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INITIATIVE MEASURE TO BE SUBMITTED DIRECTLY TO THE ELECTORS

The Attorney General has prepared a title and summary of the chief purposes and points of said proposed measure, as follows:

INSTRUCTORS' TENURE. Initiative Constitutional Amendment. Creates State Tenure Board of three members, each elected from a district, boundaries of which are defined. Prescribes their qualifications, terms, salary, powers and duties. Specifies instructors affected by amendment. Provides two year probationary period therefor excepting those having permanent tenure. Specifies causes of dismissal of instructors. Vests State Tenure Board and local school boards with jurisdiction to hear and decide charges against instructors, prescribing procedure therefor, permitting instructors to appear and defend, and empowering State Tenure Board to sustain or overrule such decisions of local school board.

PETITION TO SECRETARY OF STATE OF CALIFORNIA FOR SUBMISSION TO ELECTORS OF PROPOSED CONSTITUTIONAL AMENDMENT

STATE OF CALIFORNIA,

County (or City and County) of Santa Clara ss.

To the Honorable Secretary of State of the State of California:

The undersigned registered and qualified electors of the State of California, residents of the County (or City and County) of Santa Clara, hereby petition that there be submitted, at the next succeeding general election, to the electors of said state, for their adoption or rejection, the following proposed amendment to the constitution of said state, said amendment to be known as section 16, article IX of said constitution, and to be in words and figures as follows:

Sec. 16.

a. It is the intent hereof that instructors in the elementary and secondary state schools and state junior colleges, or their equivalent, shall not be dismissed for political or other reasons not herein provided for, and this section shall be so interpreted as to effectuate such intent. Legislation may be enacted to further such intent, but no legislation in conflict herewith may be enacted.

b. Instructors, for the purposes of this section, shall be those persons now or hereafter employed in said schools or colleges, and now or hereafter charged with the duty of teaching pupils other than instructors any subject, art, science, avocation, trade, or other branch of learning or training, or their equivalent. Librarians, counselors, and registrars in said schools or colleges holding certificates entitling them to teach therein shall be deemed instructors and entitled to the benefits hereof. The following employees in, or connected with, said schools and colleges are not affected by this section: persons wholly employed in a supervisory or administrative capacity, such as state, county, city, and city and county superintendents and their deputies, supervisors of instruction and principals; all employees whose duties do not consist in teaching, except said librarians, counselors, and registrars; all medical, dental, and nursing employees; all persons over the age of sixty-five years. But all instructors, until they reach the age of sixty-five, who heretofore have acquired or hereafter shall acquire permanent rights as such instructors, and who now are holding or hereafter shall hold, in the state school system, positions unaffected by this section, shall, nevertheless, be entitled to resume all such permanent rights as instructors, as soon as their occupancy of any such exempted positions shall cease; and deputy superintendents, supervisors of instruction, and principals now or hereafter continuously employed as such for three years, who shall not have attained permanency as a classroom teacher, shall, upon cessation of such employment, be entitled to fill any vacancy as an instructor then existing or the first such vacancy thereafter occurring within the county, city and county, city or district by which such deputy, supervisor or principal is employed. Furthermore, every instructor, even though his duties be partially supervisory in character, shall, nevertheless, be entitled to the benefits of this section, if at least one-half of his duties consist in teaching pupils other than instructors. No person over the age of seventy years shall be employed as an instructor in said schools or colleges. This section does not, however, adversely affect any rights already given to any instructor or administrator by any city, city and county or county charter.

c. Every instructor more than sixty-five years of age who, at the time of adoption of this section, shall have been employed as such instructor for fifteen years in this state shall be entitled, upon retirement, to a retirement allowance in the proportion that his years of employment as an instructor bear to thirty years.

d. This section does not apply to instructors temporarily employed to fill the positions of regularly employed instructors temporarily absent from duty, or to instructors employed in emergency schools or classes. If any such school or class, however, is continued in two consecutive school years, it shall no longer be deemed emergency or temporary. If any substitute instructor serves as such for seventy-five per cent of the school days in any one year in the district or city or city and county in which he is employed, he thereby shall be entitled to credit for service for one year as a probationary instructor, as hereinafter provided for, and thereafter such instructor shall come within the effect of this section.

e. If any instructor be requested in writing by the governing board by which he is employed to notify said board in writing whether he will continue such employment during the next ensuing school year, and if he fail within twenty days after receipt of such request to give such notice, then said board may terminate his employment at the end of the then current school year; provided, however, that such written request may not be given prior to April 15 or later than May 15 in any year.

