

Date of Hearing: April 8, 2026

ASSEMBLY COMMITTEE ON PUBLIC EMPLOYMENT AND RETIREMENT

Tina S. McKinnor, Chair

AB 2142 (Garcia) – As Introduced February 18, 2026

SUBJECT: School districts: community college districts: short-term employees: classified service

SUMMARY: Establishes a specific rebuttable presumption relating to school districts and community college districts (CCDs) and certain classified employees. Specifically, **this bill:**

- 1) Establishes a mandatory rebuttable presumption for school districts to place a short-term employee into the classified service if either:¹
 - a) The short-term employee performs required or any other service or combination of services beyond 75 percent of the school year, or
 - b) The short-term employee voluntarily separates, is laid off, or terminated, from employment as a short-term employee before a date constituting 75 percent of a school year and is then rehired by the school district at any point, including subsequent school years.

EXISTING LAW:

- 1) Requires the governing board of a school district and community college district, respectively, and except as provided, to employ persons not requiring certification qualifications or that are not academic positions, and to classify these employees and positions known as the “classified service.” (Sections 45100 *et seq.* and 88000 *et seq.* of the Educ. Code.)
- 2) Prohibits a school or community college district that has adopted the merit system from demoting or removing a permanent classified employee, except for reasonable cause designated by rule of the personnel commission, but does not prevent layoffs for lack of work or funds. (Sections 45302, 45303, 88121, and 88122, Educ. Code.)
- 3) Establishes that substitute and short-term employees employed by school districts or CCDs and paid less than 75 percent of a school year must not be part of the classified service. (Section 45103(b)(1) and 88003, respectively, Educ. Code.) Further, establishes that 75 percent of the school year means 195 working days, including holidays, sick leave, vacation, and other leaves of absence, irrespective of number of hours worked per day. (Section 45103(d)(3) and 88003(d), respectively, Educ. Code.)

¹ A rebuttable presumption, sometimes also referred to as a prima facie presumption, disputable presumption, conditional presumption, or *praesumptio juris*, is an inference drawn from certain facts that establish a prima facie case, which may be overcome by the introduction of contrary evidence. This is different from a conclusive presumption which cannot be overcome by any additional evidence or argument because it is accepted as irrefutable proof that establishes a fact beyond dispute.

- 4) Defines and provides, for specific purposes relating to classified employees of school districts, “short term employee” to mean a person who is employed to perform a service for the school district, upon the completion of which, the service required or similar services will not be extended or needed on a continuing basis, and before employing a short-term employee, the school district governing board, at a regularly scheduled board meeting, must specify the service required to be performed by the employee pursuant to the definition of “classification” in existing law, as specified, and must certify the ending date of the service. The ending date may be shortened or extended by the school district governing board, but must not extend beyond 75 percent of a school year. (Section 45103(d)(2) and 88003(c)(1), Educ. Code.)
- 5) Defines and provides, for specific purposes relating to CCDs and employment of classified employees, “short-term employee” to mean a person who is employed to perform a service for a CCD, upon the completion of which, the service required or similar services will not be extended or needed on a continuing basis. Before employing a short-term employee, the governing board of a CCD at a regularly scheduled meeting must specify the service required to be performed by the employee, as provided, and certify the ending date of the service; but the ending date may be shortened or extended by the CCD governing board, but must not exceed 75 percent of a school year. (Section 88003(c)(1), Educ. Code.) Further, “75 percent of the college year” has the same meaning in Section 45103(d)(3), Educ. Code. (Section 88003(d), Educ. Code.)
- 6) Governs collective bargaining in the private sector under the federal National Labor Relations Act (NLRA) but leaves to the states the regulation of collective bargaining in their respective public sectors. (Sections 151 *et seq.*, Title 29, United States Code.)

While the NLRA and the decisions of its National Labor Relations Board (NLRB) often provide persuasive precedent in interpreting state collective bargaining law, public employees generally have no collective bargaining rights absent specific statutory authority establishing those rights.

- 7) Provides several statutory frameworks under California law to provide public employees collective bargaining rights, govern public employer-employee relations, and limit labor strife and economic disruption in the public sector through a reasonable method of resolving disputes regarding wages, hours and other terms and conditions of employment between public employers and recognized public employee organizations or their exclusive representatives. These include the Education Employment Relations Act (EERA), which governs employment relations for California’s K-12 public schools and community colleges. (Sections 3512 *et seq.*, Gov. Code.)
- 8) Establishes the Public Employment Relations Board (PERB) – a quasi-judicial administrative agency charged with administering the several statutory frameworks governing employer-employee relations, resolving disputes, and enforcing the statutory duties and rights of public agency employers, employees, and employee organizations, but provides the City and County of Los Angeles a local alternative to PERB oversight. (Sections 3541 *et seq.*, Government (Gov.) Code.)

