

Date of Hearing: June 15, 2022

ASSEMBLY COMMITTEE ON EDUCATION
Patrick O'Donnell, Chair
SB 1397 (Borgeas) – As Amended May 19, 2022

SENATE VOTE: 33-0

SUBJECT: Substitute teachers: days of service

SUMMARY: Extends, to July 1, 2023, the date of authorization to substitute teach in a general, special, or career technical education (CTE) assignment aligned with their authorization, including for staff vacancies, for up to 60 cumulative days for any one assignment for one year.

EXISTING LAW:

- 1) Prohibits the Commission on Teacher Credentialing (CTC) from issuing a credential, permit, certificate, or renewal of an emergency credential to a person to serve in the public schools unless the person has demonstrated proficiency in basic reading, writing, and mathematics skills in the English language. (Education Code (EC) 44252)
- 2) Authorizes the CTC to issue or renew emergency teaching or specialist permits provided that all of the following conditions are met:
 - a) The applicant possesses a baccalaureate degree conferred by a regionally accredited institution of higher education and has fulfilled the subject matter requirements;
 - b) The applicant passes the state basic skills proficiency test; and
 - c) The CTC approves the justification for the emergency permit submitted by the school district in which the applicant is to be employed. (EC 44300)
- 3) Requires a person holding an emergency teaching or specialist permit to attend an orientation to the curriculum and to techniques of instruction and classroom management, and to teach only with the assistance and guidance of a certificated employee of the district who has completed at least three years of full-time teaching experience, or the equivalent thereof. States the intent of the Legislature to encourage districts to provide directed teaching experience to new emergency permitholders with no prior teaching experience. (EC 44300)
- 4) Requires the holder of an emergency permit to participate in ongoing training, coursework, or seminars designed to prepare the individual to become a fully credentialed teacher or other educator in the subject area or areas in which he or she is assigned to teach or serve. Requires the employing agency to verify that employees applying to renew their emergency permits are meeting these ongoing training requirements. (EC 44300)
- 5) 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. Requires applicants to 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 (CCR), Section 80025)

- 6) Authorizes holders of 30-day emergency substitute teaching permits to serve as substitutes for credentialed special education teachers for not more than 20 cumulative days for each special education teacher absent during the school year. Upon application by the district or COE, the Superintendent of Public Instruction (SPI) may approve an extension of 20 schooldays. (EC 56061)
- 7) 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. Authorizes the holder to 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. States that the permit is valid for one year and is renewable. Requires applicants for initial issuance of permits to submit their application packet through their employing agency. Requires applicants to hold a baccalaureate or higher degree from a regionally accredited college or university, pass the basic skills requirement, pass a fingerprint clearance, requires the employer to verify that the applicant has been employed as a substitute for at least 90 days per year in the last three consecutive years, requires the employer to 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, CCR, Section 80025.1)
- 8) Establishes the Short-Term Staff Permit (STSP), which was created in response to the phasing out of emergency permits, to allow an employing agency to fill an acute staffing need when local recruitment efforts have been made but a fully-credentialed teacher cannot be found. States that the STSP is only available at the request of an employing agency. Restricts holders of the STSP to service with the employing agency requesting the permit. States that the STSP is available in the areas of Multiple Subject, Single Subject, and Education Specialist. Authorizes individuals who were issued four or fewer emergency permits to be issued a STSP. Prohibits individuals who were issued five emergency permits from qualifying for a STSP. Requires applicants to 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 requires the employer to provide verification that they have completed the requirements for STSP. (Title 5, CCR, Section 80021)
- 9) 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. States that the TPSL is only available at the request of an employing agency. Restricts holders of the TPSL to service with the employing agency requesting the permit. Authorizes the TPSL to be issued with one or more authorizations in the areas of Multiple Subject, Single Subject, and Special Education, depending on an individual's qualifications. Authorizes the permit to be renewable upon verification from the employing agency that specific requirements have been completed. Requires applicants to 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, CCR, Section 80022)

FISCAL EFFECT: According to the Senate Appropriations Committee, pursuant to Senate Rule 28.8, negligible state costs.

COMMENTS:

Key provisions of the bill. This bill extends the authorization to July 1, 2023, for anyone holding a credential or permit to substitute teach in the classroom for up to 60 cumulative days in any one assignment.

Need for the bill. The author states, “California and the nation are experiencing an unprecedented substitute teacher shortage. While the COVID-19 pandemic has exacerbated the situation, the shortage has been a growing problem for years and the underlying teacher shortage has only worsened the situation.

