

Date of Hearing: May 9, 2018

ASSEMBLY COMMITTEE ON EDUCATION

Patrick O'Donnell, Chair

AB 3149 (Limón) – As Amended May 1, 2018

SUBJECT: Substitute teachers: permits: duration

SUMMARY: Authorizes a substitute teacher to teach for up to 60 days in a general education class or 50 days in a special education class, if the teacher of record is on leave unexpectedly beyond 30 days, if the substitute is making progress toward the 45 hours of professional development required for the Teaching Permit for Statutory Leave (TPSL). Specifically, **this bill:**

- 1) Authorizes a local educational agency to, at its discretion, allow a person authorized to serve as a substitute teacher to substitute teach for up to 60 days in a general education classroom when the teacher of record elects to extend a leave beyond 30 days.
- 2) Authorizes a local educational agency to, at its discretion, allow a person authorized to serve as a substitute teacher to substitute teach for up to 50 days in a special education classroom when the teacher of record elects to extend a leave beyond 20 days.
- 3) Specifies if a local educational agency allows a substitute teacher to serve for up to 60 days in a general education classroom or up to 50 days in a special education classroom, the local educational agency shall apply for a Teaching Permit for Statutory Leave.
- 4) Specifies if a substitute teacher for whom a local educational agency has applied for a Teaching Permit for Statutory Leave has not completed 45 hours of pre-service preparation, the substitute teacher shall agree to complete the 45 hours of pre-service preparation before the end of the 60 days in a general education classroom or the 50 days in a special education classroom.
- 5) Requires, for a substitute teacher, the local educational agency to certify that a substitute teacher who has completed 22.5 hours of preparation for purposes of the Teaching Permit for Statutory Leave on or before the 45th day for a general education substitute teacher, or on or before the 35th day for a special education substitute teacher, has made satisfactory progress. If the substitute teacher has not made satisfactory progress on or before the 45th day for a general education substitute teacher or on or before the 35th day for a special education substitute teacher, the local educational agency shall remove the substitute teacher from the classroom.
- 6) Specifies that this measure shall be inoperative on July 1, 2025, and, as of January 1, 2026, is repealed.

EXISTING LAW:

- 1) Establishes the Emergency 30-Day Substitute Teaching Permit, which authorizes the holder to serve as a day-to-day substitute teacher in any classroom, including preschool, kindergarten, and grades 1-12 inclusive, or in classes organized primarily for adults. The holder may serve as a substitute for no more than 30 days for any one teacher during the

school year, except in a special education classroom, where the holder may serve for no more than 20 days for any one teacher during the school year. This permit is valid for one year and is renewable. Applicants must hold a baccalaureate or higher degree from a regionally accredited college or university and pass the basic skills requirement and a fingerprint clearance. (Title 5, California Code of Regulations, Section 80025)

