

12-20-2013

School Teachers. Performance-Based Layoffs and Rehiring. Dismissals. Initiative Statute.

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December 20, 2013**VIA PERSONAL DELIVERY**

The Honorable Kamala D. Harris
Attorney General
1300 I Street, 17th Floor, P.O. Box 944255
Sacramento, CA 95814

RECEIVED

DEC 20 2013

INITIATIVE COORDINATOR
ATTORNEY GENERAL'S OFFICE

Attention: Ashley Johansson, Initiative Coordinator

Re: Request for Title and Summary for Proposed Initiative Statute

Dear Ms. Harris:

Pursuant to Article II, Section 10(d) of the California Constitution, I hereby submit the attached proposed Initiative Statute, entitled the "High Quality Teachers Act of 2014," to your office and request that you prepare a title and summary of the measure as provided by law. Included with this submission is the required proponent affidavit signed by the proponent of this measure pursuant to Section 9608 of the California Elections Code. My address as a registered voter is attached to this letter, along with a check for \$200.00.

All inquires or correspondence relative to this initiative should be directed to Nielsen, Merksamer, Parrinello, Gross & Leoni, LLP, 1415 L Street, Suite 1200, Sacramento, CA 95814, (916) 446-6752, Attention: Kurt Oneto (telephone: 916/446-6752).

Thank you for your assistance.

Sincerely,



Matt David, Proponent

Enclosure: Proposed Initiative Statute

[Deleted statutory text is denoted in ~~strikeout~~. Added statutory text is denoted by *italics and underline*.]

Section 1. Title.

This Act shall be known and may be cited as the High Quality Teachers Act of 2014.

Section 2. Findings and Declarations.

The People of the State of California find and declare as follows:

(a) All California children deserve access to a high quality education.

(b) A high quality education begins with making sure our children have a high quality teacher in every classroom. Students of high quality teachers are more likely to go to college, earn higher salaries, and have lower rates of teen pregnancies. However, California currently ranks near the bottom among states when it comes to identifying, retaining, and promoting high quality teachers.

(c) For too long, California has gone backwards when it comes to providing a high quality education to our children—the state’s dropout rate is one of the highest in the country, our K-12 schools badly underperform in terms of student achievement, and California’s low-income and minority children are disproportionately impacted by the decline in California’s public education system.

(d) Today, there are plenty of high quality teachers available, but local school districts are not able to make sure all of our children have access to a high quality teacher because local districts are currently forced to retain teachers based on how long they have been on the job rather than based on whether or not a teacher is doing a good job of teaching in the classroom.

(e) California is just one of eleven states that bases teacher layoff and reappointment decisions primarily on how long someone has been teaching, which led to a finding by the nonpartisan, independent Legislative Analyst’s Office (LAO) that such a system can lead to a “*lower quality of the overall teacher workforce*.” (LAO, “*A Review of the Teacher Layoff Process in California*,” Mar. 2012, p. 17.) California needs

to follow the lead of states like Massachusetts, Florida, Tennessee, and several others and put in place a system which identifies and retains teachers based mainly on an objective, comprehensive, and fair review of whether the teacher is doing a good job of teaching children in the classroom.

(f) Teachers are more than just educators. They are role models that children look to for examples of civic and moral standards. At six to eight hours a day, five days per week, a teacher is poised to become the most influential person in a child's life after his or her parents. Much of what a high quality teacher "teaches" is not detailed on a syllabus. As positive role models, high quality teachers also set good examples inside and outside the classroom of how young people should strive to be law-abiding individuals and develop good character, integrity, responsibility, respect for others, honesty, and trustworthiness. As future leaders of our communities, our state, and our nation, it is imperative that our children have role models who conduct themselves appropriately both inside and outside the classroom. It is a self-evident truth that teachers convicted of violent, serious, or sexual crimes cannot be high quality teachers because they have fundamentally and irrevocably failed in their duty to act as good role models for our children and therefore must be immediately and permanently dismissed.

(g) A safe learning environment is guaranteed by our State Constitution, which declares that every person, including our children, has a constitutional right to be safe and secure in our public and private schools. (California Constitution, article I, section 28(a)(7).) Teachers convicted of a violent, serious, or sexual crime cannot be high quality teachers because they undermine our children's constitutional right to a safe learning environment. A teacher who threatens the constitutional rights of our children, or who creates an environment where parents reasonably worry about the criminal background of their child's teacher, does not possess the character and trustworthiness necessary to qualify as a high quality teacher.