FISCAL EFFECT: None. This bill is keyed nonfiscal by Legislative Counsel.

COMMENTS: *The committee is informed that this bill is also referred to the Assembly Committee on Higher Education. As such, this writing only discusses matters that are germane to the jurisdiction of this committee and defers to the Assembly Committee on Higher Education to discuss matters that are specifically germane to its jurisdiction.*

Background

Among other things, information provided by the author states, Education Code Sections 45103 and 88003 allows school district boards and community college boards, respectively, to employ, in lieu of traditional classified workers, “short-term employees.” Defined largely as anyone doing classified work for up to 75 [percent] of the school year, these individuals are exempt from virtually all protections guaranteed specifically to those in the classified service. These laws describe a short-term employee as someone who doesn’t work past 75 [percent] of the school year. Unfortunately, it doesn’t clearly state that if the short-term employees work more than 75 [percent] of the school year, they need to be classified employees. This has created a loophole for school districts and community colleges to hire short-term employees and keep rehiring them for 75 [percent] of recurring school years for many years, sometimes, even decades. These workers are explicitly and indefinitely excluded from rights for classified workers such as sick leave, seniority rehire rights, retaliation protections, and all other classified worker benefits.

“While existing law was intended to help schools and colleges hire temporary staff during times of need, it has led to the abuse of these employees. As a result of this abuse, employees effectively working permanent jobs are not being offered their rightful benefits and protections. This bill is needed because current legislation is not proving to be enough to protect classified employees from being labeled as short-term staff. Current law addresses short-term employees, classified employees, and permanent employees. But there is a lack of clarification regarding the process of a short-term employee becoming classified, which is what [this bill] does.”

Furter, “[s]chool districts and community colleges are allowed to hire classified ‘short-term’ workers for a variety of classified positions. These workers are defined largely as anyone who is employed to perform a service for the school, upon the completion of which, the service required will not be extended or needed on a continuing basis. These “short-term” employees may only be employed for 75 [percent] of a school year. Although these positions are deemed “not needed on a continuing basis”, in theory; they are in fact utilized continuously for many years... [, and this] practice denies employees the status and benefits of regular employment. Currently, school districts and community colleges are taking advantage of this lack of clarification and rehiring employees on a recurring and continuous basis for longer than just 75 [percent] of a school year. Some of their reasonings include needing them for short-term grant programs or occasional after-school projects. If these programs and projects are not recurring or longer than 75 [percent] of a school year, then this bill will not impact them negatively. This bill simply protects employees from getting rehired on a recurring and continuous basis for longer than 75 [percent] of a school year without the rights of a classified employee. [This bill] creates a rebuttable presumption so that an assignment that is habitually used by jurisdictions as a short-term assignment is now considered a full-time assignment... [, and its provisions] simply [clarify current law] and [does] not [offer] something new that employers must invest resources assessing on how to comply. If an employer is keeping workers out of the classified service following this 75 [percent] cutoff, that employer is in violation of this statute, and this bill does not change that. All this bill does is help employers understand their responsibilities under the law. This clarification removes the ability for schools and community colleges to find loopholes that allow them to hire and keep

permatemps [,and] ensures that temporary, classified employees that are employed longer than 75 [percent] of the school year are given the benefits and protections they are entitled to as classified staff.”

Finally, “[w]hile this bill does not raise wages or create any new benefits, it does help guarantee that workers at a minimum will earn the benefits and rights established under current law. Such a reform will help us keep the classified workers we currently have, attract new ones, and better protect the workers doing and devoting so much to keep our education system running strong.”

Classified Employees – Who They Are and What They Do

Generally, classified employees in the state’s public education system are those who are not required to hold certain certification qualifications and provide custodial and maintenance, transportation, office and technical support, food service, and school safety services to students. Individuals in this classification provide basic needs, and help to maintain the social and emotional support of students in school districts. These employees help to keep students safe and schools operational.

In some instances, classified employees also may serve as paraeducators where students may require personalized educational support while the paraeducator is under the tutelage of a certificated employee, i.e., teacher.

Subjects Within the Scope of Representation Under the EERA

As previously enumerated, the purposes for which the EERA exists are well established.

The scope of representation, i.e., matters that are collectively bargained, pursuant to the EERA is expressly limited to “wages, hours of employment, and other terms and conditions of employment.” The subject of “wages” under the scope is relatively self-explanatory. Generally, this refers to pay, salary, wages, compensation, or remuneration for official work performed by the employee for, or on behalf of, the employer. The subject of “hours” under the scope also is relatively self-explanatory. Generally, this refers to the hours in which an employee works to perform official work for, or on behalf of, the employer. However, unlike the Dills Act governing state employer-employee relations, the EERA has certain specificity regarding the category of “other terms of conditions of employment,” as discussed below.

