

Date of Hearing: April 19, 2022

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 2045 (Jones-Sawyer) – As Amended April 5, 2022

**SUBJECT:** School district, county office of education, and community college district employees: personnel commissions: ranked groups

**SUMMARY:** Establishes, for school districts and community college districts, eligibility lists in ranked groups for the purpose of filling vacancies in the classified service, among other provisions. Specifically, **this bill:**

- 1) Establishes that upon approval of a personnel commission action, the district and county office of education classified employees must hold an election to determine by majority vote if applicants must be placed on eligibility lists in ranked groups according to their relative merit as determined by competitive examination, as specified, in lieu of the individual ranking system currently prescribed in existing law.
- 2) Specifies that the personnel commission must provide public notice of the election to the classified employees, governing board, exclusive representatives of the classified employees, and general public. This public notice will indicate the time, date, and place classified employees may submit a ballot to determine whether or not the district must adopt the procedures as specified. The election will be conducted in a manner that provides adequate and ample opportunity for all classified personnel to participate.
- 3) Details the personnel commission ballot language, as specified.
- 4) Prescribes a fixed schedule of ranges for purposes of eligibility in which passing candidates' final examination scores must be rounded to the nearest whole and assembled into distinct groups as follows:
  - a) Group 1: 95 percent to 100 percent;
  - b) Group 2: 89 percent to 94 percent;
  - c) Group 3: 83 percent to 88 percent;
  - d) Group 4: 77 percent to 82 percent; and,
  - e) Group 5: 76 percent or below.
- 5) Establishes that all appointments must be made from the highest ranking group, as provided, of an eligibility list, except when that group includes fewer than five persons who are ready and willing to accept the position. If a group includes fewer than five such persons, an appointment must be made from combining the next highest group or groups to include at least five persons ready and willing to accept the position, or, if there are fewer than five persons who are ready and willing to accept the position in all remaining groups, from those remaining persons.

- 6) Provides that an eligibility list of fewer than three candidates may be considered exhausted if the appointing authority requests additional eligible candidates be certified for hiring consideration.
- 7) Specifies that, in those districts and county offices of education that adopted the ranked group eligibility list procedure and upon approval of an action of the personnel commission of the school district, county office of education, or community college district, require the classified employees of the district or county office of education to hold an election to determine if the district or county office of education should revert back to the individual ranking system, as provided.
- 8) Requires the personnel commission to provide public notice of the election, as provided, and would prescribe the ballot language, as provided.

**EXISTING LAW:**

- 1) Authorizes a school district or community college district to adopt a merit system that establishes a process for the employment and retention of classified employees of the district. (Education Code (EDC) Sections 45240 and 88060)
- 2) Requires a district that adopts the merit system to appoint a commission that consists of either three or five members, and requires the commission to classify employees and positions within the jurisdiction of the governing board of a school district or community college district, or of the commission. (EDC Sections 45243 and 88063)
- 3) Requires a personnel commission to classify all employees and positions within the jurisdiction of the governing board of the school district or the commission, except those that are exempt from the classified service, as specified. Among other provisions, “to classify” must include, but not be limited to, allocating positions to appropriate classes, arranging classes into occupational hierarchies, determining reasonable relationships within occupational hierarchies, and preparing written class specifications. (EDC Sections 45256 and 88076)
- 4) Defines “classification” within a school or community college district as having a designated title; a regular minimum number of assigned hours per day, days per week, and months per year; a specific statement of the duties required to be performed by the employees in each applicable position, and the regular monthly salary ranges and benefits for each applicable position. (EDC Sections 45101 and 88001)
- 5) Prescribes requirements and the process in which all vacancies in the classified service for school districts and community college districts are filled, such as:
  - a) Eligibility lists which, whenever practicable and as determined by the personnel commission, must be made up from promotional examinations, or appointments may be made by transfer, demotion, reinstatement, and reemployment.
  - b) The personnel commission must place applicants on the eligibility list in the order of their relative merit, as determined by competitive examination.

- c) Final scores of candidates must be rounded to the nearest whole percentage for all eligible.
- d) All eligibles with the same percentage score will be considered as having the same rank.
- e) Appointments must be made from the eligible having the first three ranks on the list who are ready and willing to accept the position. (EDC Sections 45272 and 88091)

**FISCAL EFFECT:** Unknown.

**COMMENTS:** *Double referral.* This bill was heard by the Assembly Committee on Public Employees, Retirement, and Social Security; and passed out with a vote of 6-0 on March 30, 2022.

*Purpose.* According to the author, “[s]ince 1975, California [local education agencies’] (LEA) Personnel Commissions have used the ‘Rule of 3 Ranks’ to hire candidates based upon their scores from the employment examination process. Classified positions are any positions that do not require a credential. This system rounds each candidate's final score from the examination process to the nearest percentage point and ranks those scores by one percent intervals. While this system has sufficed since its establishment, there are other methods of ranking that have produced more diverse and equitable lists of candidates eligible for hire. The current system also presents issues for filling vacancies efficiently amidst a staff shortage in the education system.”

