

AMENDED IN SENATE APRIL 6, 2016

SENATE BILL

No. 1225

Introduced by Senator Mendoza

February 18, 2016

An act to ~~amend Section 44955 of~~ add Chapter 3.8 (commencing with Section 44789) to Part 25 of Division 3 of Title 2 of the Education Code, relating to ~~school employees: teachers.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1225, as amended, Mendoza. ~~School employees: reduction in work force. Teachers: Teacher Bill of Rights Act.~~

Existing law specifies numerous rights and protections for teachers employed by school districts.

This bill would require the principal of each school in a school district to ensure that a conspicuous notice that describes certain teacher rights and protections and that is accessible to all teachers is posted in a common area of the administrative offices and in each classroom. By imposing additional duties on school district officials, the bill would impose a state-mandated local program. The bill would provide that its provisions are declaratory of existing law and that they shall not be construed as to establish any right not otherwise provided for under state or federal law.

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.

~~Under existing law, when school employees are terminated pursuant to a reduction in workforce, a school district is required to terminate the employees in order of seniority. Existing law authorizes a school district to deviate from the order of seniority for those purposes for specified reasons.~~

~~This bill would make various nonsubstantive, clarifying changes to those provisions.~~

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

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

1 *SECTION 1. Chapter 3.8 (commencing with Section 44789)*
2 *is added to Part 25 of Division 3 of Title 2 of the Education Code,*
3 *to read:*

4
5 *CHAPTER 3.8. TEACHER BILL OF RIGHTS*

6
7 44789. This chapter shall be known, and may be cited, as the
8 Teacher Bill of Rights Act.

9 44789.1. The Legislature finds and declares all of the
10 following:

11 (a) The rights and protections provided to teachers under state
12 law constitute a matter of statewide concern.

13 (b) Effective teaching depends upon the maintenance of stable
14 employer-employee relations and stable relations among teachers,
15 colleagues, and pupils.

16 (c) In order to assure that stable relations are continued
17 throughout the state and to further ensure that effective services
18 are provided to all pupils throughout the state, it is necessary that
19 this chapter apply to all teachers, wherever situated, within the
20 state.

21 44789.2. For purposes of this chapter, "teacher" means a
22 certificated employee of a school district.

23 44789.3. The principal of each school in a school district shall
24 ensure that a conspicuous notice, as specified in Section 44789.4,
25 that is accessible to all teachers is posted in a common area of the
26 administrative offices and in each classroom.

1 44789.4. (a) *The first line of the notice required pursuant to*
2 *Section 44789.3 shall include only the words “Every California*
3 *teacher has the right to the following.”*

4 (b) *Under the first line of the notice there shall be the following*
5 *10 bulleted categories:*

6 (1) *“A safe and healthy school environment,” which shall*
7 *include the following five additional bulleted notifications under*
8 *it:*

9 (A) *“A school environment that facilitates a constructive*
10 *working relationship between teachers and administrators, as*
11 *described in Section 44681 of the Education Code.”*

12 (B) *“A school environment that is free from discriminatory*
13 *attitudes and practices and acts of hate violence, as described in*
14 *Section 233 of the Education Code.”*

15 (C) *“A school environment that promotes overall cleanliness*
16 *on school grounds, buildings, common areas, and individual rooms,*
17 *as described in Section 17002 of the Education Code.”*

18 (D) *“No parent, guardian, nor other person shall disrupt*
19 *classwork or extracurricular activities where a school employee*
20 *is required to be in the course of his or her duties, as prohibited*
21 *pursuant to Section 44811 of the Education Code.”*

22 (E) *“If a teacher’s rights are not being met, a teacher may safely*
23 *disclose this information to a government or law enforcement*
24 *agency without fear of repercussion, as provided for pursuant to*
25 *Section 1102.5 of the Labor Code.”*

26 (2) *“A principal as a master teacher to help lead and prepare*
27 *teachers,” which shall include the following bulleted notification*
28 *under it:*