Section 3. Statement of Purpose.

The purpose of this measure is to provide every child in California with a high quality teacher so that they can reach their full potential regardless of economic or ethnic background.

Section 4. Section 44955 of the Education Code is amended to read:

44955. (a) No permanent employee shall be deprived of his or her position for causes other than those specified in Sections 44907 and 44923 and Article 3.1, and Sections 44932 to 44947, inclusive, and no probationary employee shall be deprived of his or her position for cause other than as specified in Article 3.1 and Sections 44948 to 44949, inclusive.

(b)(1) Whenever in any school year the average daily attendance in all of the schools of a district for the first six months in which school is in session shall have declined below the corresponding period of either of the previous two school years, whenever the governing board determines that attendance in a district will decline in the following year as a result of the termination of an interdistrict tuition agreement as defined in Section 46304, whenever a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year, or whenever the amendment of state law requires the modification of curriculum, and when in the opinion of the governing board of the district it shall have become necessary by reason of any of these conditions to decrease the number of permanent employees in the district, the governing board may terminate the services of not more than a corresponding percentage of the certificated employees of the district, permanent as well as probationary, at the close of the school year. ~~Except as otherwise provided by statute, the services of no permanent employee may be terminated under the provisions of this section while any probationary employee, or any other employee with less seniority, is retained to render a service which said permanent employee is certificated and competent to render.~~

(2) In computing a decline in average daily attendance for purposes of this section for a newly formed or reorganized school district, each school of the district shall be deemed to have been a school of the newly formed or reorganized district for both of the two previous school years.

~~As between employees who first rendered paid service to the district on the same date, the governing board shall determine the order of termination solely on the basis of needs of the district and the students thereof. Upon the request of any employee whose~~

order of termination is so determined, the governing board shall furnish in writing no later than five days prior to the commencement of the hearing held in accordance with Section 44949, a statement of the specific criteria used in determining the order of termination and the application of the criteria in ranking each employee relative to the other employees in the group. This requirement that the governing board provide, on request, a written statement of reasons for determining the order of termination shall not be interpreted to give affected employees any legal right or interest that would not exist without such a requirement.

(3)(A) When terminating the services of a certificated employee or employees pursuant to paragraph (1) who are assigned to positions as classroom teachers, the order in which certificated employees shall be terminated shall be based on performance.

(B) For purposes of this paragraph, performance shall be judged primarily upon the evaluation and assessment of each certificated employee conducted pursuant to Article 11 (Section 44660 to Section 44665) of Chapter 3 of this Part. Performance evaluation and assessment ratings shall be averaged based on the three most recent years of performance evaluation and assessment data. In the event that three years of performance evaluation and assessment data does not exist for an employee, the performance evaluation and assessment rating shall be averaged based on the two most recent years of performance evaluation and assessment data. In the event that two years of performance evaluation and assessment data does not exist for an employee, the performance evaluation and assessment rating shall be based on the most recent performance evaluation and assessment data.

(C) Under no circumstances shall a certificated employee with a higher performance evaluation and assessment rating be terminated before a certificated employee with a lower performance evaluation and assessment rating.

(D)(i) When two or more certificated employees assigned to positions as classroom teachers receive identical performance evaluation and assessment rating scores pursuant to Article 11 (Section 44660 to Section 44665) of Chapter 3 of this Part, then the order of termination shall be based on the specific needs of the schools within

the school district and the students thereof. When required to choose pursuant to this clause between two or more employees receiving identical performance evaluation and assessment rating scores, the governing board shall identify the specific needs of the schools within the school district or the students thereof that justify the order of termination, which shall be provided in writing to the affected employees.

(ii) When two or more certificated employees assigned to positions as classroom teachers receive identical performance evaluation and assessment rating scores pursuant to Article 11 (Section 44660 to Section 44665) of Chapter 3 of this Part and are not distinguishable on the basis of the specific needs of the schools within the school district or the students thereof, then the order of termination shall be based on seniority, with an employee with less seniority being terminated before an employee with more seniority. When required to choose pursuant to this clause between two or more employees receiving identical performance evaluation and assessment rating scores on the basis of seniority, the governing board shall provide an explanation of why the employees were not distinguishable on the basis of the specific needs of the schools within the school district or the students thereof, which shall be provided in writing to the affected employees. The governing board shall develop guidelines to govern situations involving employees who first rendered paid service to the district on the same date and thus have equal seniority.

