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AB-897 Certificated school employees: probationary employees: service credit. (2023-2024)

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Assembly Bill No. 897

CHAPTER 548

An act to amend, repeal, and add Sections 44908 and 44909 of the Education Code, relating to school employees.

[Approved by Governor October 08, 2023. Filed with Secretary of State October 08, 2023.]

LEGISLATIVE COUNSEL'S DIGEST

AB 897, McCarty. Certificated school employees: probationary employees: service credit.

(1) Existing law requires a probationary employee who, in any one school year, has served for at least 75% of the number of days the regular schools of the school district in which the employee is employed are maintained to be deemed to have served a complete school year. Existing law also requires a probationary employee of an evening school who, in any one school year, has served for at least 75% of the number of days the evening schools of the school district in which the employee is employed are in session to be deemed to have served a complete school year.

This bill would, commencing July 1, 2024, remove that requirement for a probationary employee of an evening school and instead require a probationary employee of an adult education program to be deemed to have served a complete school year if the employee serves for at least 75% of the hours constituting a full-time equivalent position for adult education programs in the school district.

The bill would specify that, to the extent the provisions of the bill conflict with any provision of a collective bargaining agreement entered into before July 1, 2024, by a public school employer and an exclusive bargaining representative, the provisions of the bill would not apply to the school district until the expiration or renewal of that collective bargaining agreement.

(2) Existing law authorizes the governing board of a school district to employ certificated employees in programs and projects to perform services conducted under contract with public or private agencies, or categorically funded projects that are not required by federal or state law. Existing law requires the employee and the governing board of the school to mutually agree, in writing, on the terms and conditions of that employment.

This bill would, commencing July 1, 2024, require certain information to be included in that employment agreement.

Existing law prohibits service pursuant to that employment authorization from being included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee unless the person served at least 75% of the number of days the regular schools of the school district are maintained, and the person is subsequently employed as a probationary employee in a position requiring certification qualifications.

This bill would, commencing July 1, 2024, specify that these provisions do not apply to a teacher of classes for adults.

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

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

SECTION 1. Section 44908 of the Education Code is amended to read:

44908. (a) A probationary employee who, in any one school year, has served for at least 75 percent of the number of days the regular schools of the district in which the employee is employed are maintained shall be deemed to have served a complete school year. In case of evening schools, 75 percent of the number of days the evening schools of the district are in session shall be deemed a complete school year.

(b) This section shall become inoperative on July 1, 2024, and, as of January 1, 2025, is repealed.

SEC. 2. Section 44908 is added to the Education Code, to read:

44908. (a) (1) A probationary employee who, in any one school year, has served for at least 75 percent of the number of days the regular schools of the school district in which the employee is employed are maintained shall be deemed to have served a complete school year.

(2) In the case of adult education programs that are part of a school district maintaining kindergarten or any grades 1 to 12, inclusive, 75 percent of the number of hours constituting a full-time equivalent position for adult education programs in the school district, as described in paragraph (3) of subdivision (b) of Section 22138.5, shall be deemed a complete school year.

(b) To the extent that this section, as amended, repealed, and added by Assembly Bill 897 of the 2023–24 Regular Session, conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before July 1, 2024, 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 897 of the 2023–24 Regular Session shall not apply to the school district until expiration or renewal of that collective bargaining agreement.

(c) This section shall become operative on July 1, 2024.

SEC. 3. Section 44909 of the Education Code is amended to read:

44909. (a) The governing board of any school district may employ persons possessing an appropriate credential as certificated employees in programs and projects to perform services conducted under contract with public or private agencies, or categorically funded projects which are not required by federal or state statutes. The terms and conditions under which such persons are employed shall be mutually agreed upon by the employee and the governing board and such agreement shall be reduced to writing. Service pursuant to this section shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee unless (1) such person has served pursuant to this section for at least 75 percent of the number of days the regular schools of the district in which the employee is employed are maintained and (2) such person is subsequently employed as a probationary employee in a position requiring certification qualifications. Such persons may be employed for periods which are less than a full school year and may be terminated at the expiration of the contract or specially funded project without regard to other requirements of this code respecting the termination of probationary or permanent employees other than Section 44918.

Whenever any certificated employee in the regular educational program is assigned to a categorically funded project not required by federal or state statute and the district employs an additional credentialed person to replace that certificated employee, the replacement certificated employee shall be subject to the provisions of Section 44918.

This section shall not be construed to apply to any regularly credentialed employee who has been employed in the regular educational programs of the school district as a probationary employee before being subsequently assigned to any one of these programs.

(b) This section shall become inoperative on July 1, 2024, and, as of January 1, 2025, is repealed.

SEC. 4. Section 44909 is added to the Education Code, to read:

44909. (a) (1) The governing board of a school district may employ persons possessing an appropriate credential as certificated employees in programs and projects to perform services conducted under contract with public or private agencies, or categorically funded projects that are not required by federal or state statutes. The terms and conditions under which such persons are employed shall be mutually agreed upon by the employee and the governing board of the school district and the agreement shall be reduced to writing. The expected end date of employment, the source of funding, and the nature of the categorically funded program or project shall also be included in this writing.

(2) Service pursuant to this section shall not be included in computing the service required as a prerequisite to attainment of, or eligibility to, classification as a permanent employee unless (A) the person has served pursuant to this section for at least 75 percent of the number of days the regular schools of the school district by which the person is employed are maintained, and (B) the person is subsequently employed as a probationary employee in a position requiring certification qualifications. Such persons may be employed for periods that are less than a full school year and may be terminated at the expiration of the contract or specially funded project without regard to other requirements of this code respecting the termination of probationary or permanent employees other than Section 44918.

(b) Whenever a certificated employee in the regular educational program is assigned to a categorically funded project not required by federal or state statute and the school district employs an additional credentialed person to replace that certificated employee, the replacement certificated employee shall be subject to Section 44918.

(c) This section does not apply to a regularly credentialed employee who has been employed in the regular educational programs of the school district as a probationary employee before being subsequently assigned to any one of these programs.

(d) This section does not apply to a teacher of classes for adults.

(e) This section shall become operative on July 1, 2024.