temporary faculty to be met by community college collective bargaining agreements negotiated on or after January 1, 2016, *that are not exempt, as specified*. These standards would relate to, among other issues, evaluation procedures, workload distribution, and seniority rights.

To the extent that this bill would impose new duties on community college districts, it would constitute a state-mandated local program.

(2) 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.

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

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

1 SECTION 1. ~~Section 87482.5 of the Education Code is~~
2 ~~amended to read:~~

3 ~~87482.5. (a) Notwithstanding any other law, a person who is~~
4 ~~employed to teach adult or community college classes for not more~~
5 ~~than 67 percent of the hours per week considered a full-time~~
6 ~~assignment for regular employees having comparable duties shall~~
7 ~~be classified as a temporary employee, and shall not become a~~
8 ~~contract employee under Section 87604. If the provisions of this~~
9 ~~section are in conflict with the terms of a collective bargaining~~
10 ~~agreement in effect on or before January 1, 2009, the provisions~~
11 ~~of this section shall govern the employees subject to that agreement~~
12 ~~upon the expiration of the agreement.~~

13 ~~(b) Service as a substitute on a day-to-day basis by persons~~
14 ~~employed under this section shall not be used for purposes of~~
15 ~~calculating eligibility for contract or regular status.~~

16 ~~(c) (1) Service in professional ancillary activities by persons~~
17 ~~employed under this section, including, but not necessarily limited~~
18 ~~to, governance, staff development, grant writing, and advising~~
19 ~~student organizations, shall not be used for purposes of calculating~~

1 eligibility for contract or regular status unless otherwise provided
2 for in a collective bargaining agreement applicable to a person
3 employed under this section.

4 (2) This subdivision shall not be construed to affect the
5 requirements of subdivision (d) of Section 84362.

6 (d) (1) The Legislature urges community college districts that
7 do not have a collective bargaining agreement with part-time,
8 temporary faculty in effect as of January 1, 2016, to commence
9 negotiations with the exclusive representatives for part-time,
10 temporary faculty regarding the terms and conditions required by
11 subdivision (e) on or after January 1, 2016. The Legislature
12 encourages the parties to these negotiations to agree to additional
13 negotiated rights for part-time, temporary faculty.

14 (2) It is the intent of the Legislature:

15 (A) That adoption of provisions in compliance with subdivision
16 (e) shall be included as part of the usual and customary negotiations
17 between the community college district and the exclusive
18 representative for part-time, temporary faculty.

19 (B) That a community college district meet the minimum
20 standards established by this section through the negotiation
21 process between the community college district and the exclusive
22 representative for part-time, temporary faculty.

23 (e) A community college district that enters into a collective
24 bargaining agreement on or after January 1, 2016, shall comply
25 with all of the following:

26 (1) Upon initial hire, a part-time, temporary faculty member
27 shall be evaluated by a committee that shall include, but not
28 necessarily be limited to, a contract or regular faculty peer evaluator
29 who has expertise in the subject matter of the part-time, temporary
30 faculty member's assignment. The evaluation committee may
31 additionally include other evaluators, such as a department chair,
32 dean, or a second peer. The terms and conditions of the evaluation
33 process and procedures shall be locally negotiated between the
34 community college district and the exclusive representative for
35 part-time, temporary faculty. Subsequent to his or her initial hire,
36 each part-time, temporary faculty member shall be evaluated at
37 least once every six semesters or nine quarters of service, exclusive
38 of summer and intersession terms.

39 (2) After six semesters or nine quarters of service, exclusive of
40 summer and intersession terms, each part-time, temporary faculty

1 member who has not received a less-than-satisfactory evaluation
2 during the preceding six semesters or nine quarters of service shall
3 be placed on a seniority list for each assignment at each college
4 where he or she holds a current assignment during the seventh
5 semester or 10th quarter of service, irrespective of how many times
6 he or she has completed each unique assignment. The seniority
7 for all assignments shall be determined based on the first date of
8 hire at the applicable college. Seniority lists shall be by campus
9 unless otherwise locally negotiated between the community college
10 district and the exclusive representative for part-time, temporary
11 faculty.