(iii) The use of seniority pursuant to this subparagraph shall represent the sole and exclusive exception to subdivision (d).

~~(c)(1) Notice of such termination of services shall be given before the 15th of May in the manner prescribed in Section 44949, and services of such employees shall be terminated in the inverse of the order in which they were employed, as determined by the board in accordance with the provisions of Sections 44844 and 44845. In the event that a permanent or probationary employee is not given the notices and a right to a hearing as provided for in Section 44949, he or she shall be deemed reemployed for the ensuing school year.~~

(2) The governing board shall make assignments and reassignments in such a manner that employees shall be retained to render any service which their seniority and

qualifications entitle them to render. However, prior to assigning or reassigning any certificated employee to teach a subject which he or she has not previously taught, and for which he or she does not have a teaching credential or which is not within the employee's major area of postsecondary study or the equivalent thereof, the governing board shall require the employee to pass a subject matter competency test in the appropriate subject.

~~(d) Notwithstanding subdivision (b), a school district may deviate from terminating a certificated employee in order of seniority for either of the following reasons:~~

~~(1) The district demonstrates a specific need for personnel to teach a specific course or course of study, or to provide services authorized by a services credential with a specialization in either pupil personnel services or health for a school nurse, and that the certificated employee has special training and experience necessary to teach that course or course of study or to provide those services, which others with more seniority do not possess.~~

~~(2) For purposes of maintaining or achieving compliance with constitutional requirements related to equal protection of the laws.~~

(d) Notwithstanding any other statute, regulation, or other law to the contrary, except as provided in subparagraph (D) of paragraph (3) of subdivision (b), no school district, school district governing board, school district superintendent, county superintendent of schools, county office of education, or any other state or local government body or official shall use seniority as a factor, whether directly or indirectly, in any decision to terminate the services of a certificated employee assigned to a position as a classroom teacher.

(e) If paragraph (3) of subdivision (b) or subdivision (d) is in conflict with a memorandum of understanding or collective bargaining agreement that is current and in effect on the effective date of the act adding this subdivision, the memorandum of understanding or collective bargaining agreement shall be controlling while it remains in effect. Upon the expiration of the memorandum of understanding or

collective bargaining agreement that is current and in effect on the effective date of the act adding this subdivision, paragraph (3) of subdivision (b) and subdivision (d) shall be controlling and may not be superseded by a subsequent memorandum of understanding or collective bargaining agreement.

(f) On or after December 20, 2013, no school district, school district governing board, school district superintendent, county superintendent of schools, county office of education, or any other state or local government body or official shall enter into a new memorandum of understanding or collective bargaining agreement, or renew an expired or expiring memorandum of understanding or collective bargaining agreement, that is inconsistent with either paragraph (3) of subdivision (b) or subdivision (d).

Section 5. Section 44956.1 is added to the Education Code to read:

44956.1. (a) Any certificated employee assigned to a position as a classroom teacher whose services have been terminated as provided in Section 44955 shall have the following rights:

(1)(A) For the period of 39 months from the date of such termination, any employee who in the meantime has not attained the age of 65 years shall have the preferred right to reappointment based on performance, if the number of employees is increased or the discontinued service is reestablished, with no requirements that were not imposed upon other employees who continued in service. However, prior to reappointing any employee to teach a subject which he or she has not previously taught, and for which he or she does not have a teaching credential or which is not within the employee's major area of postsecondary study or the equivalent thereof, the governing board shall require the employee to pass a subject matter competency test in the appropriate subject.

(B) For purposes of this paragraph, performance shall be judged primarily upon the evaluation and assessment of each certificated employee conducted pursuant to Article 11 (Section 44660 to Section 44665) of Chapter 3 of this Part. Performance evaluation and assessment ratings shall be averaged based on the three most recent

years of performance evaluation and assessment data. In the event that three years of performance evaluation and assessment data does not exist for an employee, the performance evaluation and assessment rating shall be averaged based on the two most recent years of performance evaluation and assessment data. In the event that two years of performance evaluation and assessment data does not exist for an employee, the performance evaluation and assessment rating shall be based on the most recent performance evaluation and assessment data.

