

Date of Hearing: April 28, 2015

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 1066 (Gonzalez) – As Amended April 6, 2015

**[Note: This bill is doubled referred. On April 8, 2015, this bill was approved by a vote of 6-0 in the Assembly Committee on Public Employees, Retirement and Social Security.]**

**SUBJECT:** Classified employees: nonemployee contractors: limited-term, short-term, and substitute employees

**SUMMARY:** Clarifies provisions governing the use of nonemployee contractors and limited-term, short-term, and substitute employees in the classified service to ensure that school districts and community college districts are appropriately placing non-academic employees, unless specifically exempted, in the classified service. Specifically, **this bill:**

- 1) Specifies that school districts and community college districts have a mandatory duty to classify all of their non-academic employees and positions.
- 2) Clarifies that substitute employees exempted from classified service because they are employed and paid for less than 75% of a school or college year means a single school or college year.
- 3) Defines "75% of a single school or college year" to mean 195 working days of a single school or college year, including holidays, sick leave, vacation, and other leaves of absence, irrespective of the number of hours worked per day.
- 4) Prohibits a short-term employee exempted from classified service from being employed in subsequent school years to perform the same services.
- 5) Clarifies that the use of a nonemployee contractor for personal services contracting is limited to 60 working days of a single school or college year.
- 6) Specifies that an employee of a school district or community college district, or their exclusive representative, may bring an action to challenge the classification of an employee or positions or to compel a position to be classified pursuant to these provisions.
- 7) Provides for reimbursement if the Commission on State Mandates determines the bill contains state mandated local costs.

**EXISTING LAW:**

- 1) Authorizes community college districts (CCDs) to employ non-academic employees, and requires those employees to be placed in the classified service, as specified.
- 2) Prohibits, generally, the following from being part of the classified service:

- a) Substitute and short-term employees employed and paid for less than 75% of a school year.
  - b) Apprentices and professional experts, as specified.
  - c) Full-time and part-time students employed part-time in a college work-study or work experience program, as specified.
  - d) Part-time playground positions where the employee is not otherwise employed in a classified position.
- 3) Restricts personal services contracting for all services currently or customarily performed by classified school employees for the purpose of achieving cost savings, permitting so only if specified conditions are met.

**FISCAL EFFECT:** Unknown

**COMMENTS:** *Purpose of this bill.* According to the author, over 30 years ago, the Legislature decreed that the non-academic employees of CCDs and school districts must be included in the classified service. Inclusion in a district's classified service confers important statutory rights and benefits to employees, such as a process for obtaining permanent status, due process rights, fixed and delineated work duties, vacation days, holidays and other benefits.

The author argues these rights are being eroded by CCDs and school districts that are wrongfully excluding longstanding, regular employees from the classified service by relying on narrow exceptions that were intended only for legitimate short-term, limited and temporary employees.

The author contends that this bill will prevent wrongful exclusions by clarifying existing language that allows only narrow and limited exceptions from classified service for legitimate student, short-term, limited and emergency employees.

*Arguments in support.* The California Federation of Teachers (CFT) is the sponsor of this bill. CFT points to Milagros Hilario, who has worked for 10 years as a "temporary" hourly employee as a Food Service worker in a college cafeteria in San Diego, as an example of the need for this bill. According to CFT, "Milagros performs the exact same job duties and has the exact same qualifications as her colleagues in the cafeteria. The cafeteria is open year-round whenever classes are in session. The District has denied Milagros the ability to be placed in the classified services and because of that she does not earn sick leave, vacation time, holiday pay, and has no pension." CFT argues this bill will prohibit CCDs from excluding Milagros and similar employees from classified service by strengthening the exemptions to ensure they apply only to legitimate student, short-term, limited and emergency employees.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

California Federation of Teachers  
California Labor Federation

San Diego County Office of Education  
SEIU California

**Opposition**

None on File

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