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f. There is hereby created a state tenure board to consist of three members, whose election shall be non-partisan and otherwise conducted as are elections of Justices of the Supreme Court. One member of said board shall be elected by the electors within the district delineated by the present boundaries of the County of Los Angeles, excepting therefrom, however, the present area of the cities of Long Beach, Avalon, Beverly Hills, Burbank, Culver City, El Segundo, Glendale, Hermosa Beach, Manhattan Beach, Redondo Beach, San Fernando, Santa Monica and Signal Hill. Another member shall be elected by the electors within the district made up by the present area of said cities and the present area of the counties of Imperial, San Diego, Orange, Riverside, San Bernardino, Ventura, Santa Barbara, Kern, Inyo, San Luis Obispo, Monterey, San Benito, Santa Cruz, Santa Clara, Tulare, Kings, Fresno, Madera, Merced, Mariposa, Stanislaus, Tuolumne, San Joaquin, Calaveras, Amador, Mono and Alpine. The third member shall be elected by the electors within the district made up by the balance of the area of this state. The area of said districts may be altered by the legislature after each decennial census has been taken by the United States, in order that the population in said districts may be maintained as nearly equal as possible. Said members, except those first elected, shall serve for a term of six years each. The Governor shall appoint the three members, one from each of said districts, who will serve until January 1, 1937. At the general election of 1936, three members of said board shall be elected, each of whom shall be an elector in the district which he represents. Their terms shall be respectively, two, four and six years from December 31, 1936. The members then elected shall determine by lot, to be conducted by the Secretary of State, who, respectively, shall hold said two year, four year and six year terms. Thereafter their successors shall be elected, respectively, at the general elections immediately preceding the expirations of the respective terms, and shall hold office for six years from and including the first day of January following their respective elections. Any vacancy on said board shall be filled, for the unexpired term, by an appointee of the Governor, such appointee to be an elector within the district wherein the vacancy may occur. The members of said board shall devote their time exclusively to its business. The total expense of the operations of said board shall be met out of a fund to be raised by an assessment of \$2.00 per year on each probationary and permanent instructor affected by this section. Such assessments shall be deducted, by the disbursing officers paying such instructors, from the first installment of salary payable each year to each such probationary and permanent instructor; and the funds so collected shall be transmitted immediately by each such disbursing officer to the State Treasurer to be by him deposited to the credit of a separate fund to be drawn on only by warrants authorized by said Tenure Board which shall, when issuing such warrants, file with the State Controller itemized vouchers supporting such warrants. Any amount, in excess of \$5000.00, which shall stand to the credit of said fund on December 31 of each year shall be transferred to the credit of the State Teachers' Retirement Fund. No appropriation shall ever be made by the Legislature for any purpose provided for herein. The salary of each member shall be \$4000.00 per year, payable in equal monthly installments, and he shall be entitled, in addition, to reimbursement for all his reasonable expenses while traveling in the performance of his duties. Said board shall establish an office in Sacramento in quarters which shall be provided in a state building by the Legislature. Said board shall employ such clerical and other assistants as shall be necessary to enable it properly to perform its duties. All actions of said board must be by majority vote given at a public meeting. Said board shall elect one of its members chairman, and shall adopt rules, not in conflict herewith, whereby its business shall be conducted. In the absence of the permanent chairman, the board may elect a temporary chairman. The members of said board shall be electors of either sex legally qualified, at the respective dates of their election or appointment, to instruct in some one county in said elementary and secondary schools and junior colleges, or their equivalent, and, except for incumbent members, employed, at said respective dates, and for five years immediately prior thereto, in the state school system. Membership on said board shall not adversely affect the retirement status of any member while on said board, and any member may, upon the expiration of his first term, return to the position of instructor occupied by him at the time of his election to said board, or to a similar position within the district, city or city and county by which he was then employed, with all other rights had by him at said time of election.