(C) Under no circumstances shall an employee with a lower performance evaluation and assessment rating be reappointed before an employee with a higher performance evaluation and assessment rating.

(D)(i) When two or more certificated employees assigned to positions as classroom teachers receive identical performance evaluation and assessment rating scores pursuant to Article 11 (Section 44660 to Section 44665) of Chapter 3 of this Part, then the order of reappointment shall be based on the specific needs of the schools within the school district and the students thereof. When required to choose pursuant to this clause between two or more employees receiving identical performance evaluation and assessment rating scores, the governing board shall identify the specific needs of the schools within the school district or the students thereof that justify the order of reappointment, which shall be provided in writing to the affected employees.

(ii) When two or more certificated employees assigned to positions as classroom teachers receive identical performance evaluation and assessment rating scores pursuant to Article 11 (Section 44660 to Section 44665) of Chapter 3 of this Part and are not distinguishable on the basis of the specific needs of the schools within the school district or the students thereof, then the order of reappointment shall be based on seniority, with an employee with more seniority being reappointed before an employee with less seniority. When required to choose pursuant to this clause between two or more employees receiving identical performance evaluation and assessment rating scores on the basis of seniority, the governing board shall provide an explanation of why the employees were not distinguishable on the basis of the specific needs of the

schools within the school district or the students thereof, which shall be provided in writing to the affected employees. The governing board shall develop guidelines to govern situations involving employees who first rendered paid service to the district on the same date and thus have equal seniority.

(iii) The use of seniority pursuant to this subparagraph shall represent the sole and exclusive exception to subdivision (b).

(2) The aforesaid right to reappointment may be waived by the employee, without prejudice, for not more than one school year, unless the board extends this right, but such waiver shall not deprive the employee of his or her right to subsequent offers of reappointment.

(3) As to any such employee who is reappointed, the period of his or her absence shall be treated as a leave of absence and shall not be considered as a break in the continuity of his or her service, he or she shall retain the classification and order of employment he or she had when his or her services were terminated, and credit for prior service under any state or district retirement system shall not be affected by such termination, but the period of his or her absence shall not count as a part of the service required for retirement.

(4) During the period of his or her preferred right to reappointment, any such employee shall, in accordance with the provisions of this subdivision, be offered prior opportunity for substitute service during the absence of any other employee who has been granted a leave of absence or who is temporarily absent from duty; provided, that his or her services may be terminated upon the return to duty of said other employee and that said substitute service shall not affect the retention of his or her previous classification and rights. If, in any school year the employee serves as a substitute in any position requiring certification for any 21 days or more within a period of 60 schooldays, the compensation the employee receives for substitute service in that 60-day period, including his or her first 20 days of substitute service, shall be not less than the amount the employee would receive if he or she were being reappointed.

(5)(A) During the period of the employee's preferred right to reappointment, the governing board of the district, if it is also the governing board of one or more other districts, may assign him or her to service, which he or she is certificated and competent to render, in said other district or districts; provided, that the compensation he or she receives therefor may in the discretion of the governing board be the same as he or she would have received had he or she been serving in the district from which his or her services were terminated, that his or her service in the said other district or districts shall be counted toward the period required for both state and local retirement, as defined by Section 22102, as though rendered in the district from which his or her services were terminated, and that no permanent employee in said other district or districts shall be displaced by him or her.

(B) It is the intent of this paragraph that the employees of a school district, the governing board of which is also the governing board of one or more other school districts, shall not be at a disadvantage as compared with employees of a unified school district.

(6) At any time prior to the completion of one year after his or her return to service, he or she may continue or make up, with interest, his or her own contributions to any state or district retirement system, for the period of his or her absence, but it shall not be obligatory on state or district to match such contributions.

(7) Should he or she become disabled or reach retirement age at any time before his or her return to service, he or she shall receive, in any state or district retirement system of which he or she was a member, all benefits to which he or she would have been entitled had such event occurred at the time of his or her termination of service, plus any benefits he or she may have qualified for thereafter, as though still employed.

(b) Notwithstanding any other statute, regulation, or other law to the contrary, except as provided in subparagraph (D) of paragraph (1) of subdivision (a), no school district, school district governing board, school district superintendent, county superintendent of schools, county office of education, or any other state or local government body or official shall use seniority as a factor, whether directly or

indirectly, in any decision to reappoint a certificated employee assigned to a position as a classroom teacher.

