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AB-1247 Classified employees: school districts and community college districts: contracting out: training requirements. (2025-2026)

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Date Published: 02/21/2025 09:00 PM

CALIFORNIA LEGISLATURE— 2025–2026 REGULAR SESSION

ASSEMBLY BILL

NO. 1247

Introduced by Assembly Member Garcia

February 21, 2025

An act to amend Sections 45103.1 and 88003.1 of, and to add Sections 45103.3 and 88003.3 to, the Education Code, relating to classified employees.

LEGISLATIVE COUNSEL'S DIGEST

AB 1247, as introduced, Garcia. Classified employees: school districts and community college districts: contracting out: training requirements.

Existing law requires school districts and community college districts to employ persons for positions not requiring certification qualifications and to classify, as defined, these persons. These employees are generally known as classified employees. Existing law also authorizes school districts and community college districts to contract for personal services currently or customarily performed by classified employees to achieve cost savings, unless otherwise prohibited, when certain conditions are met, including, among others, that the contract includes assurances that the contractor's hiring practices meet applicable nondiscrimination standards.

This bill would add to the conditions referenced above (1) that the contract guarantees contributions to any bona fide fringe benefit programs providing health care or retirement benefits to a direct hire that are equivalent to the amount that would be contributed if the contracted worker was a direct hire and (2) that the contract also includes assurances that contracted workers meet or exceed the minimum qualifications and standards, as provided, required of direct hires who perform or have performed the same job functions.

This bill would require school districts and community college districts to compensate their classified employees at their regular rate of pay for time necessary to complete any training mandated by law, a collective bargaining agreement, or an employer policy. The bill, notwithstanding any other law, would require those trainings, whether conducted online or in person, to allow for a classified employee to ask questions and have the questions answered by a natural person in real time during the trainings. The bill, notwithstanding any other law, would require any of those trainings that are related to child abuse reporting, suicide prevention, sexual harassment, or discrimination to be conducted in person. To the extent these training requirements would

impose additional duties on school districts and community college districts, the bill 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, 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 the statutory provisions noted above.

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

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

SECTION 1. Section 45103.1 of the Education Code is amended to read:

45103.1. (a) Notwithstanding any other provision of this chapter, personal services contracting for all services currently or customarily performed by classified school employees to achieve cost savings is permissible, unless otherwise prohibited, when all the following conditions are met:

(1) The governing board or contracting agency clearly demonstrates that the proposed contract will result in actual overall cost savings to the school district, provided that:

(A) In comparing costs, there shall be included the school district's additional cost of providing the same service as proposed by a contractor. These additional costs shall include the salaries and benefits of additional staff that would be needed and the cost of additional space, equipment, and materials needed to perform the function.

(B) In comparing costs, there shall not be included the school district's indirect overhead costs unless these costs can be attributed solely to the function in question and would not exist if that function was not performed by the school district. Indirect overhead costs shall mean the pro rata share of existing administrative salaries and benefits, rent, equipment costs, utilities, and materials.

(C) In comparing costs, there shall be included in the cost of a contractor providing a service any continuing school district costs that would be directly associated with the contracted function. These continuing school district costs shall include, but not be limited to, those for inspection, supervision, and monitoring.

(2) Proposals to contract out work shall not be approved solely on the basis that savings will result from lower contractor pay rates or benefits. Proposals to contract out work shall be eligible for approval if the contractor's wages are at the industry's ~~level~~ *and level, the contractor's wages* do not undercut school district pay ~~rates~~ *rates, and the contract guarantees contributions to any bona fide fringe benefit programs providing health care or retirement benefits to a direct hire that are equivalent to the amount that would be contributed if the contracted worker was a direct hire.*

(3) The contract does not cause the displacement of school district employees. The term "displacement" includes layoff, demotion, involuntary transfer to a new classification, involuntary transfer to a new location requiring a change of residence, and time base reductions. Displacement does not include changes in shifts or days off, nor does it include reassignment to other positions within the same classification and general location or employment with the contractor, so long as wages and benefits are comparable to those paid by the school district.

(4) The savings shall be large enough to ensure that they will not be eliminated by private sector and district cost fluctuations that could normally be expected during the contracting period.

(5) The amount of savings clearly justify the size and duration of the contracting agreement.

(6) The contract is awarded through a publicized, competitive bidding process.

(7) The contract includes specific provisions pertaining to the qualifications of the ~~staff~~ *contracted worker* that will perform the work under the contract, as well as ~~assurance~~ *assurances* that the contractor's hiring practices meet applicable nondiscrimination ~~standards~~ *standards and that contracted workers meet or exceed the minimum qualifications and standards required of direct hires who perform or have performed the same job functions, including, but not limited to, the following:*

(A) Completion of a criminal history and background check before beginning employment.

(B) Required level of academic attainment.