g. No instructor affected by this section shall be dismissed except for one or more of the following causes: immoral or unprofessional conduct, incompetency, evident unfitness for service, persistent violation of or refusal to obey the state school laws or reasonable regulations prescribed for the government of public schools. Any such dismissal shall be effected only as hereinafter provided for.

h. Instructors affected hereby shall serve a probationary period of two consecutive school years. The Tenure Board shall determine from the reports and evidence hereinafter provided for whether such probationary period has been satisfactorily served. A probationary instructor who, in any one school year, has served seventy-five per cent of the days during which the schools of the district or city or city and county by which he is employed are maintained shall be deemed to have served a complete school year. Prior to June 30 and December 31 in each year the school superintendent of every county, city and county and city shall file with the Tenure Board a written report on the quality of service of every probationary instructor within the jurisdiction of each such superintendent. Each such report shall be signed by at least two administrative officers in the school system immediately superior to the instructor reported on. If he is teaching under a principal, such principal shall be one of the signers of the report. As to instructors whose only immediate superior administrative officer is a County Superintendent, it will be sufficient for such report to be signed only by such superintendent. Copies of each such report shall be delivered prior to said respective dates to the instructor named therein and to the governing board employing him. The governing board, whenever it desires, may file with the Tenure Board reports as to the quality of service of every probationary teacher in its employ. Every such report must be signed by a majority of the members of the governing board making the report. A copy of

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each such report shall be delivered by the governing board to the instructor named in the report within five days after it is filed with the Tenure Board. All reports shall remain on file with the Tenure Board and be open to inspection during office hours by the respective instructors named therein and their respective employing boards. On or before April 1 of each year the school governing board of any city, city and county or district may give written notice to any probationary instructor employed by it and to the Tenure Board that the service of such instructor for the ensuing school year will not be desired. Such notice shall state the grounds upon which the governing board bases its action. Thereupon the Tenure Board shall consider all its records relative to such instructor, and may obtain further written information concerning him. A copy of all written information shall be delivered to the instructor by the Tenure Board. Said Tenure Board may further hear, in the presence of such instructor, any oral information concerning him. Unless, prior to July 1 following, a majority of the Tenure Board concur in writing in dismissal of the probationary instructor, he shall continue to be a probationary instructor of the city, city and county or district employing him, unless he has completed two consecutive years as a probationary instructor with said district, city or city and county, in which case he shall become a permanent instructor thereof. The Tenure Board, however, at the request of the governing board concerned or of the School Superintendent of the city, city and county or county where the instructor is employed, may require the probationary instructor to serve a third probationary year before becoming a permanent instructor. In every such case, such instructor may be dismissed during such third year in the manner hereinbefore provided for. After the completion of his probationary period, no such instructor shall be dismissed except as hereinafter provided for; provided, however, that no such instructor shall acquire hereafter permanent status in two positions as such an instructor. No probationary instructor shall replace another probationary instructor without the consent of the Tenure Board. Every instructor, probationary or otherwise, affected by this section, who on May 1, 1934, was employed as such instructor for ninety per cent of all the school days subsequent to July 1, 1932, in the city, city and county or district wherein he was employed, shall be deemed to have served his probationary period hereunder and to be a permanent instructor for all of the purposes of this section, provided such employment was in one city, city and county or district, during all of said time. Permanent tenure heretofore acquired by any instructor is hereby confirmed.