12 ~~(3) For semester seven or quarter 10 and beyond, each~~
13 ~~community college district shall endeavor to maintain the workload~~
14 ~~equivalent that the part-time, temporary faculty member was~~
15 ~~assigned during semester six or quarter nine, subject to both of the~~
16 ~~following:~~

17 ~~(A) As new assignments become available due to growth or~~
18 ~~attrition, these assignments shall be offered in seniority order to~~
19 ~~those part-time, temporary faculty members who have: (i) qualified~~
20 ~~to be placed on the seniority list pursuant to paragraph (2), and (ii)~~
21 ~~previously successfully completed that same assignment. These~~
22 ~~assignments may be made up to a maximum annualized load,~~
23 ~~exclusive of summer and intersession terms, in the range of 60 to~~
24 ~~67 percent of a full-time equivalent load.~~

25 ~~(B) In cases where a reduction in assignment needs to occur~~
26 ~~due to program needs, budget constraints, or more contract faculty~~
27 ~~hires, the reduction shall occur first from among those part-time,~~
28 ~~temporary faculty members who have not yet qualified to be placed~~
29 ~~on the seniority list, and thereafter in reverse seniority order, with~~
30 ~~the least senior part-time, temporary faculty member reduced first.~~
31 ~~Any rights to a certain workload equivalent shall be maintained~~
32 ~~for a period of 18 months. In cases of class cancellation due to low~~
33 ~~enrollment, faculty members shall displace faculty members who~~
34 ~~are lower than they are on the seniority list, provided that the class~~
35 ~~cancellation occurs prior to the first class meeting day.~~

36 ~~(4) If a part-time, temporary faculty member rejects any offered~~
37 ~~assignment, he or she shall have his or her workload equivalent~~
38 ~~reduced accordingly. If he or she rejects all offered assignments,~~
39 ~~he or she shall lose all seniority rights.~~

1 ~~(5) Additional leave or break-in-service provisions may be~~
2 ~~locally negotiated between the community college district and the~~
3 ~~exclusive representative for part-time, temporary faculty.~~

4 ~~(6) In cases where a part-time, temporary faculty member,~~
5 ~~subsequent to qualifying to be placed on the seniority list, receives~~
6 ~~a less-than-satisfactory evaluation, as that term is defined in the~~
7 ~~collective bargaining agreement between the community college~~
8 ~~district and the exclusive representative for part-time, temporary~~
9 ~~faculty, the faculty member shall be provided a written plan of~~
10 ~~remediation with concrete suggestions for improvement. The~~
11 ~~faculty member shall be evaluated again the following semester.~~
12 ~~If the outcome of this subsequent evaluation is also less than~~
13 ~~satisfactory, the faculty member shall lose all seniority rights, and~~
14 ~~may be dismissed at the discretion of the district. Appeal and~~
15 ~~grievance rights and procedures, if any, shall be subject to local~~
16 ~~collective bargaining.~~

17 ~~(7) In all cases, part-time faculty assignments are temporary in~~
18 ~~nature, contingent on enrollment and funding, and subject to~~
19 ~~program changes, and no part-time faculty member has a~~
20 ~~reasonable assurance of continued employment at any point,~~
21 ~~irrespective of the status, length of service, or reemployment~~
22 ~~preference seniority of that part-time, temporary faculty member.~~

23 *SECTION 1. Section 87482.3 is added to the Education Code,*
24 *to read:*

25 *87482.3. (a) (1) On or after January 1, 2016, community*
26 *college districts that do not have a collective bargaining agreement*
27 *with part-time, temporary faculty in effect as of January 1, 2016,*
28 *shall commence negotiations with the exclusive representatives*
29 *for part-time, temporary faculty regarding the terms and conditions*
30 *required by subdivision (b). The parties shall negotiate these rights*
31 *for part-time, temporary faculty.*

32 *(2) It is the intent of the Legislature:*

33 *(A) That adoption of provisions in compliance with subdivision*
34 *(b) shall be included as part of the usual and customary*
35 *negotiations between the community college district and the*
36 *exclusive representative for part-time, temporary faculty.*

37 *(B) That a community college district meet the minimum*
38 *standards established by this section through the negotiation*
39 *process between the community college district and the exclusive*
40 *representative for part-time, temporary faculty.*

1 **(b) (1)** *A community college district that enters into a collective*
2 *bargaining agreement on or after January 1, 2016, shall comply*
3 *with all of the following:*

4 **(A)** *Upon initial hire, a part-time, temporary faculty member*
5 *shall be evaluated by a committee that shall include, but not*
6 *necessarily be limited to, a contract or regular faculty peer*
7 *evaluator who has expertise in the subject matter of the part-time,*
8 *temporary faculty member's assignment. The evaluation committee*
9 *may additionally include other evaluators, such as a department*
10 *chair, dean, or a second peer. The terms and conditions of the*
11 *evaluation process and procedures shall be locally negotiated*
12 *between the community college district and the exclusive*
13 *representative for part-time, temporary faculty. Subsequent to his*
14 *or her initial hire, each part-time, temporary faculty member shall*
15 *be evaluated at least once every six semesters or nine quarters of*
16 *service, exclusive of summer and intersession terms.*