(C) Required licensure.

(D) Required years of experience.

(E) Mandated reporter status.

(F) Physical requirements.

(G) Required scores on assessment exams.

(H) Ongoing performance standards.

(I) Completion of initial and ongoing training mandated by law, a collective bargaining agreement, or an employer policy.

(8) The potential for future economic risk to the school district from potential contractor rate increases is minimal.

(9) The contract is with a firm. A "firm" means a corporation, limited liability company, partnership, nonprofit organization, or sole proprietorship.

(10) The potential economic advantage of contracting is not outweighed by the public's interest in having a particular function performed directly by the school district.

(b) Notwithstanding any other provision of this chapter, personal services contracting shall also be permissible when any of the following conditions can be met:

(1) The contract is for new school district functions and the Legislature has specifically mandated or authorized the performance of the work by independent contractors.

(2) The services contracted are not available within the district, cannot be performed satisfactorily by school district employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the school district.

(3) The services are incidental to a contract for the purchase or lease of real or personal property. Contracts under this criterion, known as "service agreements," shall include, but not be limited to, agreements to service or maintain office equipment or computers that are leased or rented.

(4) The policy, administrative, or legal goals and purposes of the district cannot be accomplished through the ~~utilization~~ use of persons selected pursuant to the regular or ordinary school district hiring process. Contracts are permissible under this criterion to protect against a conflict of interest or to ensure independent and unbiased findings in cases where there is a clear need for a different, outside perspective. These contracts shall include, but not be limited to, obtaining expert witnesses in litigation.

(5) The nature of the work is such that the criteria for emergency appointments apply. "Emergency appointment" means an appointment made for a period not to exceed 60 working days either during an actual emergency to prevent the stoppage of public business or because of the limited duration of the work. The method of selection and the qualification standards for an emergency employee shall be determined by the district. The frequency of appointment, length of employment, and the circumstances appropriate for the appointment of firms or individuals under emergency appointments shall be restricted so as to prevent the use of emergency appointments to circumvent the regular or ordinary hiring process.

(6) The contractor will provide equipment, materials, facilities, or support services that could not feasibly be provided by the school district in the location where the services are to be performed.

(7) The services are of such an urgent, temporary, or occasional nature that the delay incumbent in their implementation under the *school* district's regular or ordinary hiring process would frustrate their very purpose.

(c) This section shall apply to all school districts, including *school* districts that have adopted ~~the a~~ merit system.

(d) This section shall apply to personal service contracts entered into after January 1, 2003. This section shall not apply to the renewal of personal services contracts ~~subsequent to~~ after January 1, 2003, ~~where if~~ the contract was entered into before January 1, 2003, irrespective of whether the contract is renewed or rebid with the existing contractor or with a new contractor.

SEC. 2. Section 45103.3 is added to the Education Code, to read:

45103.3. (a) A school district shall compensate a classified employee at the classified employee's regular rate of pay for time necessary to complete any training mandated by law, a collective bargaining agreement, or an employer policy.

(b) Notwithstanding any other law, any training described in subdivision (a), whether conducted online or in person, shall allow for a classified employee to ask questions and have the questions answered by a natural person in real time during the training.

(c) Notwithstanding any other law, any training described in subdivision (a) that is related to child abuse reporting, suicide prevention, sexual harassment, or discrimination shall be conducted in person.

SEC. 3. Section 88003.1 of the Education Code is amended to read:

88003.1. (a) Notwithstanding any other provision of this chapter, personal services contracting for all services currently or customarily performed by classified school employees to achieve cost savings is permissible, unless otherwise prohibited, when all the following conditions are met:

(1) The governing board or contracting agency clearly demonstrates that the proposed contract will result in actual overall cost savings to the community college district, provided that:

(A) In comparing costs, there shall be included the community college district's additional cost of providing the same service as proposed by a contractor. These additional costs shall include the salaries and benefits of additional staff that would be needed and the cost of additional space, equipment, and materials needed to perform the function.

(B) In comparing costs, there shall not be included the community college district's indirect overhead costs unless these costs can be attributed solely to the function in question and would not exist if that function was not performed by the community college district. Indirect overhead costs shall mean the pro rata share of existing administrative salaries and benefits, rent, equipment costs, utilities, and materials.

(C) In comparing costs, there shall be included in the cost of a contractor providing a service any continuing community college district costs that would be directly associated with the contracted function. These continuing community college district costs shall include, but not be limited to, those for inspection, supervision, and monitoring.