i. Upon the filing of signed and written charges with a school governing board, charging a permanent instructor under said board with immoral conduct, said board may suspend said instructor, and it shall give immediate written notice to him of such suspension, and written notice that if, within thirty days thereafter, he fails to file with said board a written demand for a hearing on such charges, he thereupon shall be deemed dismissed. A copy of said charges shall accompany said notice. If said instructor fails within said thirty days to file said demand with said board, he thereupon and thereby shall be dismissed. If, within said thirty days, said instructor shall so file such a demand, said board shall cause written notice to be given to him of the time and place of hearing, which shall commence not less than ten or more than thirty days after delivery of said notice. Said board shall employ a competent shorthand reporter who shall make a full and literal record of the proceedings at such hearing, and shall, within ten days after the conclusion thereof, furnish the board and accused one copy each of a transcript of his record, which shall be certified by him to be correct. At the conclusion of such hearing, said board may, by majority vote of its members, dismiss such instructor. No member of said board who has not been present at the whole of said hearing shall vote on such dismissal. Upon such dismissal, the instructor may, within thirty days, file with the Tenure Board a transcript of the proceedings on said hearing, with his written request for a review of the same by the Tenure Board. Unless the Tenure Board, by majority vote, reverse the action of the governing board within thirty days after the filing with the Tenure Board of such transcript and request, such dismissal shall be final.

j. As to all grounds for dismissal other than immorality, charges may not be filed against an instructor with the Tenure Board, as hereinafter provided for, unless, at least sixty days prior thereto, the principal or other administrative officer immediately superior to such instructor give written notice to him of the particulars wherein his work is unsatisfactory and of the steps necessary for improvement. A copy of such notice shall be filed with the governing board. Within ten days from the delivery of such notice to the instructor, he may file a written request with the governing board for a hearing by it, and said board shall grant such hearing within ten days thereafter. Such hearing shall not be deemed formal within the meaning of this section.

k. Upon expiration of sixty days from delivery to the instructor of such notice, the governing board, if any such request for a hearing by said board has been granted, may file with the Tenure Board written charges against the instructor upon any of the grounds for removal in this section specified. In said charges shall be set forth the known address of the instructor or the last address filed by him with said governing board. Thereupon said Tenure Board shall fix a time and place for hearing said charges. Said time shall be within thirty days from the day of receipt of said charges by said Tenure Board, and said place shall be within the city, city and county or district in which is located the school at which the accused instructor teaches. Said Tenure Board shall cause to be delivered, at least ten days before such date of hearing, to the governing board and to the instructor, at the address for him set forth in said charges, written notice of the time and place of such hearing, together with a copy of said charges and of the rules of the Tenure Board and a copy of this section. The hearing shall be held before the Tenure Board, which within ten days thereafter shall by majority vote dismiss or sustain such instructor.

l. Any twenty-five instructors within any city, city and county or school district may file charges with the Tenure Board against any instructor employed within such city, city and county or district. Thereupon such proceedings shall be had by said board as are provided for in the preceding paragraph.

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m. At all hearings upon formal charges before governing boards and the Tenure Board, accused instructor shall have the right to be represented by counsel. The charges against an instructor shall, at the request of the trial board, be presented by the District Attorney, or one of his deputies, of the county in which the instructor teaches, or by any other counsel retained by the governing board. For all purposes of such hearings, the chairman, or acting chairman, of the board hearing the charges may subpoena witnesses, and shall issue all subpoenas requested by the accused instructor or by the board or persons making charges as herein provided for. Disobedience of any such subpoena or refusal to testify thereunder shall be a misdemeanor. All witnesses at every such hearing shall testify under oath or affirmation, and the presiding officer thereat may administer such oath or affirmation. All such witnesses may be subjected to examination and cross-examination, and may be required by the board holding the hearing to produce all pertinent evidence within their control. Refusal to do so or to testify shall be a misdemeanor. No evidence or testimony relating to matters occurring more than three years prior to the commencement of the hearing shall be given or introduced. For every such hearing, the board conducting the same shall employ a competent shorthand reporter, who shall make a complete and literal record of the proceedings thereat. Within ten days after the conclusion of such hearing, such reporter shall furnish to the governing board and to the accused, and to the Tenure Board, if it is holding the hearing, one copy each of a transcript of his record. Every such transcript shall be certified by the reporter to be correct and complete. Every such hearing must be public and conducted with all reasonable diligence. The Tenure Board shall employ a competent medical specialist to examine and report on the accused instructor, whenever the charge against him is that of incompetence due to physical or mental conditions. In no case shall the fee for such a service exceed \$100.00, except by unanimous vote of the Tenure Board.