- 2) Authorizes holders of 30-day emergency substitute teaching permits to serve as a substitute for a credentialed special education teacher for not more than 20 cumulative days for each special education teacher absent during the school year. Upon application by the district or county office, the Superintendent of Public Instruction may approve an extension of 20 schooldays. (EC 56061)
- 3) Authorizes holders of 30-day emergency substitute teaching permits to serve as a substitute in any classroom; preschool, kindergarten and grades 1-12, inclusive; or in classes organized primarily for adults. However, the holder shall not serve as a substitute for more than 30 days for any one teacher during the school year. (Title 5, California Code of Regulations, Section 80025.3)
- 4) Establishes the Teaching Permit for Statutory Leave (TPSL), which allows an employing agency to fill a position where the teacher of record is unable to teach due to a statutory leave (medical or otherwise) with a temporary teacher of record for the duration of the leave. The TPSL is only available at the request of an employing agency. Holders of the TPSL are restricted to service with the employing agency requesting the permit. The TPSL may be issued with one or more authorizations in the areas of Multiple Subject, Single Subject, and Special Education, depending on an individual's qualifications. The permit is renewable upon verification from the employing agency that specific requirements have been completed. Applicants must hold a baccalaureate or higher degree from a regionally accredited college or university, demonstrate subject matter knowledge through coursework or by exam, complete 45 hours of training through the employing agency, pass the basic skills requirement and pass a fingerprint clearance. (Title 5, California Code of Regulations, Section 80022)
- 5) Establishes the Short-Term Staff Permit (STSP), which was created in response to the phasing out of emergency permits, it allows an employing agency to fill an acute staffing need when local recruitment efforts have been made but a fully-credentialed teacher cannot be found. The STSP is only available at the request of an employing agency. Holders of the STSP are restricted to service with the employing agency requesting the permit. The STSP is available in the areas of Multiple Subject, Single Subject, and Education Specialist. Individuals who were issued four or fewer emergency permits may be issued a STSP. Individuals who were issued five emergency permits do not qualify for the STSP. Applicants must hold a baccalaureate or higher degree from a regionally accredited college or university, demonstrate subject matter knowledge through coursework or by exam, pass the basic skills requirement and pass a fingerprint clearance, and the employer must provide verification that they have completed the requirements for Short-Term Staff Permit. (Title 5, California Code of Regulations, Section 80021)
- 6) Establishes the Emergency Career Substitute Permit, which authorizes the holder to serve as a day-to-day substitute teacher in any classroom, including preschool, kindergarten, and grades 1-12 inclusive, or in classes organized primarily for adults. The holder may serve as a

substitute for no more than 60 days for any one teacher during the school year, except in a special education classroom, where the holder may serve for no more than 20 days for any one teacher during the school year. The permit is valid for one year and is renewable. Requirements for Initial Issuance Individuals must submit their application packet through their employing agency. Applicants must hold a baccalaureate or higher degree from a regionally accredited college or university, pass the basic skills requirement, pass a fingerprint clearance, the employer must verify that the applicant has been employed as a substitute for at least 90 days per year in the last three consecutive years, the employer must provide a statement of endorsement and verify that the employer will make staff development activities offered to their regular teaching staff available to the permit holder. (Title 5, California Code of Regulations, Section 80025.1)

- 7) Prohibits a non-credentialed person from substituting for any special education certificated position. (EC 56060)

FISCAL EFFECT: This bill is keyed nonfiscal.

COMMENTS: This bill authorizes holders of a 30-day emergency substitute permit to remain in the same classroom longer than the current maximum (30 days for general education classes & 20 days for special education classes), when a teacher of record is out unexpectedly longer than the maximum, as long as the teacher is working toward completing the 45 hours of professional development required prior to applying for a Teaching Permit for Statutory Leave (TPSL). The author's intent is to provide a person, who is willing to apply for a TPSL, extra time to complete the required 45 hours of professional development, when the teacher of record is out unexpectedly beyond the maximum number of days that a substitute can serve. For example, if a teacher of record learns on day 20 that their leave will extend beyond 30 days, the district doesn't have much time to provide the professional development needed for the current substitute to earn a TPSL before they are required to leave the classroom on day 30.

Author's Statement. According to the author, "AB 3149 would increase continuity of instruction for students whose teacher of record is on leave, by allowing emergency substitute permit holders to remain in a classroom while they pursue a Teaching Permit for Statutory Leave (TPSL). Specially, the bill is needed to provide emergency substitute teachers sufficient time to complete the 45 hours of pre-service preparation required for a TPSL in very limited circumstances when a teacher of record does not anticipate being absent from their classrooms for more than 20/30 days and then subsequently extend their leaves. This crucial change would encourage greater utilization of the TPSL and help promote greater preparation for emergency substitute teachers."

