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|------|------------------|----------------|--------------|-----------------|------------------|--------------|
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AB-2234 Classified school and community college employees: personnel commission: legal counsel.
(2019-2020)

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Assembly Bill No. 2234

CHAPTER 48

An act to amend Sections 45313 and 88132 of the Education Code, relating to school and community college employees.

[Approved by Governor September 09, 2020. Filed with Secretary of State September 09, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2234, Chau. Classified school and community college employees: personnel commission: legal counsel.

Existing law authorizes a school district or community college district to adopt a merit system that establishes how the governing board of the district employs, pays, and otherwise controls the services of classified employees of the district. Existing law requires a district that adopts a merit system to appoint a personnel commission consisting of either 3 or 5 members and requires the commission to classify employees and positions within the jurisdiction of the governing board or of the commission. Existing law requires the legal counsel of the governing board to represent the commission in all legal matters, except that existing law requires the legal counsel to refuse to represent the commission in circumstances in which the legal counsel knows, or has reason to know, that a conflict exists between the interests of the commission and the interests of the governing board or the district. Existing law authorizes the commission to employ its own attorney if the legal counsel refuses to represent the commission.

This bill would authorize a single member of the personnel commission to also declare that a conflict exists between the interests of the commission and the interests of the governing board or the district. The bill would authorize the commission to employ its own attorney if the commission approves that declaration by majority vote.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 45313 of the Education Code is amended to read:

45313. (a) Except as provided in subdivision (b), the legal counsel of the governing board shall aid and represent the commission in all legal matters. If the legal counsel does not respond to a written request by the commission for aid or representation within 15 working days of receipt of the written request, the legal counsel is deemed to have refused to aid or represent the commission in that matter.

(b) (1) The legal counsel shall refuse to represent the commission in circumstances in which the legal counsel knows, or has reason to know, that at the time the request is made a conflict exists between the interests of the commission and the interests of the governing board or the school district.

(2) Notwithstanding any other provision of this article, a member of the commission may also declare that a conflict exists between the interests of the commission and the interests of the governing board or the school district. A conflict shall not be found pursuant to this paragraph unless approved by a majority vote of the members of the commission.

(c) If the legal counsel or the commission finds that a conflict exists, or if the legal counsel otherwise refuses to aid or represent the commission in a legal matter, the commission may employ its own attorney, and the reasonable cost of the attorney shall constitute a legal charge against the general funds of the school district.

SEC. 2. Section 88132 of the Education Code is amended to read:

88132. (a) Except as provided in subdivision (b), the legal counsel of the governing board shall aid and represent the commission in all legal matters. If the legal counsel does not respond to a written request by the commission for aid or representation within 15 working days of receipt of the written request, the legal counsel is deemed to have refused to aid or represent the commission in that matter.

(b) (1) The legal counsel shall refuse to represent the commission in circumstances in which the legal counsel knows, or has reason to know, that at the time the request is made a conflict exists between the interests of the commission and the interests of the governing board or the community college district.

(2) Notwithstanding any other provision of this article, a member of the commission may also declare that a conflict exists between the interests of the commission and the interests of the governing board or the community college district. A conflict shall not be found pursuant to this paragraph unless approved by a majority vote of the members of the commission.

(c) If the legal counsel or the commission finds that a conflict exists, or if the legal counsel otherwise refuses to aid or represent the commission in a legal matter, the commission may employ its own attorney, and the reasonable cost of the attorney shall constitute a legal charge against the general funds of the community college district.