(c) If paragraph (1) of subdivision (a) or subdivision (b) is in conflict with a memorandum of understanding or collective bargaining agreement that is current and in effect on the effective date of the act adding this subdivision, the memorandum of understanding or collective bargaining agreement shall be controlling while it remains in effect. Upon the expiration of the memorandum of understanding or collective bargaining agreement that is current and in effect on the effective date of the act adding this subdivision, paragraph (1) of subdivision (a) and subdivision (b) shall be controlling and may not be superseded by a subsequent memorandum of understanding or collective bargaining agreement.

(d) On or after December 20, 2013, no school district, school district governing board, school district superintendent, county superintendent of schools, county office of education, or any other state or local government body or official shall enter into a new memorandum of understanding or collective bargaining agreement, or renew an expired or expiring memorandum of understanding or collective bargaining agreement, that is inconsistent with either paragraph (1) of subdivision (a) or subdivision (b).

(e) This section supersedes, and shall be controlling over, Section 44956 with respect to the reappointment of certificated employees assigned to positions as classroom teachers.

Section 6. Section 44662 of the Education Code is amended to read:

44662. (a)(1) The governing board of each school district shall establish standards of expected pupil achievement at each grade level in each area of study.

(2) The governing board of each school district shall evaluate and assess certificated employee performance as it reasonably relates to the progress of pupils toward the standards established pursuant to paragraph (1) and, if applicable, the state adopted academic content standards as measured by state-adopted criterion-referenced assessments.

(b) For certificated employees assigned to positions as classroom teachers, the governing board of each school district shall annually evaluate and assess the performance of each certificated employee performance as it reasonably relates to using multiple measurements of performance, including, but not limited to, the following minimum criteria:

~~(1)(A) The progress of pupils toward the standards established pursuant to subdivision (a) and, if applicable, the state-adopted academic content standards as measured by state-adopted criterion-referenced assessments. The progress of pupils assigned to the teacher's classroom towards the standards established pursuant to paragraph (1) of subdivision (a), and if applicable, the state-adopted academic standards, as measured by state-adopted criterion-referenced assessments; or for subjects and grade levels not measured by statewide assessments, by district-wide measures of student learning that provide reliable, valid, and comparable data across grades and subjects established by the school district or the state and approved by the Department of Education. School districts may choose to measure the progress of pupils by utilizing student progress data from multiple assessments approved by the state.~~

(B) For purposes of this paragraph, the "progress of pupils" means the change in academic achievement for individual students between two or more points in time.

~~(2) The instructional techniques and strategies used by the employee. Measures of classroom practice, including but not limited to, multiple announced and unannounced classroom observations of sufficient length to analyze the lesson and evaluate teacher performance. Multiple individuals, which may include, but shall not be limited to, principals, trained evaluators, and peers shall conduct classroom observations for each teacher.~~

~~(3) The employee's adherence to curricular objectives. For grades 9 through 12, student feedback collected by the school district.~~

~~(4) The establishment and maintenance of a suitable learning environment, within the scope of the employee's responsibilities. Parent input and feedback.~~

(c) The governing board of each school district shall establish and define job responsibilities for certificated noninstructional personnel, including, but not limited to, supervisory and administrative personnel, whose responsibilities cannot be evaluated appropriately under the provisions of subdivision (b) and shall evaluate and assess the performance of those noninstructional certificated employees as it reasonably relates to the fulfillment of those responsibilities.

(d) Results of an employee's participation in the Peer Assistance and Review Program for Teachers established by Article 4.5 (commencing with Section 44500) shall be made available as part of the evaluation and assessment conducted pursuant to this section, as applicable.

(e) The evaluation and assessment of the performance of certificated employees ~~employee performanee~~ pursuant to this section shall not include the use of publishers' norms established by standardized tests.

(f) Nothing in this section shall be construed as in any way limiting the authority of school district governing boards to develop and adopt additional evaluation and assessment guidelines or criteria.

(g) At least four rating levels shall be used in evaluating and assessing the performance of certificated employees pursuant to this section who are assigned to positions as classroom teachers. Rating level names shall be determined locally by each school district. At least one-third of the performance evaluation and assessment rating of a certificated employee assigned to a position as a classroom teacher shall be based on paragraph (1) of subdivision (b).

