

Date of Hearing: March 24, 2021

ASSEMBLY COMMITTEE ON HIGHER EDUCATION

Jose Medina, Chair

AB 275 (Medina) – As Amended March 1, 2021

SUBJECT: Classified community college employees

SUMMARY: This bill would shorten the maximum length of a prescribed period of probation for classified community college employees to 6 months or 130 days of paid service, whichever is longer, and specify that this would not apply to a conflicting collective bargaining agreement entered into before January 1, 2022, until the expiration or renewal of that collective bargaining agreement. Specifically, **this bill:**

- 1) Specifies that the governing board of a community college district (CCD) must prescribe written rules and regulations, governing the personnel management of the classified service, which will be printed and made available to employees in the classified service, the public, and those concerned with the administration of these provisions, whereby these employees are, except as specified, designated as permanent employees of the CCD after serving a prescribed period of probation which shall not exceed six months or 130 days of paid service, whichever is longer. A permanent employee who accepts a promotion and fails to complete the probationary period for that promotional classification, shall be employed in the position from which the employee was promoted.
- 2) Specifies that, to the extent that this section, as amended by AB 275 of the 2021–22 Regular Session, conflicts with a provision of a collective bargaining agreement entered into by a public school employer and an exclusive bargaining representative before January 1, 2022, pursuant to the Government Code, the changes made to this section by Assembly Bill 275 of the 2021–22 Regular Session shall not apply to the community college district until expiration or renewal of that collective bargaining agreement.
- 3) Makes technical and clarifying changes to the operative section of law.

EXISTING LAW:

- 1) Specifies that the governing board of a CCD shall employ persons for positions that are not academic positions, and that the governing board shall classify all those employees and positions. These employees and positions are known as the classified service, except as specified. (Education Code (EDC) Section 88003)
- 2) Establishes that CCDs must prescribe written rules and regulations, governing the personnel management of the classified service, which will be printed and made available to employees in the classified service, the public, and those concerned with the administration of these provisions, whereby these employees are, except as specified, designated as permanent employees of the district after serving a prescribed period of probation which shall not exceed one year, and specifies that these provisions only apply to districts not incorporating the merit system. (EDC Section 88013)

- 3) Establishes the merit system, and specifies that the classified employees of any district whose full-time equivalent student is 3,000 or greater, as specified, may petition the governing board to make the merit system applicable to their employer district. (EDC Section 88051)
- 4) Specifies that a person in a merit system CCD who has served an initial probationary period in a class not to exceed six months or 130 days of paid service, whichever is longer, as prescribed by the rules of the commission, will be deemed to be in the permanent classified service, except that the commission may establish a probationary period in a class not to exceed one year for classes designated by the commission as executive, administrative, or police classes. (EDC Section 88120)

FISCAL EFFECT: Unknown

COMMENTS: *Purpose.* According to the author, “The primary purpose of probationary periods for classified school employees is to determine whether the employees are able to perform the duties of their position to the satisfaction of the employer before gaining permanent status, including due process rights. If a performance evaluation process is properly utilized, a six-month probationary period provides more than enough time for management to determine whether an employee has met their standards. Bringing parity to the non-merit community college districts will not compromise the quality of work performed.”

Background. Merit system school districts are those districts that have adopted a personnel commission independent of the district’s governing board to administer school-classified employee hiring and retention through a statutory framework authorized by the Education Code. Merit district systems derive from the late 19th and early 20th century civil service movement that sought to curtail the spoils system whereby elected political candidates rewarded their supporters with government positions. According to the California School Personnel Commission Association, the merit system for school districts arose out of a particular 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. Among those protections, the merit system requires that probationary periods for classified employees be no longer than 6 months, after which a school employer can only discharge the employee for good cause and after due process, as specified.

Non-merit districts. Non-merit system districts’ employees rely on Education Code requirements and the collective bargaining process for their employment protections. Although statute prohibits non-merit districts from having a probationary period for longer than 12-months, the collective bargaining system allows classified employees to negotiate with their employees for a lesser period. Some classified employees may prefer non-merit district systems since the local governing board can decide personnel practices and may not require employees to take employment tests and impose other requirements for hiring and promotion.

Arguments in support. The California School Employees Association writes that, “AB 275 will align the probationary period for community college classified employees working in non-merit districts with those that work in merit districts.”

The California Labor Federation notes that, “Two years ago, the Legislature passed AB 1353 (Chapter 542, Statutes of 2019) that reduced the probationary period for K-12 classified employees working in non-merit districts from one year to six months, in alignment with K-12 classified employees working in merit districts. Community college classified employees working in non-merit districts were inadvertently left out. AB 275 will simply correct this oversight and provide parity to community college classified employees working in non-merit districts.”

Arguments in opposition. The Community College League of California writes that “California’s Education Code permits districts and collective bargaining units to negotiate the length of a probationary period for a new classified employee for up to one year. During this period, colleges are able to provide training, professional development, and mentorship to that new employee. The goal is to ensure that a new employee receives the training they need and is appropriately evaluated before obtaining permanent status. The exception to this process is the merit districts which were created before the era of collective bargaining. These districts have a process that is intended to protect school employees from political interference.”

“Merit districts feature extensive testing, a ranking of prospective employees, and a merit commission to run the hiring system outside of the district. As there has already been a comprehensive pre-hiring system put into place, these districts are limited to a six month probationary period. Districts without a merit system in place need a longer time to train and evaluate their employees. Per the California School Personnel Commissioners Association, about 5 of our 73 districts have a merit system in place. The rest negotiate the length of the probationary period with their classified employees.”

“By limiting this probationary period to no more than six months, colleges will not have enough time to fully evaluate the new employee’s skills and abilities. Thus, there is an increased risk that new employees will obtain permanent status that might not be able to fulfill their job functions. It is critical for both the operations of a college and our students that colleges have the ability to evaluate their new employees.”

REGISTERED SUPPORT / OPPOSITION:

Support

California Labor Federation, AFL-CIO
California School Employees Association
California Teachers Association
SEIU California

Opposition

Association of California Community College Administrators
Community College League of California

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