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SB-874 Classified school district and community college employees: probation: promotion. (2021-2022)

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Senate Bill No. 874

CHAPTER 150

An act to amend Sections 45301 and 88120 of the Education Code, relating to school district and community college employees.

[Approved by Governor August 15, 2022. Filed with Secretary of State August 15, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

SB 874, Cortese. Classified school district and community college employees: probation: promotion.

Existing law requires the governing board of a school district to employ persons for positions not requiring certification qualifications and the governing board of a community college district to employ persons for positions that are not academic positions. Existing law requires the governing board of a school district or community college district to classify those employees and positions and requires that they be known as the classified service. Existing law establishes procedures through which a school district or community college district may be authorized to adopt a merit system with respect to its personnel. Existing law requires a school district or community college district that has a merit system to appoint a personnel commission to prescribe, amend, and interpret rules regarding the merit system. Existing law deems a person who has served an initial probationary period in a class not to exceed 6 months or 130 days of paid service, whichever is longer, as prescribed by the rules of the commission, to be in the permanent classified service, except as provided. Existing law requires that, in a school district or community college district that has adopted a merit system for its classified employees, an employee shall not attain permanent status in the classified service until the employee has completed a probationary period in a class.

Under existing law, in a school district that has not adopted a merit system for its employees, a permanent employee who accepts a promotion and fails to complete the probationary period for that promotional position is required to be employed in the classification from which the employee was promoted.

This bill, in a school district that has adopted a merit system for its employees, would require a permanent employee who accepts a promotion and fails to complete the probationary period for that promotional position to be employed in the classification from which the employee was promoted.

Under existing law, in a community college district that has not adopted a merit system for its employees, a permanent employee who accepts a promotion and fails to complete the probationary period for that promotional classification is required to be employed in the position from which the employee was promoted.

This bill, in a community college district that has adopted a merit system for its employees, would require a permanent employee who accepts a promotion and fails to complete the probationary period for that promotional classification to be employed in the position from which the employee was promoted.

This bill would not apply the above-described provisions to a conflicting collective bargaining agreement entered into before January 1, 2023, until the expiration or renewal of that collective bargaining agreement.

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

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

SECTION 1. Section 45301 of the Education Code is amended to read:

45301. (a) A person who has served an initial probationary period in a class not to exceed six months or 130 days of paid service, whichever is longer, as prescribed by the rules of the commission shall be deemed to be in the permanent classified service, except that the commission may establish a probationary period in a class not to exceed one year for classes designated by the commission as executive, administrative, or police classes. To receive permanent classified service status, each full-time peace officer and public safety dispatcher employed by a school district operating a dispatch center certified by the Commission on Peace Officer Standards and Training shall serve in a probationary status for a period not less than one year from their date of appointment to that full-time position.

(b) An employee shall not attain permanent status in the classified service until the employee has completed a probationary period in a class. A permanent employee who accepts a promotion and fails to complete the probationary period for that promotional position shall be employed in the classification from which the employee was promoted. In any case the rules of the commission may provide for the exclusion of time while employees are on a leave of absence. The rights of appeal from disciplinary action before attainment of permanent status in the classified service shall be in accordance with the provisions of Section 45305.

(c) To the extent that this section, as amended by Senate Bill 874 of the 2021–22 Regular Session, conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2023, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the changes made to this section by Senate Bill 874 of the 2021–22 Regular Session shall not apply to the school district until expiration or renewal of that collective bargaining agreement.

SEC. 2. Section 88120 of the Education Code is amended to read:

88120. (a) A person who has served an initial probationary period in a class not to exceed six months or 130 days of paid service, whichever is longer, as prescribed by the rules of the commission shall be deemed to be in the permanent classified service, except that the commission may establish a probationary period in a class not to exceed one year for classes designated by the commission as executive, administrative, or police classes. To receive permanent classified service status, each full-time peace officer and public safety dispatcher employed by a community college district operating a dispatch center certified by the Commission on Peace Officer Standards and Training shall serve in a probationary status for a period not less than one year from their date of appointment to that full-time position.

(b) An employee shall not attain permanent status in the classified service until that employee has completed a probationary period in a class. A permanent employee who accepts a promotion and fails to complete the probationary period for that promotional classification shall be employed in the position from which the employee was promoted. In any case, the rules of the commission may provide for the exclusion of time while employees are on a leave of absence. The rights of appeal from disciplinary action before attainment of permanent status in the classified service shall be in accordance with Section 88124.

(c) To the extent that this section, as amended by Assembly Bill 275 of the 2021–22 Regular Session, conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2022, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the changes made to this section by Assembly Bill 275 of the 2021–22 Regular Session shall not apply to the community college district until expiration or renewal of that collective bargaining agreement.

(d) To the extent that this section, as amended by Senate Bill 874 of the 2021–22 Regular Session, conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2023, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the changes made to this section by Senate Bill 874 of the 2021–22 Regular Session shall not apply to the community college district until expiration or renewal of that collective bargaining agreement.