

House Bill 2692

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 **as introduced**.

Directs school districts to consider competence of teachers when determining which teachers will be retained 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 the combined positions meet the curriculum needs of the district [*and the competence*
17 *consideration specified in subsection (4) of this section*] **and the competence of the teachers is**
18 **considered.**

19 (3) In determining teachers to be retained when a school district reduces its staff under this
20 section, the school district shall:

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

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

26 [*(c) Determine competence and merit of teachers, if necessary, under subsection (4) of this section.*]

27 **(c) Determine competence of teachers.**

28 **(d) Determine merit of teachers if necessary under subsection (4) of this section.**

29 (4) If a school district desires to retain a teacher with less seniority **or competence** than a
30 teacher being released under this section, the district shall determine that the teacher being re-
31 tained has more [*competence or*] merit than the teacher with more seniority **or competence** who 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 being released.

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

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

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

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

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

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

32 (c) As used in this subsection, “qualified” means the measurement of the teacher’s ability to
 33 teach the particular grade level or subject matter in which the teacher is placed after the reduction
 34 in force. Qualifications shall be measured by more than seniority and licensure, but may include
 35 other criteria that reasonably measure the teacher’s fitness to teach the relevant grade or subject
 36 level. Determinations of competence or qualifications under this subsection may take into account
 37 requirements for any special needs students.

38 (9) As used in this section:

39 (a) “Competence” means the ability to teach a subject or grade level based on recent teaching
 40 experience related to that subject or grade level within the last five years, or educational attain-
 41 ments, or both, but not based solely on being licensed to teach. The district may consider a teacher’s
 42 willingness to undergo additional training or pursue additional education in deciding upon questions
 43 of competence.

44 (b) “Merit” means the measurement of one teacher’s ability and effectiveness against the ability
 45 and effectiveness of another teacher.

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

3 **SECTION 3.** This 2013 Act being necessary for the immediate preservation of the public
4 peace, health and safety, an emergency is declared to exist, and this 2013 Act takes effect
5 July 1, 2013.
6