Section 7. Section 44662.5 is added to the Education Code to read:

44662.5 The evaluation and assessment of a certificated employee assigned to a position as a classroom teacher conducted pursuant to Section 44662 shall incorporate, but not necessarily be limited to, the following standards:

(a) Progress of pupils: whether students assigned to the teacher demonstrate progress as measured by paragraph (1) of subdivision (b) of Section 44662.

(b) Teaches all students: whether the teacher promotes the learning and growth of all students through instructional practices that establish high expectations and create a safe and effective classroom environment.

(c) Curriculum and planning: whether the teacher promotes the learning and growth of all students by providing high quality and coherent instruction, designing and administering authentic and meaningful student assessments, analyzing student performance and growth data, using this data to improve instruction, providing students with constructive feedback on an on-going basis, and continuously refining learning objectives.

(d) Professional culture: whether the teacher promotes the learning and growth of all students through ethical, skilled, and collaborative practice.

(e) Family and community engagement: whether the teacher promotes the learning and growth of all students through effective partnerships with families, caregivers, community members, and organizations.

(f) Fitness to interact with students: whether the teacher has ever been convicted of a felony criminal offense that could raise reasonable doubts about the teacher's fitness to interact with, and be a role model for, students.

Section 8. Section 44664.5 is added to the Education Code to read:

44664.5. (a)(1) Evaluation and assessment of the performance of each certificated employee assigned to a position as a classroom teacher shall be made on an annual basis.

(2)(A) Notwithstanding subdivision (b) of Section 44662 and Section 44662.5, school districts may, upon approval of the Department of Education, utilize a limited performance evaluation and assessment for a certificated employee assigned to a position as a classroom teacher who, on each of the three most recent performance evaluation and assessments, is rated in either of the top two rating levels pursuant to subdivision (g) of Section 44662. A limited performance evaluation and assessment

may include fewer measurements of performance but must include the progress of pupils as measured pursuant to paragraph (1) of subdivision (b) of Section 44662.

(B) Notwithstanding paragraph (1) of this subdivision and subdivision (b) of Section 44662, school districts may, upon the approval of the Department of Education, evaluate and assess the performance of a certificated employee assigned to a position as a classroom teacher less than annually if, on each of the three most recent performance evaluation and assessments, the teacher is rated in either of the top two rating levels pursuant to subdivision (g) of Section 44662. However, a certificated employee assigned to a position as a classroom teacher shall never go longer than three years without receiving a performance evaluation and assessment pursuant to this article.

(b)(1) At the beginning of each performance evaluation and assessment period, a professional growth plan shall be developed collaboratively by each certificated employee assigned to a position as a classroom teacher and his or her evaluator or evaluators.

(2) Professional growth plans shall be designed to assist each employee in all of the following areas: achieving high standards for effectiveness; effectively addressing the social, developmental, and emotional needs of students; and maintaining a classroom environment that is conducive to learning. Each plan shall include a statement of the professional development objectives of the employee as well as the strategies the employee intends to utilize toward the attainment of each objective.

(3) Performance evaluation and assessment results shall be used to provide high-quality, job-embedded, and ongoing mentoring, supports, and professional development for each certificated employee assigned to a position as a classroom teacher, as appropriate. The ongoing mentoring, supports, and professional development shall be aligned to the needs of the teacher as identified in his or her performance evaluation and assessment conducted pursuant to this article.

(c) Any evaluation and assessment conducted pursuant to this article which contains an unsatisfactory rating of an employee's performance in the area of

progress of pupils, teaches all students, curriculum and planning, professional culture, family and community engagement, or fitness to interact with students, as provided in Section 44662.5, may include the requirement that the certificated employee shall, as determined necessary by the employing authority, participate in a program designed to improve appropriate areas of the employee's performance and to further the progress of pupils, a safe learning environment, and the instructional objectives of the employing authority. If a district participates in the Peer Assistance and Review Program for Teachers established pursuant to Article 4.5 (commencing with Section 44500), any certificated employee who receives an unsatisfactory rating on an evaluation and assessment conducted pursuant to this article shall participate in the Peer Assistance and Review Program for Teachers.

(e) This section supersedes, and shall be controlling over, Section 44664 with respect to the evaluation and assessment of certificated employees assigned to positions as classroom teachers.