While the author's intent is to extend the time for qualified applicants to receive professional development prior to receiving the TPSL, this bill presents some challenges. First, the state already offers various types of emergency and long term substitute credentials. Second, this bill implements statutory change to a credential created in the commission's regulatory process. Because of this, the committee should consider whether it is necessary or wise to extend the number of days that a substitute teacher can teach in the same class, without first addressing this issue in the regulatory process. Further, there is a federal compliance issue with respect to special education substitutes, and current law already allows the Superintendent of Public Instruction (SPI) to approve requests from a school district or county office of education for an extension of 20 additional days, for a total of 40 days for special education substitutes. Therefore the

Committee may wish to consider why these current statutory provisions are insufficient and whether lengthening the amount of time for a substitute teacher with an emergency permit is necessary.

Limitations on substitute teachers. School districts will typically employ substitute teachers for various reasons, whether it is for a prolonged leave of absence such as bonding time with a new child or for short-term medical leave or illness. For short term periods, school districts are authorized to employ a substitute teacher with a 30-day emergency substitute teaching permit. Current law requires that in order to qualify for this permit, an applicant must have a bachelor's degree, have successfully passed the California Basic Educational Skills Test, and have fingerprint clearance through the California Department of Justice and the Federal Bureau of Investigation. The holder of a substitute teaching permit may substitute for no more than 30 days for any one teacher per school year in a general education setting, and no more than 20 days for any one teacher per school year in a special education setting. These limitations are intended to minimize the length of time that students are taught by a substitute teacher with a short term permit, who is less-prepared or experienced when compared to a fully-credentialed teacher.

However, if a substitute teacher is needed for more than 30 days in a general education classroom or more than 20 days in a special education classroom, a school district may elect to replace the initial substitute teacher with a subsequent substitute teacher. This bill is intended to minimize the disruption that may occur when one short term substitute teacher is replaced by another short term substitute teacher.

Teaching Permit for Statutory Leave. The CTC has approved a Teaching Permit for Statutory Leave (TPSL). A holder of this permit must meet the requirements of the 30-day emergency permit, meet subject matter competency through coursework or exam, and also have completed 45 hours of preparation relevant to the substitute assignment. In addition, districts must provide orientation, mentoring, and support to substitutes employed with this permit. This permit allows the holder to remain in the same classroom for the duration of the teacher's statutory leave. "Statutory leave" refers to long term leave, such as family leave or medical leave, permitted under federal and/or state law. The benefit of this permit is that it not only allows a substitute to remain in a classroom longer than the 30 or 20 day maximum (thus achieving continuity), but that it also ensures that the substitute have at least some pre-assignment preparation and on-the-job support. The primary difference between the TPSL and the STSP and PIP is that the former is for leaves of absence and the other two are primarily for vacancies.

There are two differences between the 30 day emergency substitute permit holders referenced in this bill and a TPSL holder. First, a TPSL holder is required to meet subject matter competency through coursework or through exam. Second, a TPSL holder must receive 45 hours of professional development from the district. This bill proposes having an emergency 30 day substitute who is untrained and has not met subject matter knowledge requirements, to stay in a classroom up to 60 days in a general education classroom and 50 days in a special education classroom. The committee should consider whether an unprepared teacher leads to unprepared students.

Long term alternatives to the emergency substitute permit already exist. Current law also authorizes the issuance of short term staff permits (STSPs) and provisional internship permits (PIPs). A short term staff permit may be requested by a school district with an acute staffing need, which exists when an employer needs to fill a classroom immediately based on an

unforeseen need. An example of this is a teacher that is unable to finish the school year due to an approved leave for illness. A provisional internship permit may be requested by an employing agency when there is an anticipated staff need, which exists when a school district is aware that an opening is going to occur and conducts a diligent search for a credentialed teacher but is unable to recruit one. Holders of a STSP or PIP may work up to one full year in the same position and must meet the same basic qualifications as the holder of a short term substitute permit. However, holders of these permits must also have completed additional coursework related to their area of assignment and the school district must also provide them with mentoring and support.

