

Senate Bill 255

Sponsored by Senator ROBINSON (Pre-session filed.)

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 **as introduced**.

Requires school district that is making reductions in educator staff positions to prioritize seniority when determining which teachers to retain.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to procedures for the reduction of educator staff; creating new provisions; amending ORS
3 342.934; and declaring 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) As used in this section:

7 (a) "Competence" means the ability of a teacher to teach a subject or grade level based on
8 consideration of any of the following:

9 (A) Teaching experience within the past five years related to the subject or grade level;

10 (B) Educational attainments, which may not be based solely on being licensed to teach; or

11 (C) The teacher's willingness to undergo additional training or pursue additional education.

12 [(b) "Cultural or linguistic expertise" means the expertise of one teacher, as measured against the
13 expertise of another teacher, based on consideration of any of the following factors:]

14 [(A) A teacher's linguistic ability in relation to an in-district language, as determined by a school
15 district using a method of verification or attestation of fluency for all in-district languages;]

16 [(B) A teacher's completion of a teacher pathway program that is implemented by a teacher path-
17 way partnership at the national, state, regional or local level and that has the primary focus of in-
18 creasing the number of culturally or linguistically diverse teachers; or]

19 [(C) A teacher's current work assignment that requires the teacher to work at least 50 percent of
20 the teacher's work assignment time:]

21 [(i) At a school where at least 25 percent of the student population consists of students from a
22 historically underserved background, if the teacher is assigned to one school; or]

23 [(ii) At programs, schools or school districts where at least 25 percent of the student population
24 consists of students from a historically underserved background, if the teacher is assigned to multiple
25 programs, schools or school districts.]

26 [(c) "In-district language" means a heritage language or a language other than English that is
27 spoken:]

28 [(A) By five percent or more of the students enrolled at the school where a teacher is assigned or,
29 if the teacher is not assigned to a school, of the students enrolled in the schools of the school district;
30 or]

31 [(B) At five percent or more of the homes of the students enrolled at the school where a teacher is

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 assigned or, if the teacher is not assigned to a school, of the homes of the students enrolled in the
2 schools of the school district.]

3 [(d)] (b) “Merit” means the measurement of one teacher’s ability and effectiveness against the
4 ability and effectiveness of another teacher.

5 [(e) “Qualified teacher with cultural or linguistic expertise” means a teacher who:]

6 [(A) Has more cultural or linguistic expertise than a teacher with more or equal seniority; and]

7 [(B) Holds proper licenses or other credentials to fill a remaining position.]

8 [(f)] (c) “School district” includes an education service district.

9 [(g) “Student from a historically underserved background” includes a student who:]

10 [(A) Is an English language learner;]

11 [(B) Is from a racial or ethnic group that has historically experienced academic disparities, in-
12 cluding racial or ethnic groups for which a statewide education plan has been developed under ORS
13 329.841, 329.843 or 329.845 for students who are black, African-American, American Indian, Alaska
14 Native, Latino or Hispanic;]

15 [(C) Is economically disadvantaged; or]

16 [(D) Has a disability.]

17 [(h)] (d) “Teacher” has the meaning given that term in ORS 342.120.

18 (2) This section shall provide the procedure for making reductions in teacher staff positions re-
19 sulting from a school district’s lack of funds to continue its educational program at its anticipated
20 level or resulting from the school district’s elimination or adjustment of classes due to administra-
21 tive decision. Nothing in this section is intended to interfere with the right of a fair dismissal dis-
22 trict to discharge, remove or fail to renew the contract of a probationary teacher pursuant to ORS
23 342.835.

24 (3) Before making any layoff decisions related to teacher staff, a school district shall make every
25 reasonable effort to:

26 (a) Transfer teachers of eliminated or adjusted classes to other teaching positions for which the
27 teachers are licensed and qualified.

28 (b) Combine teaching positions in a manner that allows teachers to remain qualified so long as
29 the combined positions meet the curriculum needs of the school district and the competence con-
30 sideration specified in subsection (5) of this section.

31 [(c) Maintain the proportion of teachers with cultural or linguistic expertise compared to teachers
32 without cultural or linguistic expertise.]

33 (4)(a) Except [as required by paragraph (b) of this subsection and] as allowed by subsection (5)
34 of this section, a school district shall prioritize seniority when determining which teachers will be
35 retained when a school district reduces its teacher staff under this section.

