

Requested by Representative KOTEK

**PROPOSED AMENDMENTS TO
HOUSE BILL 2001**

1 On page 2 of the printed bill, delete lines 5 through 12 and insert:

2 “Whereas students, school districts and communities benefit from teachers
3 who have cultural or linguistic expertise and who can relate and respond to
4 the unique needs of students and families with cultural or linguistic diver-
5 sity; and”.

6 In line 15, after “based” insert “solely”.

7 Delete lines 18 through 45 and delete page 3.

8 On page 4, delete lines 1 through 36 and insert:

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

10 **“342.934. (1) As used in this section:**

11 **“(a) ‘Competence’ means the ability of a teacher to teach a subject**
12 **or grade level based on consideration of any of the following:**

13 **“(A) Teaching experience within the past five years related to the**
14 **subject or grade level;**

15 **“(B) Educational attainments, which may not be based solely on**
16 **being licensed to teach; or**

17 **“(C) The teacher’s willingness to undergo additional training or**
18 **pursue additional education.**

19 **“(b) ‘Cultural or linguistic expertise’ means the expertise of one**
20 **teacher, as measured against the expertise of another teacher, based**
21 **on consideration of any of the following factors:**

1 **“(A) A teacher’s linguistic ability in relation to an in-district lan-**
2 **guage, as determined by a school district using a method of verifica-**
3 **tion or attestation of fluency for all in-district languages; or**

4 **“(B) Participation by a teacher in any program, plan or practice**
5 **implemented at the state, regional or local level to advance the goal**
6 **of the Educators Equity Act, as described in ORS 342.437, or to other-**
7 **wise increase educator diversity or retain diverse educators, including:**

8 **“(i) Receipt by the teacher of a scholarship for culturally and lin-**
9 **guistically diverse teacher candidates as provided by ORS 348.295; or**

10 **“(ii) Participation by the teacher in any educator professional de-**
11 **velopment to increase educator diversity that was developed as a**
12 **statewide initiative.**

13 **“(c) ‘Diverse’ has the meaning given that term in ORS 342.433.**

14 **“(d) ‘Diversity ratio’ means the ratio of all diverse persons em-**
15 **ployed as teachers by a school district compared to all diverse students**
16 **enrolled in the public nonchartered schools located in the boundaries**
17 **of the school district, as calculated based on data available to the**
18 **school district over the previous three-year period.**

19 **“(e) ‘In-district language’ means a heritage language or a language**
20 **other than English that is spoken:**

21 **“(A) By five percent or more of the students enrolled at the school**
22 **where a teacher is assigned or, if the teacher is not assigned to a**
23 **school, of the students enrolled in the schools of the school district;**
24 **or**

25 **“(B) At five percent or more of the homes of the students enrolled**
26 **at the school where a teacher is assigned or, if the teacher is not as-**
27 **signed to a school, of the homes of the students enrolled in the schools**
28 **of the school district.**

29 **“(f) ‘Merit’ means the measurement of one teacher’s ability and**
30 **effectiveness against the ability and effectiveness of another teacher.**

1 “(g) ‘Qualified teacher with cultural or linguistic expertise’ means
2 a teacher who:

3 “(A) Has more cultural or linguistic expertise than a teacher with
4 more or equal seniority; and

5 “(B) Holds proper licenses or other credentials to fill a remaining
6 position.

7 “(h) ‘School district’ includes an education service district.

8 “[(1)] (2) This section shall provide the procedure for [reduction] mak-
9 ing reductions in teacher staff positions resulting from [the] a school
10 district’s lack of funds to continue its educational program at its anticipated
11 level or resulting from the school district’s elimination or adjustment of
12 classes due to administrative decision [shall be as provided in this section.
13 However,]. Nothing in this section is intended to interfere with the right of
14 a fair dismissal district to discharge, remove or fail to renew the contract
15 of a probationary teacher pursuant to ORS 342.835.

16 “[(2)] (3) [The] Before making any layoff decisions related to teacher
17 staff, a school district shall make every reasonable effort to:

18 “(a) Transfer teachers of [courses scheduled for discontinuation] elimi-
19 nated or adjusted classes to other teaching positions for which [they] the
20 teachers are licensed and qualified.

21 “(b) Combine teaching positions in a manner [which] that allows teachers
22 to remain qualified so long as the combined positions meet the curriculum
23 needs of the school district and the competence consideration specified in
24 subsection [(4)] (5) of this section.

25 “[(3) In determining teachers to be retained when a school district reduces
26 its staff under this section, the school district shall:]

27 “[(a) Determine whether teachers to be retained hold proper licenses at the
28 time of layoff to fill the remaining positions.]

