

Introduced by Senator Solis

February 10, 1999

An act to amend Sections 45103 and 88003 of the Education Code, relating to classified employees.

LEGISLATIVE COUNSEL'S DIGEST

SB 360, as amended, Solis. Classified employees.

Under existing law, the governing board of a school district is required to classify, except as specified, all employees for positions not requiring certification qualifications. These provisions provide that substitute and short-term employees of a school district, employed and paid for less than 75% of a school year are not a part of the classified service. ~~Under existing law, 75% of a school year means 195 working days, including holidays, sick leave, vacation, and other leaves of absences, irrespective of number of hours worked per day.~~

This bill would impose a state-mandated local program by instead providing that substitute *employees, employed or paid for less than 75% of the school year*, and short-term employees of a school district, employed and paid for less than 130 days in a school year, are not a part of the classified service and would define 130 days of a school year to mean 130 working days, including holidays, sick leave, vacation, and other leaves of absences, irrespective of number of hours worked per day.

This bill would provide that prior to employment of a short-term employee, the governing board of a school district

is required to specify the service required to be performed by the employee and certify the ending date of the service. The bill would prohibit a short-term employee from working more than 130 days in any 12 consecutive months, irrespective of the number of hours worked per day or whether the employee is in a paid or unpaid status on those days. The bill would provide that a short-term employee who works more than 130 days in any 12 consecutive months is entitled to all rights and benefits conferred on a classified employee by law or granted to a classified employee by the district.

Under existing law, the governing board of a community college district is required to classify, except as specified, all employees for positions that are not academic positions. These provisions provide that substitute and short-term employees of a community college district, employed and paid for less than 75% of a college year ~~substitute employees, employed or paid for less than 75% of the school year, and,~~ are not a part of the classified service. ~~Under existing law, 75% of a college year means 195 working days, including holidays, sick leave, vacation, and other leaves of absences, irrespective of number of hours worked per day.~~

This bill would impose a state-mandated local program by instead providing that substitute ~~employees, employed or paid for less than 75% of the school years,~~ and short-term employees of a ~~school~~ community college district, employed and paid for less than 130 days in a college year are not be a part of the classified service and would define 130 days of a college year to mean 130 working days, including holidays, sick leave, vacation, and other leaves of absences, irrespective of number of hours worked per day.

This bill would provide that prior to employment of a short-term employee, the governing board of a community college district is required to specify the service required to be performed by the employee and certify the ending date of the service. The bill would prohibit a short-term employee from working more than 130 days in any 12 consecutive months, irrespective of the number of hours worked per day or whether the employee is in a paid or unpaid status on those days. The bill would provide that a short-term employee who works more than 130 days in any 12 consecutive months is



entitled to all rights and benefits conferred on a classified employee by law or granted to a classified employee by the district.

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, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

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 45103 of the Education Code is
 2 amended to read:
 3 45103. The governing board of any school district shall
 4 employ persons for positions not requiring certification
 5 qualifications. The governing board shall, except where
 6 Article 6 (commencing with Section 45240) of this
 7 chapter or Section 45318 applies, classify all such
 8 employees and positions. The employees and positions
 9 shall be known as the classified service. Substitute ~~and~~
 10 ~~short-term~~ employees, employed and paid for less than
 11 ~~130 days in~~ 75 percent of a school year, shall not be a part
 12 of the classified service. *Short-term employees,*
 13 *employed and paid for less than 130 days in any 12*
 14 *consecutive months, shall not be a part of the classified*
 15 *service.* Part-time playground positions, apprentices and
 16 professional experts employed on a temporary basis for a
 17 specific project, regardless of length of employment, shall
 18 not be a part of the classified service. Full-time students
 19 employed part time, and part-time students employed
 20 part time in any college work-study program, or in a work
 21 experience education program conducted by a



1 community college district pursuant to Article 7
2 (commencing with Section 51760) of Chapter 5 of Part 28,
3 of Division 4, of this title and which is financed by state
4 or federal funds, shall not be a part of the classified
5 service.

6 “Substitute employee,” as used in this section, means
7 any person employed to replace any classified employee
8 who is temporarily absent from duty. In addition, if the
9 district is then engaged in a procedure to hire a
10 permanent employee to fill a vacancy in any classified
11 position, the governing board may fill the vacancy
12 through the employment, for not more than 60 calendar
13 days, of one or more substitute employees, except to the
14 extent that a collective bargaining agreement then in
15 effect provides for a different period of time.