29 *“A principal who provides leadership that fosters effective*
30 *teaching and learning and also advocates for practices to improve*
31 *instructional strategies, as described in Section 44671 of the*
32 *Education Code.”*

33 (3) *“Have access to basic school supplies, a sufficient number*
34 *of books, and technology,” which shall include the following*
35 *bulleted notifications under it:*

36 (A) *“The governing board of a school district shall provide for*
37 *the payment of the actual and necessary expenses, including*
38 *traveling expenses, of any employee of the school district incurred*
39 *in the course of performing services for the school district, as*
40 *required pursuant to Section 44032 of the Education Code.”*

1 (B) “A sufficient number of textbooks or instructional materials
2 shall be provided within two months of the beginning of the year,
3 as required pursuant to Section 60119 of the Education Code.”

4 (C) “The governing board of a school district may include
5 relevant technology-based materials when adopting instructional
6 materials, as authorized pursuant to Section 60052 of the
7 Education Code.”

8 (4) “Have the ability to provide input on curriculum,” which
9 shall include the following bulleted notification under it:

10 “Teachers shall play integral role in the development and
11 modification of academic content standards, as specified for in
12 Sections 60605.4, 60605.8, and 60605.11. of the Education Code.”

13 (5) “Freedom to teach what is best for pupils, including the use
14 of realia,” which shall include the following bulleted notification
15 under it:

16 The governing board of a school district shall allow for
17 substantial teacher involvement during the selection of
18 instructional materials, as required pursuant to Section 60002 of
19 the Education Code.”

20 (6) “Adequate class sizes that allow teachers time to focus on
21 every pupil,” which shall include the following bulleted notification
22 under it:

23 Each school district shall ensure that it is meeting its class size
24 requirements at each schoolsite, as specified in Section 42238.02
25 of the Education Code.”

26 (7) “Competitive salaries and benefits,” which shall include
27 the following bulleted notification under it:

28 “Teachers have the right to collectively bargain, as provided
29 for in Chapter 10.7 (commencing with Section 3540) of Division
30 4 of Title 1 of the Government Code.”

31 (8) “Access to quality professional development opportunities,”
32 which shall include the following bulleted notification under it:

33 “Teachers shall be made aware of quality professional
34 development opportunities, as described in Article 3.1
35 (commencing with Section 44470) of Chapter 3 of Part 25 of
36 Division 3 of Title 2 of the Education Code.”

37 (9) “Evaluations that are fair, balanced, and accurate,” which
38 shall include the following notification under it:

39 In the development and adoption of guidelines and procedures
40 for teacher evaluations, the governing board of the school district

1 *shall avail itself of the advice of the certificated instructional*
2 *personnel in the school district's organization of certificated*
3 *personnel, as required by Section 44661.5 of the Education Code."*

4 (10) *"Strict adherence to due process when discipline is sought*
5 *by the principal or school district," which shall include the*
6 *following bulleted notification under it:*

7 *"Teachers shall be given due process when being disciplined*
8 *by the principal or school district, as required pursuant to Article*
9 *3 (commencing with Section 44930) of Chapter 4 of Part 25 of*
10 *Division 3 of Title 2 of the Education Code."*

11 *44789.5. This chapter is declaratory of existing law. Nothing*
12 *in this chapter shall be construed as to establish any right not*
13 *otherwise provided for in state or federal law.*

14 *SEC. 2. If the Commission on State Mandates determines that*
15 *this act contains costs mandated by the state, reimbursement to*
16 *local agencies and school districts for those costs shall be made*
17 *pursuant to Part 7 (commencing with Section 17500) of Division*
18 *4 of Title 2 of the Government Code.*

19 ~~SECTION 1. Section 44955 of the Education Code is amended~~
20 ~~to read:~~

21 ~~44955. (a) A permanent employee shall not be deprived of his~~
22 ~~or her position for causes other than those specified in Sections~~
23 ~~44907 and 44923, and Sections 44932 to 44947, inclusive, and a~~
24 ~~probationary employee shall not be deprived of his or her position~~
25 ~~for cause other than as specified in Sections 44948 to 44949,~~
26 ~~inclusive.~~