36 [(b) A school district shall retain a qualified teacher with cultural or linguistic expertise who has
37 less seniority if the release of the less senior teacher would result in a lesser proportion of teachers
38 with cultural or linguistic expertise compared to teachers without cultural or linguistic expertise. When
39 a qualified teacher with cultural or linguistic expertise is retained under this paragraph and the school
40 district is determining which teachers to retain who do not have cultural or linguistic expertise, the
41 school district shall prioritize:]

42 [(A) Seniority; or]

43 [(B) To the extent allowed under subsection (5) of this section, competence or merit.]

44 [(c)(A)] (b) [Except as provided by subparagraph (B) of this paragraph,] Any ties in calculations
45 of seniority shall be broken by drawing lots.

1 *[(B) If the release of a qualified teacher with cultural or linguistic expertise who has equal sen-*
 2 *iority would result in a lesser proportion of teachers with cultural or linguistic expertise compared to*
 3 *teachers without cultural or linguistic expertise, the school district shall retain the teacher with cultural*
 4 *or linguistic expertise.]*

5 *[(d)] (c)* For the purposes of this subsection, seniority shall be calculated from the first day of
 6 actual service as teachers with the school district, inclusive of approved leaves of absence.

7 *[(e)] (d)* Nothing in this subsection prohibits a school district from requiring that teachers to
 8 be retained hold proper licenses or other credentialing at the time of layoff to fill remaining posi-
 9 tions or prohibits a school district from retaining a teacher as allowed under subsection (5) of this
 10 section.

11 (5) A school district may retain a teacher with less seniority than a teacher being released un-
 12 der this section if the school district determines that the teacher being retained has more compe-
 13 tence or merit than the teacher with more seniority who is being released.

14 (6)(a) Except as provided by paragraph (b) of this subsection, an administrator shall retain status
 15 and seniority as a contract teacher and voluntarily may return to teaching in a reduction in staff
 16 situation.

17 (b) An administrator who was never employed as a teacher in the school district shall not be
 18 eligible to become a nonadministrative teacher in the school district if the effect is to displace a
 19 nonadministrative contract teacher.

20 (7) In consultation with its employees or, for those employees in a recognized or certified col-
 21 lective bargaining unit, with the exclusive bargaining representative of that unit, each school dis-
 22 trict shall establish a procedure for recalling teachers to employment in the school district who have
 23 been released because of a prospective or actual reduction in staff. The procedure shall define the
 24 criteria for recall and the teacher shall have the right of recall for 27 months after the last date
 25 of release by the school district unless waived as provided in the procedure by rejection of a specific
 26 position. A contract teacher who is recalled shall retain the status obtained before the release. A
 27 probationary teacher who is recalled shall have years of teaching for the school district counted as
 28 if the employment had been continuous for purposes of obtaining contract teacher status.

29 (8) An appeal from a decision on reduction in staff or recall under this section shall be by ar-
 30 bitration under the rules of the Employment Relations Board or by a procedure mutually agreed
 31 upon by the employee representatives and the employer. The results of the procedure shall be final
 32 and binding on the parties. Appeals from multiple reductions may be considered in a single arbi-
 33 tration. The arbitrator is authorized to reverse the staff reduction decision or the recall decision
 34 made by the school district only if the school district:

35 (a) Exceeded its jurisdiction;

36 (b) Failed to follow the procedure applicable to the matter before it;

37 (c) Made a finding or order not supported by substantial evidence in the whole record; or

38 (d) Improperly construed the applicable law.

39 (9)(a) A school district shall not agree in any collective bargaining agreement to waive the right
 40 to consider competence in making decisions about the order of reduction in staff or recall of staff.
 41 Nothing in this subsection shall prevent a school district and the exclusive bargaining represen-
 42 tative from agreeing to alternative criteria for competence determinations under this subsection so
 43 long as the criteria ensure that all retained teachers are qualified for the positions they fill.

44 (b) As used in this subsection, “qualified” means the measurement of the teacher’s ability to
 45 teach the particular grade level or subject matter in which the teacher is placed after the reduction

1 in force. Qualifications shall be measured by more than seniority and licensure, but may include
2 other criteria that reasonably measure the teacher's fitness to teach the relevant grade or subject
3 level. Determinations of competence or qualifications under this subsection may take into account
4 requirements for any special needs students.

5 **SECTION 2. The amendments to ORS 342.934 by section 1 of this 2023 Act apply to con-**
6 **tracts entered into, renewed or extended on or after the effective date of this 2023 Act.**

7 **SECTION 3. This 2023 Act being necessary for the immediate preservation of the public**
8 **peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect**
9 **on its passage.**

10