(2) Proposals to contract out work shall not be approved solely on the basis that savings will result from lower contractor pay rates or benefits. Proposals to contract out work shall be eligible for approval if the contractor's wages are at the industry's ~~level~~ *and level, the contractor's wages* do not undercut community college district pay ~~rates~~ *rates, and the contract guarantees contributions to any bona fide fringe benefit programs providing health care or retirement benefits to a direct hire that are equivalent to the amount that would be contributed if the contracted worker was a direct hire.*

(3) The contract does not cause the displacement of community college district employees. The term "displacement" includes layoff, demotion, involuntary transfer to a new classification, involuntary transfer to a new location requiring a change of residence, and time base reductions. Displacement does not include changes in shifts or days off, nor does it include reassignment to other positions within the same classification and general location or employment with the contractor, so long as wages and benefits are comparable to those paid by the school district.

(4) The savings shall be large enough to ensure that they will not be eliminated by private sector and community college district cost fluctuations that could normally be expected during the contracting period.

(5) The amount of savings clearly justify the size and duration of the contracting agreement.

(6) The contract is awarded through a publicized, competitive bidding process.

(7) The contract includes specific provisions pertaining to the qualifications of the ~~staff~~ *contracted worker* that will perform the work under the contract, as well as ~~assurance~~ *assurances* that the contractor's hiring practices meet applicable nondiscrimination ~~standards~~ *standards and that contracted workers meet or exceed the minimum qualifications and standards required of direct hires who perform or have performed the same job functions, including, but not limited to, the following:*

(A) Completion of a criminal history and background check before beginning employment.

(B) Required level of academic attainment.

(C) Required licensure.

(D) Required years of experience.

(E) Mandated reporter status.

(F) Physical requirements.

(G) Required scores on assessment exams.

(H) Ongoing performance standards.

(I) Completion of initial and ongoing training mandated by law, a collective bargaining agreement, or an employer policy.

(8) The potential for future economic risk to the community college district from potential contractor rate increases is minimal.

(9) The contract is with a firm. A "firm" means a corporation, limited liability company, partnership, nonprofit organization, or sole proprietorship.

(10) The potential economic advantage of contracting is not outweighed by the public's interest in having a particular function performed directly by the community college district.

(b) Notwithstanding any other provision of this chapter, personal services contracting shall also be permissible when any of the following conditions can be met:

(1) The contract is for new community college district functions and the Legislature has specifically mandated or authorized the performance of the work by independent contractors.

(2) The services contracted are not available within community college districts, cannot be performed satisfactorily by community college district employees, or are of such a highly specialized or technical nature that the necessary expert knowledge, experience, and ability are not available through the community college district.

(3) The services are incidental to a contract for the purchase or lease of real or personal property. Contracts under this criterion, known as "service agreements," shall include, but not be limited to, agreements to service or maintain office equipment or computers that are leased or rented.

(4) The policy, administrative, or legal goals and purposes of the community college district cannot be accomplished through the ~~utilization~~ use of persons selected pursuant to the regular or ordinary hiring process. Contracts are permissible under this criterion to protect against a conflict of interest or to ensure independent and unbiased findings in cases where there is a clear need for a different, outside perspective. These contracts shall include, but not be limited to, obtaining expert witnesses in litigation.

(5) The nature of the work is such that the criteria for emergency appointments apply. "Emergency appointment" means an appointment made for a period not to exceed 60 working days either during an actual emergency to prevent the stoppage of public business or because of the limited duration of the work. The method of selection and the qualification standards for an emergency employee shall be determined by the community college district. The frequency of appointment, length of employment, and the circumstances appropriate for the appointment of firms or individuals under emergency appointments shall be restricted so as to prevent the use of emergency appointments to circumvent the regular or ordinary hiring process.

(6) The contractor will provide equipment, materials, facilities, or support services that could not feasibly be provided by the community college district in the location where the services are to be performed.

(7) The services are of such an urgent, temporary, or occasional nature that the delay incumbent in their implementation under the community college district's regular or ordinary hiring process would frustrate their very purpose.

(c) This section shall apply to all community ~~colleges;~~ college districts, including community college districts that have adopted ~~the~~ a merit system.

(d) This section shall apply to personal service contracts entered into after January 1, 2003. This section shall not apply to the renewal of personal services contracts ~~subsequent to~~ after January 1, 2003, ~~where~~ if the contract was entered into before January 1, 2003, irrespective of whether the contract is renewed or rebid with the existing contractor or with a new contractor.

SEC. 4. Section 88033.3 is added to the Education Code, to read:

88033.3. (a) A community college district shall compensate a classified employee at the classified employee's regular rate of pay for time necessary to complete any training mandated by law, a collective bargaining agreement, or an employer policy.

(b) Notwithstanding any other law, any training described in subdivision (a), whether conducted online or in person, shall allow for a classified employee to ask questions and have the questions answered by a natural person in real time during the training.

(c) Notwithstanding any other law, any training described in subdivision (a) that is related to child abuse reporting, suicide prevention, sexual harassment, or discrimination shall be conducted in person.

SEC. 5. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.