

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 379

Introduced by Assembly Member Torlakson

February 23, 2009

An act to add Sections 45266.5 and 88086.25 to the Education Code, relating to classified employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 379, as amended, Torlakson. Classified employees: personnel commissions: director.

Existing law requires school districts and community college districts adopting the merit system for classified employees to appoint a personnel commission. The personnel commission is required to appoint a personnel director who is responsible to the commission for carrying out all procedures in the administration of the classified personnel in accordance with the requirements of existing law and rules of the commission.

This bill would require the personnel commission of each of those districts, consistent with the commission rules applicable to all classified employees, to determine compensation for, and supervise the personnel director. ~~The bill also would encourage the personnel commission of a district to prepare an annual written performance evaluation of the personnel director.~~ The administration of, and the exclusive representatives of classified employees of, each of those districts would be ~~authorized~~ *required* to participate in the annual performance evaluation of the personnel director by completing an evaluation or comment form distributed by the commission. The personnel commission of each of those districts would be ~~authorized~~ *required* to

review the submitted evaluation and comment forms, if any, and to consider the forms as part of the overall evaluation process. The bill would require that, if the commission prepares this evaluation, the commission would be responsible for the content of that final evaluation.

The bill would grant the personnel commission of a district the authority to impose discipline upon the personnel director if cause has been established in accordance with commission rules applicable to all classified employees. The bill would provide, to ensure due process for the personnel director, that he or she be granted the option of requesting a hearing from an impartial hearing officer, as specified. The bill would require that the method for selecting the hearing officer be designated in commission rules, and would bind the commission by the findings of the hearing officer.

The bill would require that the procedures authorized by ~~the bill~~ *its provisions* be integrated into the regular personnel commission activities and be conducted within the amount otherwise budgeted for the personnel commission of the district. ~~The bill would express the intent of the Legislature to prohibit, upon appropriation by the Legislature, the total allocation to districts pursuant to the bill in a fiscal year from exceeding \$15,000.~~ To the extent that this bill would impose additional duties on local officials, it would impose a state-mandated local program.

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 no reimbursement shall be made pursuant to these statutory provisions for costs mandated by the state pursuant to this act, but would recognize that local agencies and school districts may pursue any available remedies to seek reimbursement for these costs.

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 45266.5 is added to the Education Code,
- 2 to read:
- 3 45266.5. (a) The personnel commission, consistent with the
- 4 commission rules applicable to all classified employees, shall
- 5 determine compensation for and supervise the personnel director

1 appointed pursuant to Section 45264 or contracted for pursuant to
2 Section 45265.

3 ~~(b) (1) The personnel commission is encouraged to prepare an~~
4 ~~annual written performance evaluation of the personnel director.~~

5 ~~(2)~~

6 (b) The school district administration and the exclusive
7 representatives of classified employees of the district ~~may~~ shall
8 participate in the annual performance evaluation of the personnel
9 director by completing an evaluation or comment form distributed
10 by the commission. The personnel commission ~~may~~ shall review
11 the submitted evaluation and comment forms, if any, and ~~may~~
12 shall consider them as part of the overall evaluation process. If the
13 personnel commission chooses to prepare a final evaluation
14 pursuant to this subdivision, the commission shall be responsible
15 for the content of that final evaluation.

16 (c) (1) The personnel commission shall have the authority to
17 impose discipline, including dismissal, upon the personnel director
18 if cause has been established in accordance with commission rules
19 applicable to all classified employees. However, the commission
20 shall not take a disciplinary action pursuant to this paragraph that
21 is inconsistent with any collective bargaining agreement or contract
22 that is in effect as of January 1, 2010, and under which the
23 personnel director works.

24 (2) The personnel director, as a member of the classified service,
25 shall have all the rights, benefits, and burdens of a classified
26 employee.

27 (3) In order to ensure due process for the personnel director, he
28 or she shall have the option of requesting a hearing from an
29 impartial hearing officer regarding disciplinary action imposed on
30 him or her. The method for selecting the hearing officer shall be
31 designated in commission rules and the findings of the hearing
32 officer shall be binding upon the commission.

33 (d) The procedures authorized in this section shall be integrated
34 into the regular personnel commission activities, and shall be
35 conducted within the amount otherwise budgeted for the personnel
36 commission of the district.

37 SEC. 2. Section 88086.25 is added to the Education Code, to
38 read:

39 88086.25. (a) The personnel commission, consistent with the
40 commission rules applicable to all classified employees, shall

1 determine compensation for and supervise the personnel director
2 appointed pursuant to Section 88084 or contracted for pursuant to
3 Section 88085.

4 ~~(b) (1) The personnel commission is encouraged to prepare an~~
5 ~~annual written performance evaluation of the personnel director.~~

6 ~~(2)~~

7 (b) The community college district administration and the
8 exclusive representatives of classified employees of the district
9 ~~may~~ shall participate in the annual performance evaluation of the
10 personnel director by completing an evaluation or comment form
11 distributed by the commission. The personnel commission ~~may~~
12 shall review the submitted evaluation and comment forms, if any,
13 and ~~may~~ shall consider them as part of the overall evaluation
14 process. If the personnel commission chooses to prepare an
15 evaluation pursuant to this subdivision, the commission shall be
16 responsible for the content of that final evaluation.

17 (c) (1) The personnel commission shall have the authority to
18 impose discipline, including dismissal, upon the personnel director
19 if cause has been established in accordance with commission rules
20 applicable to all classified employees. However, the commission
21 shall not take a disciplinary action pursuant to this paragraph that
22 is inconsistent with any collective bargaining agreement or contract
23 that is in effect as of January 1, 2010, and under which the
24 personnel director works.

25 (2) The personnel director, as a member of the classified service,
26 shall have all the rights, benefits, and burdens of a classified
27 employee.

28 (3) In order to ensure due process for the personnel director, he
29 or she shall have the option of requesting a hearing from an
30 impartial hearing officer regarding disciplinary action imposed on
31 him or her. The method for selecting the hearing officer shall be
32 designated in commission rules, and the findings of the hearing
33 officer shall be binding upon the commission.

34 (d) The procedures authorized in this section shall be integrated
35 into the regular personnel commission activities, and shall be
36 conducted within the amount otherwise budgeted for the personnel
37 commission of the district.

38 ~~SEC. 3. It is the intent of the Legislature that upon~~
39 ~~appropriation by the Legislature, the total amount to be allocated~~
40 ~~to school districts and community college districts for the purposes~~

1 of this act in a fiscal year not exceed fifteen thousand dollars
2 (\$15,000).

3 ~~SEC. 4.~~

4 *SEC. 3.* No reimbursement shall be made pursuant to Part 7
5 (commencing with Section 17500) of Division 4 of Title 2 of the
6 Government Code for costs mandated by the state pursuant to this
7 act. It is recognized, however, that a local agency or school district
8 may pursue any remedies to obtain reimbursement available to it
9 under Part 7 (commencing with Section 17500) and any other
10 provisions of law.