CalMatters reports that several districts had to begin the school year with some classrooms assigned a long-term substitute. One district had to shut down completely for a period of time because there were not enough substitutes available. The CTC notes that, “current statute and regulations restrict holders of most credentials or permits authorizing substitute teaching to a maximum of 30 cumulative days for any one educator in a general education assignment and 20 cumulative days for any one educator in a special education assignment during a school year.”

In 2021, the passage of AB 167 (Committee on Education) temporarily extended the substitute teaching limitations for the 2021-22 school year until July 1, 2022, authorizing a substitute to serve for up to 60 cumulative days for any one educator in a general education or special education assignment. In addition, on January 11, 2022, the Governor issued Executive Order (EO) N-3-22, to allow for staffing flexibility, but that expired on March 31, 2022.

Students deserve consistency and stability in their education. The shortage of teachers has increased the demand for long-term substitutes and limiting the time one substitute can serve in a single classroom creates unnecessary turnover and instability for students. The regulations limiting the time substitute teachers can serve in a classroom have not been updated since the late 1990’s and do not reflect the unique challenges our schools face currently.”

Substitute teacher credentials and permits impacted. According to the CTC, current statute and regulations restrict holders of most credentials or permits authorizing substitute teaching to a maximum of 30 cumulative days for any one educator in a general education assignment and 20 cumulative days for any one educator in a special education assignment during a school year. With the passage of AB 167 (Committee on Education), Chapter 252, Statutes of 2021, any holder of a credential or permit issued by the CTC to substitute teach may substitute for up to 60 cumulative dates. The following permits and credentials are affected:

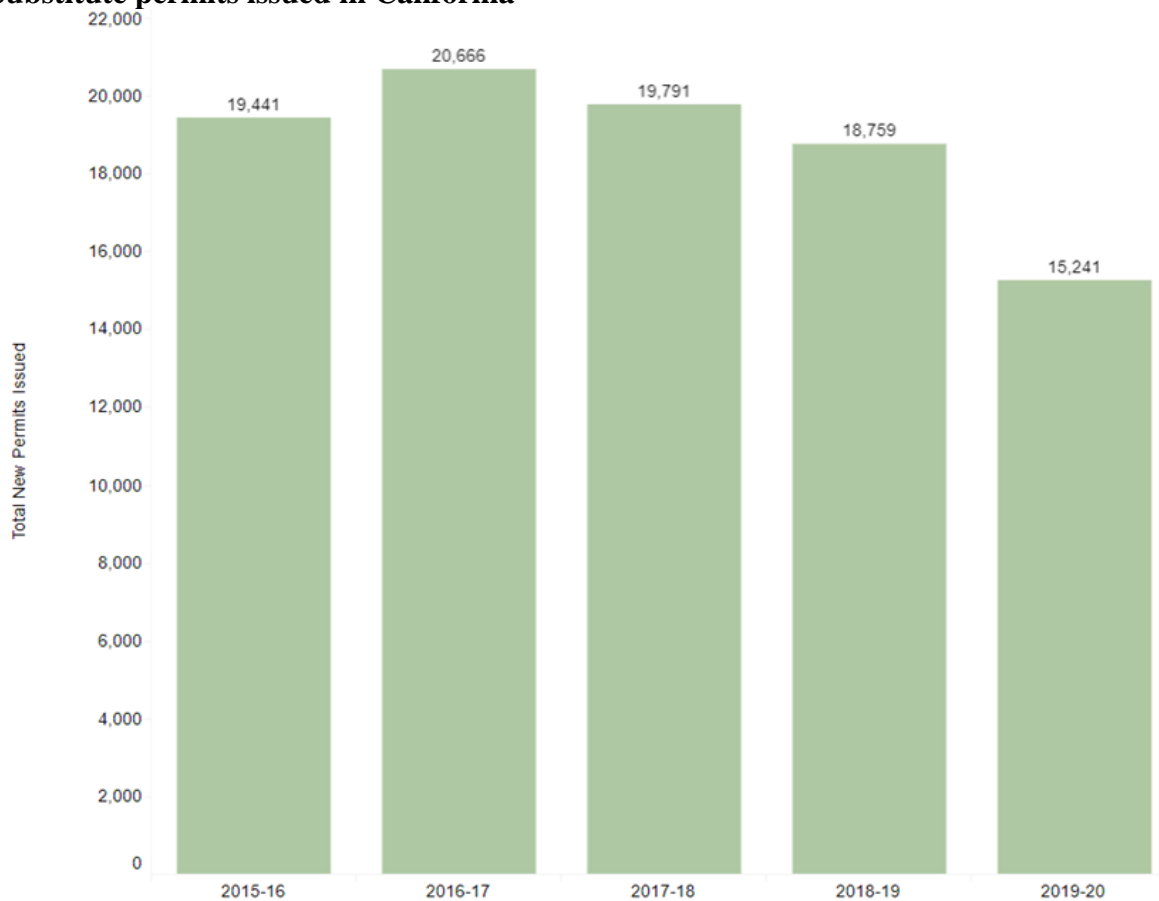
- Substitute Permit holders
 - Emergency 30-Day Substitute Teaching Permit
 - Emergency Substitute Teaching Permit for Prospective Teachers
 - Emergency Career Substitute Permit
 - Emergency Designated CTE Permit for 30-Day Substitute Teaching Service