n. Whenever a notice, demand, request or other paper is required by this section to be delivered, delivery to the chairman or clerk or secretary of a governing board shall constitute delivery to it; and delivery at the office of the Tenure Board shall constitute delivery to it. Mailing by United States registered mail, postage prepaid, to the chairman or clerk of such governing board, at their respective addresses, shall be equivalent to delivery to said board; and such mailing to the Tenure Board, addressed to it at Sacramento, California, shall be equivalent to delivery to it; and such mailing to any instructor at his known address, or at the last address filed by him with the board employing him, shall be equivalent to delivery to him. Deposit in the United States Post Office shall constitute delivery, but whenever mailing is made use of, two days additional shall be allowed for action, pursuant hereto, by the party or board so mailed to. There shall be delivered to every instructor, to whom any paper is delivered pursuant hereto, a copy of this amendment to the constitution.

o. No proceedings shall be had in any court with reference to any matter referred to herein until all methods of redress herein provided for have been exhausted; provided, nevertheless, that every instructor, governing board, and group referred to in paragraph 1, thereafter shall be entitled to maintain, in the Superior Court for the county wherein the instructor under charges is employed, an appropriate action relative to any such matter, and that in any such action both the law and the facts may be presented anew; provided further that every such action must be brought within sixty days after all such other methods of redress have been exhausted.

p. Whenever, because of decrease in the number of pupils or discontinuance of a particular kind of service or lack of funds, it becomes necessary to decrease the number of instructors employed in a city, city and county or school district, the school governing board thereof may, at the close of the current school year, dismiss the requisite number of instructors engaged in the particular type of instruction which is being discontinued. Every such instructor shall be dismissed in the inverse order of his appointment. If the discontinued type of instruction be resumed within two years thereafter, the instructors dismissed shall be entitled to be reemployed in the order of their original employment. In the case of every such dismissal, the governing board shall give the dismissed instructor a statement of honorable dismissal. No change in the name or boundary of any city, city and county or school district, or in the arrangement or grouping of classes, or in the titles of subjects taught shall adversely affect the tenure status, as herein provided for, of any instructor. In order that such tenure status may be maintained, regard must be had only for the substance, and not for the forms, of any altered conditions, to the end that, so long as the duties performed by an instructor remain to be performed, he shall not be deprived, by a later employee, of the right to perform them. If an instructor with permanent tenure be transferred to a position which requires the service of a new probationary period before he will acquire permanent tenure in the new position, such instructor, upon failure to acquire such new permanent tenure, shall have the right to resume his former permanent position.

q. Any instructor employed within the jurisdiction of any City Superintendent of Schools may be transferred by him to any equivalent position within such jurisdiction. Any instructor employed outside such jurisdiction and outside a school district with an average daily attendance of eight hundred fifty pupils or more may be transferred, with his written consent or that of his employing board, by the County Superintendent of Schools to any equivalent position within the county. Every request for a transfer by a county superintendent pursuant hereto must be filed with him before May 15 of the year in which the transfer is desired, unless both the instructor and board waive this requirement. Written notice shall be given to the instructor by the county superintendent of every transfer made by him pursuant hereto, and with said notice shall be sent a copy of this section.

r. Every instructor may in writing resign any position, but any such resignation or waiver must be voluntary.

s. This section is self-operating and it is mandatory upon every public official in the state. Reference in this section to either sex constitutes a reference to both sexes.