Section 9. Article 3.1 (commencing with Section 44990) is added to Chapter 4 of Part 25 of Division 3 of Title 2 of the Education Code to read:

Article 3.1
Teachers convicted of violent, serious, or sexual crimes

44990. Acting through the legislative power reserved to them by Section 8 of Article II of the California Constitution, the People of the State of California find as follows:

(a) As defined in this article, a violent, serious, or sexual crime includes only the most brutal, heinous, repulsive, depraved, and disgusting crimes.

(b) Regardless of any other measurement of performance, a teacher who has been convicted of a violent, serious, or sexual crime cannot be a high quality teacher because he or she has failed in his or her duty to act as a good role model for students, and threatens the constitutional right to a safe learning environment guaranteed to every person in this state.

(c) It is a self-evident truth that conviction of a violent, serious, or sexual crime is fundamentally incompatible with the standards California has adopted for high

quality teachers because it irrevocably proves that the person lacks the appropriate character, integrity, and trustworthiness that are required to be a high quality teacher.

(d) Therefore, if any teacher is convicted of a violent, serious, or sexual crime on or after the effective date of the act adding this article, that teacher shall be dismissed from employment pursuant to this article.

(e) In addition to automatic dismissal for conviction of a violent, serious, or sexual crime, school districts should be entitled to take into account other felony convictions when evaluating and assessing teachers pursuant to Article 11 (Section 44660 to Section 44665) of Chapter 3 of this Part.

44991. (a)(1) Notwithstanding any other statute, regulation, or other law to the contrary, any teacher convicted of a violent, serious, or sexual crime on or after the effective date of the act adding this article is hereby and shall be automatically, immediately, and permanently dismissed from employment as of the date of entry of judgment in the proceedings resulting in the conviction, and shall be forever prohibited from holding any teaching position whatsoever at any primary, elementary, secondary, or post-secondary school in this state. All teaching certificates, credentials, licenses, or related privileges of any such person shall be permanently suspended and revoked.

(2) A plea or verdict of guilty, a finding of guilt by a court in a trial without a jury, or a conviction following a plea of nolo contendere shall be deemed to be a conviction within the meaning of this section and this article.

(b) This section is self-executing and no suspension or dismissal hearings or proceedings or other actions or events are required to effectuate the automatic, immediate, and permanent dismissal of the teacher. This section shall serve as notice of dismissal to any teacher convicted of a violent, serious, or sexual crime on or after the effective date of the act adding this article and no additional notice shall be required.

(c) For purposes of this article, "teacher" means any certificated person (as defined in Section 44006) employed as a teacher, any educator (as defined in Section 44013) employed as a teacher, and any other employee assigned to a position as a classroom teacher, whether permanent or probationary.

44992. For purposes of this article, "violent, serious, or sexual crime" shall include all of the following:

(a) Any violent felony listed in subdivision (c) of Section 667.5 of the Penal Code.

(b) Any serious felony listed in subdivision (c) of Section 1192.7 of the Penal Code.

(c) Any criminal offense which, if convicted of such offense, would require registration under Section 290 of the Penal Code, as set forth in the Sex Offender Registration Act.

(d) Any criminal offense under the laws of another state or the United States which, if attempted or committed in the State of California, would qualify as a violent felony under subdivision (c) of Section 667.5 of the Penal Code or as a serious felony under subdivision (c) of Section 1192.7 of the Penal Code, or would otherwise require registration under Section 290 of the Penal Code.

44993. (a) Notwithstanding Section 44991 and Section 44994, if any conviction for a violent, serious, or sexual crime is later overturned by a court of competent jurisdiction, the former or would-be teacher may petition the governing body of the school district and the appropriate credentialing or licensing body for reinstatement.

(b) A subsequent dismissal of an accusation or information underlying a conviction or a subsequent decision of a court to permit a post-conviction withdrawal of a plea of guilty or nolo contendere and the entry of a plea of not guilty shall have no effect on the permanent prohibition on any person convicted of a violent, serious, or sexual crime from holding any teaching position whatsoever at any primary, elementary, secondary, or post-secondary school in this state.

44994. (a) Any person convicted of a violent, serious, or sexual crime on or after the effective date of the act adding this article who is certificated, licensed, credentialed, or otherwise qualified to teach at a primary, elementary, secondary, or post-secondary school in this state but not employed as a teacher as of the date of conviction shall be forever prohibited from holding any teaching position whatsoever at any primary, elementary, secondary, or post-secondary school in this state. All teaching certificates, credentials, licenses, or related privileges of any such person shall be permanently suspended and revoked.