“While intended to prevent nepotism or bias in hiring, this current system has its own set of challenges. The one percent distinction between ranks is so narrow that it limits the ability for hiring committees to select well-qualified candidates that may excel in other job-related factors along with high test scores that are not within the top three ranks. The “Rule of 3 Ranks” system also causes confusion for candidates, as their rank can shift wildly throughout the life of a hiring list. This one percent distinction also increases the effects of unconscious bias in hiring by denying access to candidates based on unreasonably small differences between scores in the testing process. This unconscious bias is similar to that observed in standardized tests like the SAT or ACT for college admissions. Other civil service systems have begun allowing for a more flexible ranking of candidates, such as the [banding] system used by the County of Los Angeles since 1988.”

“This flexible merit system will allow LEAs to hire from a more diverse and inclusive list of candidates. If enacted, AB 2045 will help alleviate the issue of staff shortages as well as combat the lack of adequate representation in the education system. This legislation will help California take another step towards true equity in the education system.”

*Personnel Commissions and California Public Schools.* Also commonly referred to as “merit systems” or “civil service systems” relating to public education in California, there are over 100 of these systems which are independent of the school or community college district’s governing board to administer classified school employee hiring and retention through a statutory framework authorized by the Education Code.

These systems derive from the late 19th and early 20th century civil service movement that sought to curtail “spoils” of the system whereby elected political candidates rewarded their supporters with government positions. These systems arose out of a particularly egregious school board decision to discharge over 700 classified employees in the 1930s upon the new board’s election.

This history strongly suggest that the Legislature intended the merit system framework as a means to protect classified employees from local political mistreatment at a time prior to public sector collective bargaining.

*Arguments in support.* The Los Angeles County Office of Education (LACOE), the sponsor of AB 2045, wrote to the Committee to note that “...under California’s current laws for hiring non-certificated staff at merit system LEAs, such as LACOE, qualified job candidates are ranked on an eligibility list for hiring consideration according to a final percentage score earned in the preemployment examination process. According to Education Code [Section] 45272, hiring managers may only select from the top three ranks of scores from this list, limiting hiring decisions to only three candidates in most cases.”

“In order to provide hiring managers with opportunities to select from a more diverse pool of qualified job candidates to fill their vacancies, AB 2045 would allow LEAs to opt-in to an alternative hiring system similar to other government agencies using a “banding” approach. Some examples of agencies who have already made this change include the County of Los Angeles, State of California, and federal Office of Personnel Management (OPM). This change from the rule of three to banding, will be taken up for a majority vote by LEA employees, after an LEA’s personnel commission has determined whether the change is feasible.”

“This improved method for certifying eligible job candidates maintains the integrity of merit-based hiring processes while also accounting for the limitations of predictive validity in pre-employment testing and lessening potential adverse impact against protected groups in pre-employment examinations. Furthermore, when these practices are paired with organizational initiatives promoting diversity and inclusion, they should result in more equitable hiring practices and diverse government workforces reflecting the communities they serve.”

*Committee comments.* AB 2045 was recently amended by the author’s office, and includes addition information on the election processes. What has not been included is any information on a common elections timeline, the manner in which the elections would be conducted, and clarity on what constitutes an “approval of a commission action”.

*Moving forward, the author may wish to consider working with stakeholders to address election timeline questions, expand detail on the election process, and define “approval of commission action”.*

*Prior legislation.* AB 2160 (Thurmond), Chapter 488, Statutes of 2018 made changes to Education Code that included, among other provisions, sections 45256, 88003, and 88076 relating to the classified service in school districts and community college districts, respectively.

AB 1772 (Committee on Public Employees, Retirement, and Social Security), Chapter 547, Statutes of 2005 made minor technical changes to the EDC regarding existing practices by local personnel commissions.

AB 707 (House), Chapter 951, Statutes of 2000 among other provisions, authorized community college districts participating in a merit system to exempt certain positions from specified employment requirements.

SB 1054 (Solis), Chapter 652, Statutes of 1995 made various changes to existing law relating to personnel commissions, and examinations relating to the classified service, among other provisions.

AB 3100 (Greene) Chapter 1010, Statutes of 1976 set forth provisions relating to the merit system in community college districts.

## **REGISTERED SUPPORT / OPPOSITION:**

### **Support**

Association of California School Administrators  
CA School Personnel Commissioners Association  
Chico Unified School District  
Downey Unified School District  
Hacienda LA Puente Unified School District, Personnel Commission  
Long Beach Unified School District, Personnel Commission  
Los Angeles Community College District  
Los Angeles County Office of Education  
Personnel Commission of the Los Angeles County Office of Education  
Personnel Commission, Lynwood Unified School District  
San Mateo County Office of Education  
Ventura County Community College District Personnel Commission

### **Opposition**

None on file.

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