- Single Subject credential holders
- Multiple Subject credential holders
- Education Specialist Instruction credential holders
- CTE credential holders

Pre-COVID 19 teacher shortages. According to a 2022 Learning Policy Institute (LPI) article, *Teacher Shortages Take Center Stage*, there has been a steady decline in candidates pursuing teacher preparation, due to increased costs of colleges and declining teacher salaries which makes teaching unaffordable. Before the COVID-19 pandemic, enrollment in teacher preparation programs was declining, down by one third between 2010 and 2018. Since the fall of 2019, undergraduate enrollment is down by 6.6% overall and 14.1% in community colleges nationwide. Teacher shortages are impacted by teacher turnover rates. In California, statewide teacher retirement data shows a 26% increase in retirements in the second half of 2020, compared to the same period in 2019.

California data on issuance of substitute permits. The graph below shows the number of new 30-day substitute teaching permits issued. The number of substitute teaching permits issued has dropped more than 25% since 2016-17.

Substitute permits issued in California



(Source: CTC)

Teacher shortages increase the demand for substitute teachers. Teacher shortages have increased the need and demand for substitute teachers. Consequently, new strategies for substitute recruitment and retention are rapidly changing. According to a 2022 report and survey conducted by the EdWeek Research Center, *The Substitute Teacher Gap: Recruitment and Retention Challenges in the Age of COVID-19*, short-term substitute teaching positions have been difficult to fill because of low wages, lack of benefits, and the requirement to hold a bachelor's degree. This report found that on average about 250,000 positions are left to be filled daily with substitute teachers; however, only 54% of all absences were covered with substitute teachers to fill in the vacancies. The report also found that 71% of administrators and school board members predict that the demand for substitute teachers will increase in the next five years. A California school board member interviewed for the report stated, "Many of those people that we do recruit to become substitutes end up getting hired as fulltime teachers, which is great; however, then we lose them in the substitute teacher roles."

Already weak teaching pipeline further damaged by COVID-19 education disruptions.

According to a 2021 report by the LPI, *California Teachers and COVID-19: How the Pandemic Is Impacting the Teacher Workforce*, concerns were raised about the effects of the COVID-19 pandemic on the teacher shortage in California:

- ***Teacher shortages remain a critical problem.*** Most school districts have found teachers to be in short supply, especially for math, science, special education, and bilingual education. Shortages are especially concerning as a return to in-person instruction will require even more teachers to accommodate physical distancing requirements. Most districts are filling hiring needs with teachers on substandard credentials and permits, reflecting a statewide trend of increasing reliance on underprepared teachers. According to the CTC, half of all documents issued during the last few years have been substandard permits, and for special education that figure is two-thirds.
- ***Teacher workload and burnout are major concerns.*** The transition to online and hybrid learning models has had a steep learning curve and poses ongoing challenges that have been a primary contributor to some teachers' decisions to retire earlier than previously planned. With district leaders estimating that teacher workloads have at least doubled, many were concerned that the stressors of managing the challenges of the pandemic on top of the challenges of an increased workload could lead to teacher burnout and increased turnover rates.
- ***Growing retirements contribute to teacher shortages.*** In some districts, retirements and resignations are contributing to shortages, while in others, these retirements and resignations offset the need for anticipated layoffs due to expected budget cuts this school year. The California State Teachers' Retirement System (CalSTRS) reported in February 2021 that in the second half of 2020, the number of retirements had increased 26% over the same period in 2019. 62% of teachers surveyed by CalSTRS reported retiring earlier than planned, and the top three reasons for retiring were challenges of teaching during the COVID-19 pandemic, not wanting to continue to work remotely, and not wanting to risk exposure to COVID-19. At that time CalSTRS, projected that this year would be the second highest recorded for retirements. A 2021 RAND Corporation report, *Stress Topped the Reasons Why Public School Teachers Quit, Even Before COVID-19*, similarly found that stress related to the COVID-19 pandemic was a primary cause of earlier-than-planned retirement.