Emergency Career Substitute Permit. The Emergency Career Substitute permit authorizes someone with the same qualifications as an emergency 30-day substitute permit to teach in the same classroom up to 60 days if the substitute has worked for at least 90 days per year in the last three consecutive years for the district. The employer must provide a statement of endorsement and verify that the employer will make staff development activities offered to their regular teaching staff available to the permit holder.

Commission Stakeholder Process. The Commission on Teacher Credentialing (CTC) has a well-defined and successful process for bringing together expert stakeholders, where those stakeholders debate an issue, make recommendations, and then those recommendations are implemented without further opposition. This is the most efficient way to change teacher credentialing laws. This bill does not use the commission's stakeholder process, and instead makes statutory changes without the benefit of recommendations from the experts in the field.

Federal guidance on Special Education. The May 4, 2016 guidance from the United States Department of Education pertaining to the implementation of the transition to the federal Every Student Succeeds Act (ESSA) provides a frequently asked question document that includes the following:

“Section 9214(d)(2) of the ESSA amended section 612(a)(14)(C) of the Individuals with Disabilities Education Act by incorporating the requirement previously in section 602(10)(B) that a person employed as a special education teacher in elementary school, middle school, or secondary school must: 1) have obtained full certification as a special education teacher (including certification obtained through alternative routes to certification), or passed the State special education teacher licensing examination and hold a license to teach in the State as a special education teacher, except that a special education teacher teaching in a public charter school must meet the requirements set forth in the State’s public charter school law; 2) not have had special education certification or licensure requirements waived on an emergency, temporary, or provisional basis; and 3) hold at least a bachelor’s degree. Each State must continue to comply with these certification requirements during the 2016-2017 school year. (Updated May 4, 2016)”

As this bill authorizes a person holding an emergency 30-day substitute teacher permit to serve as a special education substitute teacher for up to 50 cumulative days during the school year, it is unclear if this provision, as well as the current statute authorizing emergency permit holders to serve as substitutes in a special education classroom, are in conflict with the federal guidance.

Previous legislative attempts to extend the length of time substitute teachers serve in a special education classroom have included the following language, which the committee should consider adding to this bill if this bill is passed by the committee:

"This shall become operative on the date that the United States Department of Education provides guidance to state education agencies or local educational agencies that applicable federal law does not prohibit substitute teachers from filling an absence or a vacancy in a special education classroom on an emergency, temporary, or provisional basis."

Training for substitutes. Substitutes, especially substitutes that work regularly should have a minimum amount of training provided by the local education agency. Training on basic classroom management and training for emergencies that might occur on campus seem like important training topics. The committee should consider the lack of training that substitutes receive when considering extending their time in the classroom under this bill.

Related Legislation: AB 2336 (Olsen) from 2015 which was held on the Senate Appropriations Suspense file, which would have, until January 1, 2022, authorized a person holding an emergency 30-day substitute teacher permit to serve as a special education substitute teacher for up to 40 cumulative days during the school year, which is double the maximum time allowed under current law, provided specified conditions are met.

Committee Amendment: Amend the bill to delete the contents and instead direct the Commission on Teacher Credentialing (CTC) through a stakeholder process to address the issues raised by the May 1, 2018 version of this bill and make regulatory changes as necessary, by July 1, 2019. It is the committee's intent that the CTC will work with stakeholders to address the need for providing a 30 day emergency substitute permit holder, who is otherwise qualified to receive a TPSL, more time to complete the 45 hours of professional development, specifically in circumstances where a teacher of record unexpectedly needs to continue on leave beyond the 30 day or 20 day limit. For example, if a teacher of record learns on day 20 that their leave will extend beyond day 30, a substitute may not have time to complete 45 hours of training prior to day 30 to apply for a TPSL.

REGISTERED SUPPORT / OPPOSITION:

Support

California School Boards Association
Kern County Superintendent of Schools
Riverside County Superintendent of Schools
School Employers Association of California

Opposition

California Teachers Association
Public Advocates
An Individual

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