

February 22, 2005

Hon. Bill Lockyer
Attorney General
1300 I Street, 17th Floor
Sacramento, California 95814

Attention: Ms. Tricia Knight
Initiative Coordinator

Dear Attorney General Lockyer:

Pursuant to Election Code Section 9005, we have reviewed the proposed initiative (File No. SA2005RF0028) entitled the "Excellence in Teaching Act." Below we provide relevant background information, discuss the major provisions of the proposal, and estimate its fiscal effects.

Background

Existing state law contains various provisions relating to teacher salaries and tenure.

Teacher Salaries. Since 1976, state law has required school districts to use a salary schedule that pays teachers based on a uniform allowance for years of service and training. A 1996 amendment to this law permitted school districts to use criteria other than a uniform allowance for years of service and training if mutually agreed upon with the exclusive teacher representative. (If agreement cannot be reached, the uniform salary schedule remains operative.) Existing state law does allow school districts to grant differential credit for prior years of experience and training for the purposes of initial placement on a district's salary schedule. The governing board of each school district is required to adopt, print, and make its salary schedule available to all teachers.

Tenure. Under existing law, certificated school district employees, such as teachers and administrators, may attain permanent status after serving two school years in a certificated position. Existing law also requires school districts to establish evaluation processes and assess the performance of probationary certificated employees annually and permanent certificated employees at least every other year. It also contains dismissal provisions indicating that (1) governing school boards must provide an employee with a written statement "specifying instances of behavior and acts or omissions constituting the charge," and (2) employees may demand an appeals hearing within 30 days of notice of the charge.

Proposal

The initiative adds to the State Constitution a new section relating to school employment decisions by school districts, county offices of education, and charter schools. Its provisions would supersede collective bargaining agreements with any conflicting provisions enacted after the effective date of the measure. Employment decisions would be broadly defined—including the hiring, terminating, assigning, and compensating employees. The initiative has three major provisions.

- ***Requires Performance-Based Employment Decisions.*** The initiative requires all employment decisions to be based solely on employee performance, as assessed annually, and the needs of the school district and its pupils. For teachers and administrators, performance must be based on an appropriate combination (as determined by the governing school district board) of individual annual performance evaluations and improvements in students' scores on standardized state tests. The initiative explicitly disallows employee seniority from being considered in employment decisions.
- ***Publicizes Evaluation Criteria.*** The initiative requires the governing board of the school district to hold a public meeting to discuss and adopt its evaluation system, including its specific evaluation criteria and the relative weight it gives to each criterion. School districts must then post a description of their evaluation system on their Web site.
- ***Extends Probationary Period.*** The initiative allows school districts to grant employees permanent status (or tenure) only after receiving five consecutive satisfactory performance assessments. Because demotion and termination would be based on performance in the future, the initiative would also change the nature of the job security that permanent status provides.

Fiscal Effects

Effect on School District Salary Costs. The measure could have a variety of impacts on salary costs. The measure could affect teacher turnover, the composition of the teacher workforce, and teacher supply—all of which, in turn, could affect teacher salaries.

- ***Unknown Impact on Turnover and Composition of New Teachers.*** Currently, the attrition rate of teachers in their first five years in the profession is relatively high. Despite making dismissal of new teachers easier due to the lengthened probationary period, it is unclear if the measure actually would increase the turnover of beginning teachers. The overall turnover rate could remain the same—with the primary effect of the measure being to change the composition of new teachers. That is, school districts might offer higher

salaries to especially competent new teachers to help retain them while dismissing (or not promoting) less competent new teachers. Although the effect on overall beginning teacher salary costs is unknown, the distribution of individual beginning teacher salaries likely would widen.

- ***Unknown Impact on Turnover and Composition of Veteran Teachers.*** Currently, the attrition rate of veteran teachers is relatively low. Given this existing trend, the measure's performance-based evaluation system likely would result in greater turnover among veteran teachers (and administrators). Districts' salary costs, however, would not necessarily decline. As with beginning teachers, the composition of veteran teachers might change if districts provided higher salaries to especially competent veteran teachers while providing few and/or smaller salary increases to less competent veteran teachers. Moreover, the new performance-based employment system might lead to more midcareer professionals transitioning into teaching. Overall, the impact on veteran teacher salary costs is unknown, but, as above, the distribution of individual teacher salaries likely would widen.
- ***Impact on Teacher Supply Unknown.*** Given the measure's longer probationary period and new performance-based evaluation system, teachers' job security would be reduced. As a result, school districts might have greater difficulty attracting a sufficient number of teachers. On the other hand, districts might find they are able to attract individuals from a wider array of educational and professional backgrounds, thereby increasing teacher supply. The net effect of these forces on overall teacher supply and teacher salaries is unknown.

Given these various countervailing pressures, the net effect on teacher salary costs is unknown and could vary significantly by district depending on local implementation decisions.

Effect on Other School District Costs. School districts would incur some upfront cost to design a new performance-based evaluation system, discuss this system publicly, and place a description of it on their Web sites. School districts would experience higher ongoing assessment costs given they would need to evaluate every employee annually. To the extent teacher turnover increased, school districts also would experience greater hiring and training costs. School districts might achieve some administrative savings as a result of what likely would become a simplified dismissal process. These administrative savings, however, might be offset by an increase in costs associated with holding additional appeal hearings.

Potential State Costs. The state could incur additional assessment costs if it needed to develop new standardized tests (for example, in foreign language and physical education). The state might develop these additional standardized tests to help school districts assess teacher performance. To the extent the initiative resulted in greater teacher turnover, the state might also incur higher costs for state-funded beginning teacher support and professional development programs.

Summary of Fiscal Effects

The measure would have the following major fiscal impact:

- Unknown impact on school district teacher salary costs due to new performance-based evaluation system (that would affect all employment decisions, including hiring, compensating, and firing). Total salary costs could increase or decrease, and fiscal impacts could vary significantly by district depending on local implementation decisions.

Sincerely,

Elizabeth G. Hill
Legislative Analyst

Tom Campbell
Director of Finance