Under the EERA, “terms and conditions of employment” means health and welfare benefits, leave, transfer and reassignment policies, safety conditions of employment, class size, procedures to be used to evaluate employees, organization security, procedures for processing grievances, as specified, the layoff of probationary certificated school district employees, as specified, and alternative compensation or benefits for employees adversely affected by pension limitations, as respectively and applicably specified. (Section 3543.2(a)(1), Educ. Code.) However, all matters not specifically enumerated are reserved to the school employer and may not be a subject of meeting and negotiating, except that this does not limit the right of the employer to consult with any employees or employee organization on any matter outside the scope of representation. (Section 3543.2(a)(4), Educ. Code.)

The PERB’s interpretations of the EERA’s scope of representation, which some have been tested in courts of law, have resulted in a settled rule. That is, a subject not specifically listed as negotiable will be held to be so if: i) it is logically and reasonably related to an enumerated

subject; ii) the subject is of such concern to management and employees that it is likely to cause conflict of the sort that collective bargaining is designed to overcome; and, iii) negotiations over the subject would not significantly abridge [management's] freedom to exercise those managerial prerogatives essential to the achievement of the district's mission.²

To the extent that what this bill proposes may be within the EERA's scope of representation under "other terms and conditions of employment" (e.g., a short-term employee being placed within the classified service – a required employment classification for school and community college districts), this matter may appropriately be subject to bargaining.

This Bill

The terms "short-term employee" and "seventy-five percent of a school year" are respectively defined in statute,³ and Sections 45103(b)(1) and 88003(a), Educ. Code expressly prohibit short-term employees who are paid for less than 75 percent from being part of the classified service.

This bill proposes to address the "revolving door" phenomenon of public K-12 schools and CCDs hiring short-term employees for a period of time then subsequently rehiring them to perform the same or similar duties, which results in these employees not being deemed as within the classified service. Further, such activity may deprive these employees of other benefits associated with employment (e.g., employment protections, health, and retirement, etc.) To address these matters, this bill expressly makes clear that, as a rebuttable presumption, short-term employees who provide services beyond 75 percent of the school year, or those whose employment is terminated prior to attaining work constituting 75 percent of the school year then rehired, must be placed into the classified service.

Author's Statement

"As an educator and a former school administrator, I understand the importance of all school and college employees and their very important role in shaping the future generations. Whether they are short-term, classified, or permanent, they deserve to be valued for the work they do. Unfortunately, many classified employees work as long as permanent staff without the right classification, protection, or benefits. [This bill] clarifies that workers needed on a recurring and continuous basis for longer than just 75 [percent] of a school year are automatically placed into the classified service, granting them their rightfully earned protections and benefits."

Comments by Supporters

In part, the California Federation of Teachers - A Union of Educators and Classified Professionals, AFT, AFL-CIO states, "[in] the education system, workers with jobs not requiring certification qualifications are known as "classified" workers. The descriptor "classified" stems from existing Education Code language requiring local district boards to group these workers into different classifications. Paraeducators, custodians, administrative staff, and maintenance workers are a few examples, but many, many others exist. While types of classified workers are varied, one factor unites them all: schools cannot run without them. When the front office is

² *Anaheim Unified School District* (1981) PERB No. 177. Here, the PERB's scope of representation test was upheld by the California Supreme Court in *San Mateo School Dist. v. PERB* (1983) 33 Cal.3d.850.

³ Ref. "Existing Law," Nos. "3)" through "5)."

understaffed, essential school functions begin to collapse. When custodians have too much to do, hazardous conditions arise that threaten school safety. When the classroom needs a paraeducator but doesn't have one, teachers are overwhelmed and educational quality suffers. That's why we must ensure that all possible steps are taken to recruit and retain qualified and effective classified workers throughout our education system, from transitional kindergarten through higher education. Sadly, the often inadequate wages and benefits offered to classified workers mean that the previously described negative outcomes exist in far too many schools across California. These positions commonly pay hourly rates barely above the minimum wage, don't offer anything close to full-time hours, and leave workers unable to even qualify for [California Public Employees' Retirement System] benefits. With [the reforms proposed by this bill], we take a small but significant step toward rewarding classified staff for their essential service. While this bill does not raise wages or create any new benefits, it does help guarantee that workers at least will earn the benefits and rights established by current law. Such a reform will help us keep the classified workers we currently have, attract new ones, and better protect the workers doing and devoting so much to keep our education system running strong."

Others offers similar statements in support of this bill.