- *Growing resignations cause further reduced supply.* According to a 2022 report of survey data from large and small school districts serving a total of 20% of California students by the LPI, *Teacher Shortages During the Pandemic: How California Districts Are Responding*, the report found that the pandemic had caused an increase in teacher resignations. In one large district, resignations increased by about two-thirds, and leaves of absence increased by about 50%. This is consistent with a nationally representative survey of 3,600 teachers published by the National Education Association (NEA) in 2022, which found that, among school employees (including classified employees), 55% of educators were considering leaving the profession earlier than they had planned, an increase from 37% from 2021, with higher rates for African American and Latino employees. 86% of respondents said that they have seen more educators leaving the profession or retiring early since the start of the pandemic in 2020. Among the most commonly cited reasons for leaving the profession or retiring early were burnout and general stress from the pandemic.

COVID flexibilities to address staffing issues due to Omicron surges. In response to unprecedented educator shortages, AB 167 (Committee on Education), Chapter 252, Statutes of 2021, effective September 23, 2021, temporarily extended the number of days the holder of a qualified document authorizing substitute teaching may substitute for any one educator to a maximum of 60 cumulative days in both general education and special education classrooms during the 2021-22 school year.

In addition to extending the number of days for educators, Governor Newsom signed EO N-3-22 on January 11, 2022, which immediately enacted staffing flexibilities to help alleviate staffing issues due to the Omicron-driven rise in COVID-19 cases. The EO allows individuals who do not currently hold an Emergency 30-Day Substitute Teaching Permit to receive a Temporary County Certificate (TCC) to serve in an emergency substitute assignment immediately, if the individual holds a Bachelor's or higher degree and a valid Certificate of Clearance or other Commission issued document, and the individual meets the Basic Skills Requirement. The EO temporarily suspended the requirements for the individual to submit an Emergency 30-Day Substitute Teaching Permit application and fee to the CTC. In addition, the service limitation for long-term and day-to-day substitute assignments was extended to 120 days. These provisions expired on March 31, 2022.

Arguments in support. The Amador County Office of Education states, "Nationally and here in California schools are experiencing an unprecedented substitute teacher shortage. While the COVID-19 pandemic has exacerbated the situation, the shortage has been a growing problem for years and the underlying teacher shortage has only worsened the situation. CalMatters reports that several districts had to begin the school year with some classrooms assigned a long-term substitute. One district had to shut down completely for a period of time because there were not enough substitutes available."

Related legislation. AB 1876 (Seyarto) of the 2021-22 Session requires the CTC, when issuing an initial emergency career substitute teaching permit, to accept employment verification for the previous consecutive three year period from one or more California school districts participating in a consortium in determining the accumulated work days per year.

AB 1893 (Cunningham) of the 2021-22 Session, would require, until July 1, 2024, the CTC to waive the basic skills proficiency requirement for the issuance of an emergency 30-day substitute teaching permit.

AB 167 (Committee on Education), Chapter 252, Statutes of 2021, authorized until July 1, 2022, any holder of a credential or permit issued by the CTC that authorizes the holder to substitute teach in a general, special, or career technical education assignment to serve in a substitute teaching assignment aligned with their authorization, including for staff vacancies, for up to 60 cumulative days for any one assignment.

AB 1119 (Eduardo Garcia) of the 2019-20 Session would have required the CTC to establish a Teacher and Substitute Shortage Workgroup to identify steps that can be taken to improve both the substitute pool and the qualified teacher workforce in small school districts, defined as a school district with fewer than 2,501 units of ADA. This bill was held in the Assembly Appropriations Committee.

AB 3149 (Limon) of the 2017-18 Session would have required the CTC, through a stakeholder process, to determine whether there is a need to provide a person who holds an Emergency 30-Day Substitute Teaching Permit, who is otherwise qualified to receive a Teaching Permit for Statutory Leave, expanded pathways for meeting the requirements of the Teaching Permit for Statutory Leave, and to make regulatory changes as necessary, on or before July 1, 2019. This bill was held on the Senate Floor.

AB 2336 (Olsen) of the 2015-16 session 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 provided specified conditions are met. This bill was held on the Senate Appropriations Suspense file.

REGISTERED SUPPORT / OPPOSITION:

Support

Amador County Unified School District
Association of California School Administrators
Bass Lake Joint Union Elementary School District
Calaveras County Office of Education
Calaveras Unified School District
California Charter Schools Association
Central Unified School District
Folsom Cordova Unified School District
Fresno County Office of Education
Hughson Unified School District
Mariposa County Unified School District
Oakdale Joint Unified School District
Sanger Unified School District
Tuolumne County Superintendent of Schools

Opposition

None on file

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