

A-Engrossed
House Bill 2692

Ordered by the House April 11
Including House Amendments dated April 11

Sponsored by Representatives GREENLICK, HARKER

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Directs school districts to consider competence of [*teachers when determining which teachers will be retained*] **teacher when transferring teacher to different subject or grade level** when school district reduces staff in certain circumstances.

Declares emergency, effective July 1, 2013.

A BILL FOR AN ACT

1
2 Relating to reductions in teacher staff; creating new provisions; amending ORS 342.934; and declar-
3 ing an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 342.934 is amended to read:

6 342.934. (1) The procedure for reduction in teacher staff positions resulting from the school
7 district's lack of funds to continue its educational program at its anticipated level or resulting from
8 the district's elimination or adjustment of classes due to administrative decision shall be as provided
9 in this section. [*However,*] Nothing in this section is intended to interfere with the right of a fair
10 dismissal district to discharge, remove or fail to renew the contract of a probationary teacher pur-
11 suant to ORS 342.835.

12 (2) The school district shall make every reasonable effort to:

13 (a) Transfer teachers of courses scheduled for discontinuation to other teaching positions for
14 which [*they*] **the teachers** are licensed and qualified.

15 (b) Combine teaching positions in a manner [*which*] **that** allows teachers to remain qualified
16 [*so*] **as** long as:

17 (A) The combined positions meet the curriculum needs of the district [*and the competence con-*
18 *sideration specified in subsection (4) of this section.*]; **and**

19 (B) **The teachers have competence for the combined positions.**

20 (3) In determining **which** teachers **are** to be retained when a school district reduces [*its*]
21 **teacher** staff **positions** under this section, the school district shall:

22 (a) Determine whether teachers to be retained hold proper licenses at the time of layoff to fill
23 the remaining positions.

24 (b) Determine seniority of teachers to be retained, calculated from the first day of actual service
25 as teachers with the school district inclusive of approved leaves of absence. Ties shall be broken
26 by drawing lots.

27 (c) Determine competence and merit of teachers, if necessary, under subsection (4) of this sec-

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 tion.

2 (4)(a) **If a school district that is reducing teacher staff positions under this section de-**
 3 **sires to transfer a teacher to a different subject or grade level, the school district may make**
 4 **the transfer only if the school district determines that the teacher has competence for the**
 5 **subject or grade level.**

6 [(4)] (b) If a school district desires to retain a teacher with less seniority than a teacher being
 7 released under this section, the district shall determine that the teacher being retained has more
 8 [competence or] merit than the teacher with more seniority who is being released.

9 (5) An administrator shall retain status and seniority as a contract teacher and voluntarily may
 10 return to teaching in a reduction in staff situation. [However,] An administrator who was never
 11 employed as a teacher in the district [shall not be] **is not** eligible to become a nonadministrative
 12 teacher in the district if the effect is to displace a nonadministrative contract teacher.

13 (6) In consultation with its employees or, for those employees in a recognized or certified col-
 14 lective bargaining unit, with the exclusive bargaining representative of that unit, each school dis-
 15 trict shall establish a procedure for recalling teachers to employment in the district who have been
 16 released because of a prospective or actual reduction in staff. The procedure so established shall
 17 define the criteria for recall and the teacher shall have the right of recall [thereunder] for 27 months
 18 after the last date of release by the district unless waived as provided in such procedure by re-
 19 jection of a specific position. A contract teacher who is recalled shall retain the status obtained
 20 before the release. A probationary teacher who is recalled shall have years taught for the district
 21 counted as if the employment had been continuous for purposes of obtaining contract teacher status.

22 (7) An appeal from a decision on reduction in **teacher staff positions** or recall under this sec-
 23 tion shall be by arbitration under the rules of the Employment Relations Board or by a procedure
 24 mutually agreed upon by the employee representatives and the [employer] **school district**. The re-
 25 sults of the procedure shall be final and binding on the parties. Appeals from multiple reductions
 26 may be considered in a single arbitration. The arbitrator is authorized to reverse the staff reduction
 27 decision or the recall decision made by the **school** district only if the district:

- 28 (a) Exceeded its jurisdiction;
- 29 (b) Failed to follow the procedure applicable to the matter before it;
- 30 (c) Made a finding or order not supported by substantial evidence in the whole record; or
- 31 (d) Improperly construed the applicable law.

32 (8)(a) [After August 15, 1997,] A school district [shall] **may** not agree in any collective bar-
 33 gaining agreement to waive the right to consider competence in making decisions about the order
 34 of reduction in **teacher staff positions** or recall of staff.

35 (b) Nothing in this subsection [shall prevent] **prevents** a school district and the exclusive bar-
 36 gaining representative from agreeing to alternative criteria for competence determinations under
 37 this subsection [so] **as** long as the criteria ensure that all retained teachers are qualified for the
 38 positions [they] **the teachers** fill.

39 (c) As used in this subsection, "qualified" means the measurement of the teacher's ability to
 40 teach the particular grade level or subject matter in which the teacher is placed after the reduction
 41 in force. Qualifications shall be measured by more than seniority and licensure, [but] **and** may in-
 42 clude other criteria that reasonably measure the teacher's fitness to teach the relevant grade **level**
 43 or subject [level]. Determinations of competence or qualifications under this subsection may take
 44 into account requirements for any special needs students.

45 (9) As used in this section:

1 *[(a) "Competence" means the ability to teach a subject or grade level based on recent teaching ex-*
2 *perience related to that subject or grade level within the last five years, or educational attainments, or*
3 *both, but not based solely on being licensed to teach. The district may consider a teacher's willingness*
4 *to undergo additional training or pursue additional education in deciding upon questions of compe-*
5 *tence.]*

6 **(a) "Competence" means the ability to teach a subject or grade level based on:**

7 **(A) Any of the following:**

8 **(i) Teaching experience related to that subject or grade level within the last 10 years;**

9 **(ii) Educational attainments related to that subject or grade level; or**

10 **(iii) A willingness to undergo additional training or pursue additional education related**
11 **to that subject or grade level; or**

12 **(B) The terms of any applicable collective bargaining agreement.**

13 (b) "Merit" means the measurement of one teacher's ability and effectiveness against the ability
14 and effectiveness of another teacher.

15 **SECTION 2. The amendments to ORS 342.934 by section 1 of this 2013 Act apply to re-**
16 **ductions in staff made on or after July 1, 2013.**

17 **SECTION 3. This 2013 Act being necessary for the immediate preservation of the public**
18 **peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect**
19 **July 1, 2013.**

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