

Senate Bill 51

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Theodore R. Kulongoski for Teacher Standards and Practices Commission)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Allows Teacher Standards and Practices Commission to discipline responsible administrator or assigned person for misassignment in lieu of forfeiture or payment of funds by school district or education service district.

Declares emergency, effective July 1, 2005.

A BILL FOR AN ACT

1
2 Relating to Teacher Standards and Practices Commission; creating new provisions; amending ORS
3 342.173; and declaring an emergency.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 342.173 is amended to read:

6 342.173. (1) **Except as provided in subsection (10) of this section**, any school district
7 [*which*] **that** employs any person not properly licensed by the Teacher Standards and Practices
8 Commission and assigned in accordance with the terms specified by the person's license shall forfeit
9 in State School Fund moneys due the district an amount determined by the Teacher Standards and
10 Practices Commission to not exceed the amount of the salary paid to the person for the time during
11 which the person is employed. The forfeiture shall be effective unless:

12 (a) Such assignments are made with justification satisfactory to the Teacher Standards and
13 Practices Commission.

14 (b) The teacher is employed by a post-secondary institution accredited by the Northwest Asso-
15 ciation of Schools and Colleges [*which*] **that** has a contract with a school district under which the
16 teacher is teaching at the high school level. The contract shall be approved annually by the State
17 Board of Education under rules adopted by the board, including criteria for a teacher's qualifica-
18 tions under subparagraph (C) of this paragraph. The contract shall:

19 (A) Be for a specific instructional assignment for which the district does not have appropriately
20 licensed personnel either on staff or available to be placed on staff after a reasonably diligent
21 search;

22 (B) Be approved annually by the governing boards of the post-secondary institution and the
23 school district including a written determination that appropriately licensed personnel have not be-
24 come available since the previous contract for the assignment;

25 (C) Provide evidence that the teacher's qualifications are appropriate for the assignment;

26 (D) Allow the teacher to teach no more than two high school units of credit or the equivalent
27 per year; and

28 (E) Not be valid during a school closure, strike or summer session.

29 (c) The person is teaching a live, interactive distance learning course originating outside the

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 state.

2 (2) A school district shall be required under subsection (1) of this section to forfeit not more
3 than \$1,000 of State School Fund moneys due the district if the license has lapsed during the time
4 of employment with the district and the holder had at the time the license expired all the quali-
5 fications necessary to renew the license.

6 (3) Notwithstanding subsections (1) and (2) of this section **and except as provided in sub-**
7 **section (10) of this section**, a school district employing unlicensed staff members in positions re-
8 quiring licensed personnel during the time of a labor dispute shall forfeit in State School Fund
9 moneys an amount equal to the daily salary rate multiplied by the number of teaching days for each
10 unlicensed teaching employee during the entire labor dispute.

11 (4) If the State Board of Education finds a contract to be in violation of the provisions of sub-
12 section (1)(b) of this section, the board shall report the violation to the Teacher Standards and
13 Practices Commission which shall proceed as provided in subsection (1) of this section.

14 (5) **Except as provided in subsection (10) of this section**, any education service district that
15 employs any person not properly licensed by the Teacher Standards and Practices Commission and
16 assigned in accordance with the terms specified in the person's license shall pay from its funds an
17 amount determined by the Teacher Standards and Practices Commission not to exceed the amount
18 of salary paid to the person for the time during which the person was employed. The payment shall
19 be required unless the assignment is made with justification satisfactory to the commission. All
20 amounts received under this subsection shall be credited to the State School Fund.

21 (6) An education service district shall be required under subsection (5) of this section to pay a
22 penalty of not more than \$1,000 if the license has lapsed during the time of employment with the
23 district and the holder had at the time the license expired all the qualifications necessary to renew
24 the license.

25 (7) Subject to any applicable collective bargaining agreement, an education service district re-
26 quired to pay any penalty under subsection (6) of this section is entitled to recover one-half of the
27 amounts paid from the licensed personnel whose unlicensed status caused the payment. Recovery
28 shall not exceed one-half of the amount paid that is attributable to the licensed person.

29 (8) The Teacher Standards and Practices Commission shall notify districts of the licensing ex-
30 piration dates of their employees who are reported to the commission. The reporting shall be done
31 in a manner specified by the commission.

32 (9) Subject to any applicable collective bargaining agreement, a district required to forfeit any
33 State School Fund moneys under subsection (2) of this section is entitled to recover one-half of the
34 amounts forfeited from the licensed personnel whose unlicensed status caused the forfeiture. Re-
35 covery shall not exceed one-half of the amount forfeited that is attributable to the particular li-
36 censed person.

37 **(10) In lieu of pursuing a forfeiture or payment of funds from a school district or edu-**
38 **cation service district, the commission may find that the improper licensing or assignment**
39 **is grounds for discipline by the commission of either the responsible administrator or the**
40 **improperly licensed or assigned person.**

41 [(10)] (11)(a) A school district or education service district that assigns a teacher to be present
42 in the classroom during a live, interactive distance learning presentation [*shall*] **may** not be subject
43 to the forfeiture described in subsection (1) of this section solely because the assignment does not
44 conform to the terms specified on the license of the teacher.

45 **(b) An administrator who assigns a teacher to be present in the classroom during a live,**

1 **interactive distance learning presentation or the teacher who is present may not be subject**
2 **to discipline under subsection (10) of this section solely because the assignment does not**
3 **conform to the terms specified on the license of the teacher.**

4 **SECTION 2. The amendments to ORS 342.173 by section 1 of this 2005 Act first apply to**
5 **the 2005-2006 school year.**

6 **SECTION 3. This 2005 Act being necessary for the immediate preservation of the public**
7 **peace, health and safety, an emergency is declared to exist, and this 2005 Act takes effect**
8 **July 1, 2005.**

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