Comments by Opponents

Among other things, a coalition of local education agencies (LEAs) express that, "[we] recognize the intent of the bill but remain deeply concerned due to the technical, fiscal and policy impacts on school districts and community colleges that could limit student service delivery while draining resources from other critical staffing needs. This bill would impair long-standing flexibilities that school districts and community colleges rely on to maximize resources and provide students with relevant services and programs. It also increases legal and grievance risk by potentially accelerating permanent status for roles that are not continuous or full-time in nature. Specifically, [this bill] would drastically change the way that a short-term, temporary or substitute employee may become eligible for permanent classified status by removing the requirement that the minimum service day threshold must be completed in just one school year. Instead, the "75 percent of the school year," also defined at 195 working days, is over the lifetime of that individual. The calculation includes all afforded leave time as well as the undefined term "other services" in the working days calculation. [This bill] also creates a rebuttable presumption that an employee reaches permanent status after completing 195 days of service, including all leave allowances. Given current trends impacting education funding that include declining enrollment, escalating special education costs, and major liability exposure due to AB 218-related claims, a bill that seeks to further restrict flexibility is especially concerning. In TK-12 districts, the needs of the student population can change significantly when there are changes in enrollment. Small school districts feel this even more deeply. In special education, a single student can change staffing needs." Among other concerns, the coalition expresses, "we believe this bill could result in the unintended consequence of experienced, trusted employees not being hired in future school years," [and] "[s]chools will not be able to support the cost of returning employees becoming permanent and will seek other candidates to fill positions.

Prior or Related Legislation

Assembly Bill 2120 (Solache, 2026) proposed to make changes to existing law relating to classified school employees in K-12 public schools in the Los Angeles Unified School District,

among other provisions. This bill is currently pending the Assembly Committee on Public Employment and Retirement.

Assembly Bill 1247 (Garcia, 2025) proposed to amend existing laws relating to contracts for personal services by school districts and CCDs by adding certain prescribed conditions. This bill was held in the Assembly Committee on Appropriations.

Assembly Bill 374 (Nguyen, 2025) proposed, similar to the Labor Code as applicable to private sector employers, public school employers, as defined, to provide classified school employees certain information regarding their wages at the time of each payment, and as a detachable part of the check, among other provisions. This bill was vetoed by the Governor stating:

“While the author's goal is laudable, the associated costs of implementation are estimated at tens of millions of dollars and are not accounted for in the state budget. The bill's sponsors have identified a problem with some employers not providing their classified employees with timely wage and leave information, and I encourage them to work with school employers to find a less costly solution. In partnership with the Legislature this year, my Administration has enacted a balanced budget that recognizes the challenging fiscal landscape our state faces while maintaining our commitment to working families and our most vulnerable communities. With significant fiscal pressures and the federal government's hostile economic policies, it is vital that we remain disciplined when considering bills with significant fiscal implications that are not included in the budget, such as this measure.”

Resolution Chapter 141, Statutes of 2025 (Senate Joint Resolution 2, Cortese) requested the United States (U.S.) President and U.S. Congress to approve federal legislation guaranteeing certain rights to classified workers that would, among other things, empower those workers to work in a stable, safe environment and receive livable and competitive wages.

Assembly Bill 2328 (Mike Fong, 2024) proposed to prohibit a K-12 and community college district with a merit system from taking disciplinary action against a permanent employee under specified conditions. This bill was held in the Assembly Committee on Higher Education.

Assembly Bill 383 (Zbur, 2023) proposed to require school employers to grant specified classified school employees a paid leave of absence to complete their required student teaching hours as part of the Classified School Employee Teacher Credentialing Program. This bill was held on the Senate Inactive File.

Chapter 913, Statutes of 2022 (Assembly Bill 2413, Carrillo) subject to certain specified exceptions, prohibits the suspension, demotion, or dismissal without pay of a permanent classified employee employed by a school district or community college district (hereinafter, both referred to as "district") who timely requests a hearing on charges against the employee and before a decision is rendered on the matter, among other provisions.

Chapter 665, Statutes of 2021 (Assembly Bill 438, Reyes) made changes relating to layoffs of certain classified employees of school districts and community college districts to require certain processes and procedures when the employee's services are no longer required, among other provisions.

Chapter 582, Statutes of 2017 (Assembly Bill 670, Thurmond) removed the provision of law exempting part-time playground positions from the classified service within school districts if the person is not also employed in a classified position.

REGISTERED SUPPORT / OPPOSITION:

Support

California Federation of Teachers – a Union of Educators & Classified Professionals, AFT,
AFL-CIO (*Sponsor*)

California School Employees Association (*Co-Sponsor*)

California Teachers Association

Teamsters California

Opposition

Association of California School Administrators

California Association of School Business Officials

California Association of Suburban School Districts

California School Boards Association

Central Valley Education Coalition

Chief Executive Officers of the California Community Colleges Board

Community College League of California

Kern County Superintendent of Schools

Small Schools Districts' Association

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