

# CLIENT NEWS BRIEF

## Labor and Employment Legislative Update, Part One

Governor Jerry Brown considered several bills this legislative season that impact the rights of public employees and their employers. In this first part of a two-part series, Lozano Smith examines four new laws with the greatest potential impact on public employers in 2017, plus two major bills the Governor vetoed.

### **Assembly Bill (AB) 1918: County Offices of Education May Issue Temporary Certificates to Teachers Working in Nonpublic Schools while their Credential Applications are processed**

AB 1918, signed into law on August 17, 2016, enables county offices of education to issue temporary certificates to certificated employees whose credentials are being processed by the California Commission on Teacher Credentialing (CCTC), including persons who have a certificate from another state and certificated employees of nonpublic schools. Prior to issuing a temporary certificate, a county office of education is required to obtain a certificate of clearance from the CCTC for the employee. The new law goes into effect on January 1, 2017.

### **Senate Bill (SB) 916: CCTC May Now Issue Single Subject Teaching Credentials in Dance and Theater**

SB 916 authorizes the CCTC to issue two new single subject teaching credentials, in dance and theater. The bill, which the Governor signed on September 26, 2016, goes into effect on January 1, 2017. Existing law requires teachers to possess a single subject English credential in order to teach theater. Similarly, to teach dance, a teacher is required to possess a physical education teaching credential. In addition to the new credentials, the bill also permits current holders of physical education and English credentials, or persons who pursue such credentials before the establishment of a single subject teaching credential, to teach dance and theater, respectively. The Legislature made clear that these new provisions do not prohibit a school district from employing a teacher with a single subject teaching credential in another subject with an authorization to teach theater or dance.

### **Senate Bill (SB) 1413: Teacher Housing Act of 2016**

The Teacher Housing Act of 2016 could make housing more affordable for school district employees throughout California. SB 1413, signed into law on September 27, 2016, will enable California school districts serving grades Pre-K through 12 to use federal tax credits and state and local funds to develop affordable housing for teachers and other school district employees. The Legislature anticipates SB 1413 will help address high teacher turnover rates that are driven, in part, by the increasing cost of housing in many California markets.

The stability of housing for school employees is critical to the overall success of California schools. Many believe that the current lack of affordable housing for

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educators negatively impacts teacher retention. The lack of affordable housing exacerbates the record low supply of new teachers in California, which disproportionately impacts schools serving low-income and minority students. According to the Legislature, both students and the community benefit from teachers living near their employing school district.

Under the new law, which goes into effect on January 1, 2017, districts may leverage federal low-income housing tax credits, along with state and local public and private funding, in order to establish affordable housing programs for district employees. The law also creates a new state policy, pursuant to the federal Internal Revenue Code, allowing district-owned land to be developed as affordable rental housing earmarked solely for district employees. In order to comply with SB 1413, a school district must offer a majority of the rents at levels that are affordable to low or moderate income levels. Affordable housing options on or near school sites will offer the added benefits of reducing employees' commute time and time away from the home.

While SB 1413 does not address local zoning requirements for such housing, it is unlikely that local zoning laws could be overridden by the school district. SB 1413 signals an opportunity for school districts to seek out local housing developers interested in proposing options to develop affordable housing on District-owned property and shoulder the burden of any zoning variance required for such purpose.

## **Senate Bill (SB) 294: Military Service Retirement Credits for Public Employees**

SB 294 requires school districts and other employers participating in the California Public Employees' Retirement System (CalPERS) to inform military veteran employees of their right to receive CalPERS credit for periods of active service.

Under existing law, public employees participating in CalPERS are entitled to certain rights upon return to public employment following a leave of absence to perform active military duty. Such employees have the right to receive salary adjustments, retirement contributions and applicable employer-paid service credit in the retirement system to include the employee's period of active duty. Veterans who performed active military duty prior to membership in CalPERS are also allowed to self-purchase additional military service credits. In order to receive service credits, eligible employees must properly file an application form with CalPERS.

Under SB 294, on or by March 31, 2017, school districts and other CalPERS employers must inform returning veterans of their rights to receive applicable service credits and, within 30 days of their return to state service, must provide veterans with the appropriate CalPERS application forms. Upon hire, CalPERS employers must also inform veterans of their right to purchase CalPERS credits for military service prior to employment and membership in CalPERS.

Currently, some veterans are unaware that they are eligible for this important CalPERS benefit, or do not know how to submit forms in order to apply for the benefit. With SB 294, the Legislature aims to simplify the benefits process and ensure military veterans and their survivors have a greater chance of receiving the retirement credits to they are entitled to.

## **Assembly Bill (AB) 2826: Governor Vetoes Law that would have Expanded Methods and Measures Available for Use in Teacher Evaluations**

AB 2826, which was vetoed by Governor Jerry Brown on September 30, 2016, would have expanded methods and assessment tools available for use and consideration in the formal teacher evaluation process. The Education Code requires school districts to evaluate teachers according to standards relating to pupil progress toward certain academic standards, instructional techniques and strategies used and teacher adherence to curricular objectives.

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AB 2826 would have added an Education Code section to specifically permit and encourage the use of certain student academic progress information and data in teacher assessment and evaluation. The bill also included specific measures for assessing instructional techniques and strategies and adherence to curricular objectives.

While some school districts already use student progress data in teacher evaluations, its use has been the subject of recent legal challenge. ([See 2016 Client News Brief No. 80.](#)) In his veto message, Governor Brown expressed his belief that the additional assessment factors would not “materially change current teacher evaluations in California.” Given the veto, it is likely that districts’ ability to use student assessment data in teacher evaluations will be decided by the courts rather than the Legislature.

## **Assembly Bill (AB) 2197: Unemployment Insurance for Classified Employees**

AB 2197, which was vetoed by the Governor on September 30, 2016, would have made classified school employees eligible to receive unemployment benefits between school years, with or without a reasonable assurance of being employed the next academic year. Under the proposed law, classified employees would have been eligible to receive up to two weeks of unemployment benefits beginning July 1, 2017, increasing to eight weeks of benefits by July 1, 2020. In his veto message, the Governor declined to approve the bill due to conformity issues with federal unemployment insurance laws, potentially resulting in sanctions from the federal government and the loss of significant tax credits for California employers.

For more information on these new laws, please contact the authors of this Client News Brief or an attorney at one of our [10 offices](#) located statewide. You can also visit our [website](#), follow us on [Facebook](#) or [Twitter](#) or download our [Client News Brief App](#).