(b) Any person convicted of a violent, serious, or sexual crime on or after the effective date of the act adding this article who is not a teacher, or who is not certificated, licensed, credentialed, or otherwise qualified to teach at a primary, elementary, secondary, or post-secondary school in this state, shall be forever prohibited from holding any teaching position whatsoever at any primary, elementary, secondary, or post-secondary school in this state, and shall be permanently ineligible to hold any teaching certificates, credentials, licenses, or related privileges.

(c) The provisions of Section 44993 shall apply to persons identified in subdivision (a) and subdivision (b) of this section.

44995. (a) This article supersedes, and shall be controlling over, any other statute, regulation, or other law which establishes different methods, standards, or procedures for either of the following:

(1) Dismissing teachers who are convicted of a violent, serious, or sexual crime on or after the effective date of the act adding this article.

(2) Barring other persons who are convicted of a violent, serious, or sexual crime on or after the effective date of the act adding this article from holding teaching positions or privileges in this state.

(b) If this article is in conflict with a memorandum of understanding or collective bargaining agreement that is current and in effect on the effective date of the act adding this article, the memorandum of understanding or collective bargaining

agreement shall be controlling while it remains in effect. Upon the expiration of the memorandum of understanding or collective bargaining agreement that is current and in effect on the effective date of the act adding this article, this article shall be controlling and may not be superseded by a subsequent memorandum of understanding or collective bargaining agreement.

(c) On or after December 20, 2013, no school district, school district governing board, school district superintendent, county superintendent of schools, county office of education, or any other state or local government body or official shall enter into a new memorandum of understanding or collective bargaining agreement, or renew an expired or expiring memorandum of understanding or collective bargaining agreement, that is inconsistent with this article.

Section 10. Liberal Construction.

This act shall be liberally construed in order to effectuate its purposes.

Section 11. Conflicting Provisions in Other Measures.

(a) In the event that this measure and another measure(s) which contains a provision or provisions addressing the criteria upon which teacher retentions and terminations are based shall appear on the same statewide election ballot, the provisions of the other measure(s) addressing the criteria upon which teacher retentions and terminations are based shall be deemed to be in conflict with this measure.

(b) In the event that this measure receives a greater number of affirmative votes, the provisions of this measure shall prevail in their entirety and the provisions of the other measure(s) addressing the criteria upon which teacher retentions and terminations are based shall be null and void.

Section 12. Severability.

The provisions of this Act are severable. If any section, subdivision, paragraph, clause, sentence, phrase, word, or other portion of this Act is for any reason held to be invalid by a decision of any court of competent jurisdiction, that decision shall not affect the validity of the remaining portions of this Act. The People of the State of California

hereby declare that they would have adopted this Act and each and every section, subdivision, paragraph, clause, sentence, phrase, and word not declared invalid or unconstitutional without regard to whether any portion of this Act would be subsequently declared invalid.

Section 13. Amendments.

(a) Except as provided in subdivision (b), the Legislature may amend this Act by a statute passed in each house of the Legislature by rollcall vote entered into the journal, four-fifths of the membership concurring, provided that the statute is consistent with, and furthers the purpose of, this Act. Any bill seeking to amend this Act must remain in print in its final form for at least 12 days prior to its passage in either house of the Legislature.

(b) Subdivision (b) and subdivision (d) of Section 44955 of the Education Code, as set forth in Section 4 of this Act, and paragraph (1) of subdivision (a) and subdivision (b) of Section 44956.1 of the Education Code, as set forth in Section 5 of this Act, may only be amended by a statute that becomes effective upon the approval of the voters of the State of California.

Section 14. Legal Defense.

If this Act is approved by the voters of the State of California and thereafter subjected to a legal challenge alleging a violation of federal law, and both the Governor and Attorney General refuse to defend this Act, then the following actions shall be taken:

(a) Notwithstanding anything to the contrary contained in Chapter 6 of Part 2 of Division 3 of Title 2 of the Government Code or any other law, the Attorney General shall appoint independent counsel to faithfully defend this Act on behalf of the State of California.

(b) A continuous appropriation is hereby made from the General Fund to the Controller, without regard to fiscal years, in an amount necessary to cover the costs of

retaining independent counsel to faithfully defend this Act on behalf of the State of California.