29 “[(b) Determine seniority of teachers to be retained, calculated from the first
30 day of actual service as teachers with the school district inclusive of approved

1 *leaves of absence. Ties shall be broken by drawing lots.]*

2 *“(c) Determine competence and merit of teachers, if necessary, under sub-*
3 *section (4) of this section.]*

4 **“(4)(a) Except as required by paragraph (b) of this subsection and**
5 **as allowed by subsection (5) of this section, a school district shall pri-**
6 **oritize seniority when determining which teachers will be retained**
7 **when a school district reduces its teacher staff under this section.**

8 **“(b) A school district shall retain a qualified teacher with cultural**
9 **or linguistic expertise who has less seniority if the release of the**
10 **teacher would decrease the school district’s diversity ratio. When a**
11 **qualified teacher with cultural or linguistic expertise is retained under**
12 **this paragraph and the school district is determining which teachers**
13 **to retain who do not have cultural or linguistic expertise, the school**
14 **district shall prioritize:**

15 **“(A) Seniority; or**

16 **“(B) To the extent allowed under subsection (5) of this section,**
17 **competence or merit.**

18 **“(c)(A) Except as provided by subparagraph (B) of this paragraph,**
19 **any ties in calculations of seniority shall be broken by drawing lots.**

20 **“(B) If the release of a qualified teacher with cultural or linguistic**
21 **expertise who has equal seniority would decrease the school district’s**
22 **diversity ratio, the school district shall retain the teacher.**

23 **“(d) For the purposes of this subsection, seniority shall be calcu-**
24 **lated from the first day of actual service as teachers with the school**
25 **district, inclusive of approved leaves of absence.**

26 **“(e) Nothing in this subsection prohibits a school district from re-**
27 **quiring that teachers to be retained hold proper licenses or other cre-**
28 **dentialing at the time of layoff to fill remaining positions or prohibits**
29 **a school district from retaining a teacher as allowed under subsection**
30 **(5) of this section.**

1 “[4] (5) [If] A school district [*desires to*] **may** retain a teacher with less
2 seniority than a teacher being released under this section[,] **if** the **school**
3 district [*shall determine*] **determines** that the teacher being retained has
4 more competence or merit than the teacher with more seniority who is being
5 released.

6 “[5] (6)(a) **Except as provided by paragraph (b) of this subsection,**
7 an administrator shall retain status and seniority as a contract teacher and
8 voluntarily may return to teaching in a reduction in staff situation.

9 “(b) [*However,*] An administrator who was never employed as a teacher
10 in the **school** district shall not be eligible to become a nonadministrative
11 teacher in the **school** district if the effect is to displace a nonadministrative
12 contract teacher.

13 “[6] (7) In consultation with its employees or, for those employees in a
14 recognized or certified collective bargaining unit, with the exclusive bar-
15 gaining representative of that unit, each school district shall establish a
16 procedure for recalling teachers to employment in the **school** district who
17 have been released because of a prospective or actual reduction in staff. The
18 procedure [*so established*] shall define the criteria for recall and the teacher
19 shall have the right of recall [*thereunder*] for 27 months after the last date
20 of release by the **school** district unless waived as provided in [*such*] **the**
21 procedure by rejection of a specific position. A contract teacher who is re-
22 called shall retain the status obtained before the release. A probationary
23 teacher who is recalled shall have years [*taught*] **of teaching** for the **school**
24 district counted as if the employment had been continuous for purposes of
25 obtaining contract teacher status.

26 “[7] (8) An appeal from a decision on reduction in staff or recall under
27 this section shall be by arbitration under the rules of the Employment Re-
28 lations Board or by a procedure mutually agreed upon by the employee rep-
29 resentatives and the employer. The results of the procedure shall be final and
30 binding on the parties. Appeals from multiple reductions may be considered

1 in a single arbitration. The arbitrator is authorized to reverse the staff re-
2 duction decision or the recall decision made by the **school** district only if
3 the **school** district:

4 “(a) Exceeded its jurisdiction;

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

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

8 “(d) Improperly construed the applicable law.

9 “[8] **(9)(a)** *[After August 15, 1997,]* A school district shall not agree in
10 any collective bargaining agreement to waive the right to consider compe-
11 tence in making decisions about the order of reduction in staff or recall of
12 staff. Nothing in this subsection shall prevent a school district and the ex-
13 clusive bargaining representative from agreeing to alternative criteria for
14 competence determinations under this subsection so long as the criteria en-
15 sure that all retained teachers are qualified for the positions they fill.

16 “**(b)** As used in this subsection, ‘qualified’ means the measurement of the
17 teacher’s ability to teach the particular grade level or subject matter in
18 which the teacher is placed after the reduction in force. Qualifications shall
19 be measured by more than seniority and licensure, but may include other
20 criteria that reasonably measure the teacher’s fitness to teach the relevant
21 grade or subject level. Determinations of competence or qualifications under
22 this subsection may take into account requirements for any special needs
23 students.

24 “[9] *As used in this section:*]

25 “[a] ‘Competence’ means the ability to teach a subject or grade level based
26 on recent teaching experience related to that subject or grade level within the
27 last five years, or educational attainments, or both, but not based solely on
28 being licensed to teach. The district may consider a teacher’s willingness to
29 undergo additional training or pursue additional education in deciding upon
30 questions of competence.]

1 “[*(b) ‘Merit’ means the measurement of one teacher’s ability and effective-*
2 *ness against the ability and effectiveness of another teacher.*]

3 **“SECTION 2. The amendments to ORS 342.934 by section 1 of this**
4 **2021 Act apply to contracts entered into, renewed or extended on or**
5 **after the effective date of this 2021 Act.”.**

6 On page 5, line 28, delete “(7)” and insert “(6)”.

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