17 **(B)** *After six semesters or nine quarters of service, exclusive of*
18 *summer and intersession terms, each part-time, temporary faculty*
19 *member who has not received a less-than-satisfactory evaluation*
20 *during the preceding six semesters or nine quarters of service shall*
21 *be placed on a seniority list for each assignment at each college*
22 *where he or she holds a current assignment during the seventh*
23 *semester or 10th quarter of service, irrespective of how many times*
24 *he or she has completed each unique assignment. The seniority*
25 *for all assignments shall be determined based on the first date of*
26 *hire at the applicable college. Seniority lists shall be by campus*
27 *unless otherwise locally negotiated between the community college*
28 *district and the exclusive representative for part-time, temporary*
29 *faculty.*

30 **(C)** *For semester seven or quarter 10 and beyond, each*
31 *community college district shall endeavor to maintain the workload*
32 *equivalent that the part-time, temporary faculty member was*
33 *assigned during semester six or quarter nine, subject to all of the*
34 *following:*

35 **(i)** *As new assignments become available due to growth or*
36 *attrition, these assignments shall be offered in seniority order to*
37 *those part-time, temporary faculty members who have qualified*
38 *to be placed on the seniority list pursuant to subparagraph (B),*
39 *and previously successfully completed that same assignment. These*
40 *assignments may be made up to a maximum annualized load,*

1 *exclusive of summer and intersession terms, in the range of 60 to*
2 *67 percent of a full-time equivalent load.*

3 *(ii) In cases where a reduction in assignment needs to occur*
4 *due to program needs, budget constraints, or more contract faculty*
5 *hires, the reduction shall occur first from among those part-time,*
6 *temporary faculty members who have not yet qualified to be placed*
7 *on the seniority list, and thereafter in reverse seniority order, with*
8 *the least senior part-time, temporary faculty member reduced first.*
9 *Any rights to a certain workload equivalent shall be maintained*
10 *for a period of 18 months. In cases of class cancellation due to*
11 *low enrollment, faculty members shall displace faculty members*
12 *who are lower than they are on the seniority list, provided that the*
13 *class cancellation occurs prior to the first class meeting day.*

14 *(iii) Each new assignment successfully completed shall be added*
15 *to the part-time, temporary faculty member seniority list.*

16 *(D) If a part-time, temporary faculty member rejects any offered*
17 *assignment, he or she shall have his or her workload equivalent*
18 *reduced accordingly. If he or she rejects all offered assignments,*
19 *he or she shall lose all seniority rights.*

20 *(E) Additional leave or break-in-service provisions may be*
21 *locally negotiated between the community college district and the*
22 *exclusive representative for part-time, temporary faculty.*

23 *(F) In cases where a part-time, temporary faculty member,*
24 *subsequent to qualifying to be placed on the seniority list, receives*
25 *a less-than-satisfactory evaluation, as that term is defined in the*
26 *collective bargaining agreement between the community college*
27 *district and the exclusive representative for part-time, temporary*
28 *faculty, the faculty member shall be provided a written plan of*
29 *remediation with concrete suggestions for improvement. The faculty*
30 *member shall be evaluated again the following semester. If the*
31 *outcome of this subsequent evaluation is also less than satisfactory,*
32 *the faculty member shall lose all seniority rights, and may be*
33 *dismissed at the discretion of the district. Appeal and grievance*
34 *rights and procedures, if any, shall be subject to local collective*
35 *bargaining.*

36 *(G) In all cases, part-time faculty assignments are temporary*
37 *in nature, contingent on enrollment and funding, and subject to*
38 *program changes, and no part-time faculty member has a*
39 *reasonable assurance of continued employment at any point,*

1 *irrespective of the status, length of service, or reemployment*
2 *preference seniority of that part-time, temporary faculty member.*

3 (2) (A) *A community college district that has a collective*
4 *bargaining agreement in effect as of January 1, 2016, that takes*
5 *into account all of the following, and executes a signed written*
6 *agreement pursuant to subparagraph (B), shall be exempt from*
7 *this subdivision upon the expiration of that agreement:*

8 (i) *Part-time, temporary faculty assignments based on seniority*
9 *up to the range of 60 to 67 percent of a full-time equivalent load.*

10 (ii) *A regular evaluation process for part-time, temporary*
11 *faculty.*

12 (iii) *Due process for termination once a part-time, temporary*
13 *faculty member has qualified for the negotiated provisions.*

14 (B) *A written agreement, confirming that clauses (i) to (iii),*
15 *inclusive, have been taken into account in a collective bargaining*
16 *agreement in effect as of January 1, 2016, shall be signed by the*
17 *exclusive representative for part-time, temporary faculty and the*
18 *community college district, who are subject to that agreement, in*
19 *order for the district to be exempt from this subdivision pursuant*
20 *to subparagraph (A).*

21 SEC. 2. *If the Commission on State Mandates determines that*
22 *this act contains costs mandated by the state, reimbursement to*
23 *local agencies and school districts for those costs shall be made*
24 *pursuant to Part 7 (commencing with Section 17500) of Division*
25 *4 of Title 2 of the Government Code.*