16 “Short-term employee,” as used in this section, means
17 any person who is employed to perform a service for the
18 district, upon the completion of which, the service
19 required or similar services will not be extended or
20 needed on a continuing basis. *Prior to the employment of*
21 *a short-term employee, the governing board shall specify*
22 *the service required to be performed by the employee,*
23 *and shall certify the ending date of the service. A*
24 *short-term employee shall not work more than 130 days*
25 *in any 12 consecutive months, including holidays, sick*
26 *leave, vacation, and other leaves of absence, irrespective*
27 *of the number of hours worked per day or whether the*
28 *employee is in a paid or unpaid status on those days. A*
29 *short-term employee who works more than 130 days in*
30 *any 12 consecutive months shall be entitled to all rights*
31 *and benefits conferred on a classified employee by law or*
32 *granted to a classified employee by the district.*

33 *A person whose contribution consists solely in the*
34 *rendition of individual personal services and whose*
35 *employment does not come within the scope of the*
36 *exclusions from the classified service listed in this section,*
37 *shall not be employed outside the classified service. The*
38 *court shall award reasonable attorney fees to any*
39 *petitioner who prevails in litigation filed to enforce this*



1 *section, in addition to any other order made or costs*
2 *awarded in the litigation.*

3 “~~One hundred thirty days in~~ *Seventy-five percent of*
4 *a school year*” means ~~130~~ 195 working days, including
5 holidays, sick leave, vacation, and other leaves of
6 absences, irrespective of number of hours worked per
7 day.

8 Employment of either full-time or part-time students
9 in any college work-study program, or in a work
10 experience education program shall not result in the
11 displacement of classified personnel or impair existing
12 contracts for services.

13 This section shall apply only to districts not
14 incorporating the merit system as outlined in Article 6
15 (commencing with Section 45240) of this chapter.

16 SEC. 2. Section 88003 of the Education Code is
17 amended to read:

18 88003. The governing board of any community
19 college district shall employ persons for positions that are
20 not academic positions. The governing board, except
21 where Article 3 (commencing with Section 88060) or
22 Section 88137 applies, shall classify all those employees
23 and positions. The employees and positions shall be
24 known as the classified service. ~~Substitute and short-term~~
25 *employees, employed and paid for less than 130 days in 75*
26 *percent of a college year, shall not be a part of the*
27 *classified service. Short-term employees, employed and*
28 *paid for less than 130 days in any 12 consecutive months,*
29 *shall not be a part of the classified service.* Part-time
30 playground positions, apprentices and professional
31 experts employed on a temporary basis for a specific
32 project, regardless of length of employment, shall not be
33 a part of the classified service. Full-time students
34 employed part time, and part-time students employed
35 part time in any college work-study program, or in a work
36 experience education program conducted by a
37 community college district and which is financed by state
38 or federal funds, shall not be a part of the classified
39 service.



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2 any person employed to replace any classified employee
3 who is temporarily absent from duty. In addition, if the
4 district is then engaged in a procedure to hire a
5 permanent employee to fill a vacancy in any classified
6 position, the governing board may fill the vacancy
7 through the employment, for not more than 60 calendar
8 days, of one or more substitute employees, except to the
9 extent that a collective bargaining agreement then in
10 effect provides for a different period of time.

11 “Short-term employee,” as used in this section, means
12 any person who is employed to perform a service for the
13 district, upon the completion of which, the service
14 required or similar services will not be extended or
15 needed on a continuing basis. *Prior to the employment of*
16 *a short-term employee, the governing board shall specify*
17 *the service required to be performed by the employee,*
18 *and shall certify the ending date of the service. A*
19 *short-term employee shall not work more than 130 days*
20 *in any 12 consecutive months, including holidays, sick*
21 *leave, vacation, and other leaves of absence, irrespective*
22 *of the number of hours worked per day or whether the*
23 *employee is in a paid or unpaid status on those days. A*
24 *short-term employee who works more than 130 days in*
25 *any 12 consecutive months shall be entitled to all rights*
26 *and benefits conferred on a classified employee by law or*
27 *granted to a classified employee by the district.*

28 *A person whose contribution consists solely in the*
29 *rendition of individual personal services and whose*
30 *employment does not come within the scope of the*
31 *exclusions from the classified service listed in this section,*
32 *shall not be employed outside the classified service. The*
33 *court shall award reasonable attorney fees to any*
34 *petitioner who prevails in litigation filed to enforce the*
35 *provisions of this section, in addition to any other order*
36 *made or costs awarded in the litigation.*

37 “~~One hundred thirty days in~~ *Seventy-five percent of*
38 *a college year*” means ~~130~~ 195 working days, including
39 holidays, sick leave, vacation, and other leaves of



1 absences, irrespective of number of hours worked per
2 day.

3 Employment of either full-time or part-time students
4 in any college work-study program, or in a work
5 experience education program shall not result in the
6 displacement of classified personnel or impair existing
7 contracts for services.

8 This section shall apply only to districts not
9 incorporating the merit system as outlined in Article 3
10 (commencing with Section 88060).

11 SEC. 3. Notwithstanding Section 17610 of the
12 Government Code, if the Commission on State Mandates
13 determines that this act contains costs mandated by the
14 state, reimbursement to local agencies and school
15 districts for those costs shall be made pursuant to Part 7
16 (commencing with Section 17500) of Division 4 of Title
17 2 of the Government Code. If the statewide cost of the
18 claim for reimbursement does not exceed one million
19 dollars (\$1,000,000), reimbursement shall be made from
20 the State Mandates Claims Fund.