27 ~~(b) (1) If in a school year the average daily attendance in all of~~
28 ~~the schools of a school district for the first six months that school~~
29 ~~is in session shall have declined below the corresponding period~~
30 ~~of either of the previous two school years, if the governing board~~
31 ~~of a school district determines that attendance in a school district~~
32 ~~will decline in the following year as a result of the termination of~~
33 ~~an interdistrict tuition agreement as described in Section 46304,~~
34 ~~if a particular kind of service is to be reduced or discontinued not~~
35 ~~later than the beginning of the following school year, or if the~~
36 ~~amendment of state law requires the modification of curriculum,~~
37 ~~and if the governing board of the school district determines it~~
38 ~~necessary by reason of any of these conditions to decrease the~~
39 ~~number of permanent employees in the school district, the~~
40 ~~governing board of a school district may terminate the services of~~

1 not more than a corresponding percentage of the certificated
2 employees of the school district, permanent as well as probationary,
3 at the close of the school year. Except as otherwise provided by
4 statute, the services of a permanent employee shall not be
5 terminated under this section while a probationary employee, or
6 any other employee with less seniority, is retained to render a
7 service that the permanent employee is certificated and competent
8 to render.

9 (2) In computing a decline in average daily attendance for
10 purposes of this subdivision for a newly formed or reorganized
11 school district, each school of the school district shall be deemed
12 to have been a school of the newly formed or reorganized school
13 district for both of the two previous school years.

14 (3) As between employees who first rendered paid service to
15 the school district on the same date, the governing board of the
16 school district shall determine the order of termination solely on
17 the basis of needs of the school district and the pupils of the school
18 district. Upon the request of an employee whose order of
19 termination is so determined, the governing board of the school
20 district shall furnish in writing, no later than five days before the
21 commencement of the hearing held in accordance with Section
22 44949, a statement of the specific criteria used in determining the
23 order of termination and the application of the criteria in ranking
24 each employee relative to the other employees in the group. The
25 requirement that the governing board of the school district provide,
26 on request, a written statement of reasons for determining the order
27 of termination shall not be interpreted to give affected employees
28 any legal right or interest that would not exist without the
29 requirement.

30 (e) (1) Notice of the termination of services shall be given
31 before May 15 pursuant to Section 44949, and services of those
32 employees shall be terminated in the inverse of the order in which
33 they were employed, as determined by the governing board of the
34 school district in accordance with the provisions of Sections 44844
35 and 44845. If a permanent or probationary employee is not given
36 the notices and a right to a hearing as provided for in Section
37 44949, he or she shall be deemed reemployed for the ensuing
38 school year.

39 (2) The governing board of the school district shall make
40 assignments and reassignments in a manner that employees shall

1 be retained to render any service their seniority and qualifications
2 entitle them to render. However, before assigning or reassigning
3 a certificated employee to teach a subject that he or she has not
4 previously taught, and for which he or she does not have a teaching
5 credential or that is not within the employee's major area of
6 postsecondary study or the equivalent thereof, the governing board
7 of the school district shall require the employee to pass a subject
8 matter competency test in the appropriate subject.

9 (d) Notwithstanding subdivision (b), a school district may
10 deviate from terminating a certificated employee in order of
11 seniority for either of the following reasons:

12 (1) The school district demonstrates a specific need for personnel
13 to teach a specific course or course of study, or to provide services
14 authorized by a services credential with a specialization in either
15 pupil personnel services or health for a school nurse, and that the
16 certificated employee has special training and experience necessary
17 to teach that course or course of study or to provide those services
18 that others with more seniority do not possess.

19 (2) For purposes of maintaining or achieving compliance with
20 constitutional requirements related to equal protection of the laws.