

**PROPOSED AMENDMENTS TO
HOUSE BILL 2692**

1 On page 1 of the printed bill, delete lines 5 through 31 and delete pages
2 2 and 3 and insert:

3 **“SECTION 1.** ORS 342.934 is amended to read:

4 “342.934. (1) The procedure for reduction in teacher staff positions re-
5 sulting from the school district’s lack of funds to continue its educational
6 program at its anticipated level or resulting from the district’s elimination
7 or adjustment of classes due to administrative decision shall be as provided
8 in this section. [*However,*] Nothing in this section is intended to interfere
9 with the right of a fair dismissal district to discharge, remove or fail to re-
10 new the contract of a probationary teacher pursuant to ORS 342.835.

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

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

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

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

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

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

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

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

6 “(c) Determine competence and merit of teachers, if necessary, under
7 subsection (4) of this section.

8 “(4)(a) **If a school district that is reducing teacher staff positions**
9 **under this section desires to transfer a teacher to a different subject**
10 **or grade level, the school district may make the transfer only if the**
11 **school district determines that the teacher has competence for the**
12 **subject or grade level.**

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

17 “(5) An administrator shall retain status and seniority as a contract
18 teacher and voluntarily may return to teaching in a reduction in staff situ-
19 ation. [*However,*] An administrator who was never employed as a teacher in
20 the district [*shall not be*] **is not** eligible to become a nonadministrative
21 teacher in the district if the effect is to displace a nonadministrative con-
22 tract teacher.

23 “(6) In consultation with its employees or, for those employees in a re-
24 cognized or certified collective bargaining unit, with the exclusive bargain-
25 ing representative of that unit, each school district shall establish a
26 procedure for recalling teachers to employment in the district who have been
27 released because of a prospective or actual reduction in staff. The procedure
28 so established shall define the criteria for recall and the teacher shall have
29 the right of recall [*thereunder*] for 27 months after the last date of release
30 by the district unless waived as provided in such procedure by rejection of

1 a specific position. A contract teacher who is recalled shall retain the status
2 obtained before the release. A probationary teacher who is recalled shall
3 have years taught for the district counted as if the employment had been
4 continuous for purposes of obtaining contract teacher status.

5 “(7) An appeal from a decision on reduction in **teacher staff positions**
6 or recall under this section shall be by arbitration under the rules of the
7 Employment Relations Board or by a procedure mutually agreed upon by the
8 employee representatives and the [*employer*] **school district**. The results of
9 the procedure shall be final and binding on the parties. Appeals from multi-
10 ple reductions may be considered in a single arbitration. The arbitrator is
11 authorized to reverse the staff reduction decision or the recall decision made
12 by the **school** district only if the district:

13 “(a) Exceeded its jurisdiction;

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

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

17 “(d) Improperly construed the applicable law.

18 “(8)(a) [*After August 15, 1997,*] A school district [*shall*] **may** not agree in
19 any collective bargaining agreement to waive the right to consider compe-
20 tence in making decisions about the order of reduction in **teacher staff po-**
21 **sitions** or recall of staff.

22 “(b) Nothing in this subsection [*shall prevent*] **prevents** a school district
23 and the exclusive bargaining representative from agreeing to alternative
24 criteria for competence determinations under this subsection [*so*] **as** long as
25 the criteria ensure that all retained teachers are qualified for the positions
26 [*they*] **the teachers** fill.

27 “(c) As used in this subsection, ‘qualified’ means the measurement of the
28 teacher’s ability to teach the particular grade level or subject matter in
29 which the teacher is placed after the reduction in force. Qualifications shall
30 be measured by more than seniority and licensure, [*but*] **and** may include

1 other criteria that reasonably measure the teacher’s fitness to teach the
2 relevant grade **level** or subject [*level*]. Determinations of competence or
3 qualifications under this subsection may take into account requirements for
4 any special needs students.

5 “(9) As used in this section:

6 “[*(a) ‘Competence’ means the ability to teach a subject or grade level based*
7 *on recent teaching experience related to that subject or grade level within the*
8 *last five years, or educational attainments, or both, but not based solely on*
9 *being licensed to teach. The district may consider a teacher’s willingness to*
10 *undergo additional training or pursue additional education in deciding upon*
11 *questions of competence.*]

12 “(a) **‘Competence’ means the ability to teach a subject or grade level**
13 **based on:**

14 “(A) **Any of the following:**

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

17 “(ii) **Educational attainments related to that subject or grade level;**
18 **or**

19 “(iii) **A willingness to undergo additional training or pursue addi-**
20 **tional education related to that subject or grade level; or**

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

22 “(b) ‘Merit’ means the measurement of one teacher’s ability and effec-
23 tiveness against the ability and effectiveness of another teacher.

24 “**SECTION 2. The amendments to ORS 342.934 by section 1 of this**
25 **2013 Act apply to reductions in staff made on or after July 1, 2013.**

26 “**SECTION 3. This 2013 Act being necessary for the immediate**
27 **preservation of the public peace, health and safety, an emergency is**
28 **declared to exist, and this 2013 Act takes effect July 1, 2013.”.**

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