

**Senate Appropriations Committee Fiscal Summary**  
**Senator Christine Kehoe, Chair**

**AB 5 (Fuentes) – Teacher Evaluations.**

**Amended:** June 22, 2011

**Urgency:** No

**Hearing Date:** August 13, 2012

**Policy Vote:** Education 6-0

**Mandate:** Yes

**Consultant:** Jacqueline Wong-Hernandez

**This bill meets the criteria for referral to the Suspense File.**

**Bill Summary:** AB 5 requires school districts to implement a best practices teacher evaluation system, as specified, by July 1 of the first fiscal year in which the deficit factor is reduced to zero.

**Fiscal Impact:** This bill places future mandates on school districts when the provisions take effect, which will result in substantial new reimbursable costs. Those costs will be partially offset by repealing existing requirements that result in approximately \$18 million per year in reimbursable mandate costs.

- **Mandate:** 3-year evaluation cycle – Millions to tens of millions of dollars in annual evaluation costs to increase evaluation frequency for certain (likely more than 100,000) teachers from a minimum of once every 5 years to once every 3 years.
- **Mandate:** Multiple observations – Millions of dollars to implement multiple observations of each teacher, instead of a single observation required for evaluation.
- **Mandate:** Collective bargaining – Substantial new mandate for every schools district to collectively bargain its best practices teacher evaluation system.
- **Mandate:** Training – Potentially substantial mandate to train evaluators to meet new “appropriately trained and calibrated evaluators” requirements.

**Background:** The Stull Act, in existing law, expresses legislative intent that governing boards establish a uniform system of evaluation and assessment of certificated personnel within each school district, and requires school districts to evaluate and assess teacher performance as it reasonably relates to the progress of pupils toward district-adopted standards of pupil achievement and pupil performance on criterion referenced tests; instructional techniques and strategies used by the employee; the employee’s adherence to curricular objectives; and the establishment and maintenance of a suitable learning environment within the scope of the employee’s responsibilities. (Education Code § 44660 et. seq.)

In developing guidelines and procedures for evaluating certificated personnel, existing law requires governing boards to avail themselves of the advice of the certificated instructional personnel in the district’s organization of certificated personnel pursuant to collective bargaining statutes. A school district may, by mutual agreement between the exclusive representatives of the certificated employees of the district, include any objective standards from the National Board for Professional Teaching Standards

(NBPTS) or any objective standards from the California Standards for the Teaching Profession (CSTP). (EC § 44661.5)

Existing law requires an evaluation and assessment of the performance of each certificated employee to be made at least once each school year for probationary personnel, at least every other year for personnel with permanent status, and at least every five years for permanent employees who have been employed with the district at least 10 years and were rated as meeting or exceeding standards in their previous evaluation. Employees who receive an unsatisfactory rating may be required to participate in a program designed to improve the employee's performance and to further pupil achievement and the instructional objectives of the district. Teachers who receive an unsatisfactory rating are required to participate in the Peer Assistance and Review Program if their district offers such a program. (EC § 44664)

Existing law establishes the Peer Assistance and Review Program for Teachers (PAR) by authorizing school districts and the exclusive representative of the certificated employees to develop and implement the program locally. PAR programs include multiple observations of a teacher during periods of classroom instruction and sufficient staff development activities to assist a teacher in improving his or her skills and knowledge. The final evaluation of a teacher's participation in the program is made available for placement in his or her personnel file. (EC § 44505)

**Proposed Law:** This bill requires the following sections of the Stull Act to become inoperative on July 1 of the first fiscal year following the fiscal year in which the school district revenue limit deficit factor is reduced to zero: a) Legislative intent that governing boards establish a uniform system for evaluation and assessment; b) The requirement that a governing board, in developing and adopting guidelines, avail itself of the advice of the certificated instructional personnel in the district as part of a locally negotiated collective bargaining agreement; c) The authorization that a school district may include objective standards from the NBPTS or the CSTP in its guidelines; d) The requirement that each school district establish standards of expected pupil achievement at each grade level in each area of study and to evaluate certificated employee performance as it reasonably relates to specified criteria; e) The requirement that evaluation and assessment of the performance of certificated employees be conducted every year for probationary employees, at least every two years for personnel with permanent status and at least every five years for personnel with permanent status who have been employed with the district at least 10 years and were rated as meeting or exceeding standards at their last evaluation. (EC § 44664)

This bill requires the governing board of each school district to adopt and implement a best practices teacher evaluation by July 1 of the first fiscal year following the fiscal year in which the school district revenue limit deficit factor is reduced to zero; requires the teacher evaluation system to be locally negotiated; and specifies that if the certificated employees of the school district do not have an exclusive bargaining representative, the governing board of the school district shall adopt objective evaluation and support components, as applicable. This bill specifies that a best practices teacher evaluation system has the following attributes:

- 1) Each teacher is evaluated on the degree to which he or she accomplishes the following objectives:
  - a) Engages and supports all pupils in learning, as specified;
  - b) Creates and maintains effective environments for pupil learning, to the extent that those environments are within the teacher's control.
  - c) Understands and organizes subject matter for pupil learning, evidence of which may include, but is not limited to, extensive subject matter, content standards, and curriculum competence.
  - d) Plans instruction and designs learning experiences for all pupils, evidence of which may include but is not limited to, use of differential instruction and practices based upon pupil progress and use of culturally responsive instruction, as specified;
  - e) Uses pupil assessment information to inform instruction and to improve learning, as specified:
  - f) Develops as a professional educator, as specified:
  - g) Contributes to pupil academic growth based upon multiple measures, which may include but are not limited to, classroom work, local and state academic assessments, pupil grades, classroom participation, presentations and performances, and projects and portfolios; as specified;
- 2) Multiple observations of instructional and other professional practices are conducted by evaluators who have received appropriate training and who have demonstrated competence in teaching evaluation, as determined by the district.
- 3) Specifies that the requirement for a teacher evaluation system does not prohibit a locally negotiated evaluation process from designating certificated employees to conduct, or participate in, evaluations of other certificated employees for purposes of determining needs for professional development or providing corrective advice for the certificated employee being evaluated.
- 4) Requires a school district governing board to establish and define job responsibilities for certificated non-instructional personnel whose responsibilities cannot be evaluated appropriately under the best practices teacher evaluation system and to evaluate and assess the performance of non-instructional certificated employees as it reasonably relates to the fulfillment of those responsibilities.
- 5) Requires the evaluation and assessment of the performance of each certificated employee to be made on a continuing basis as follows:
  - a) At least once each school year for probationary personnel.
  - b) At least every other year for personnel with permanent status.
  - c) Except as provided in the locally negotiated best practices teacher evaluation system, at least every 3 years for employees with permanent status who have been employed at least 10 years, as specified;
  - d) Requires the employing authority to notify an employee in writing if the employee is not performing his or her duties in a satisfactory manner and

to describe the unsatisfactory performance. Requires the employing authority to confer with the employee and make specific recommendations as to areas of improvement, and requires an annual evaluation until the employee achieves a positive evaluation or is separated from the district.

- e) Specifies that an employee evaluation that contains an unsatisfactory rating of an employee's performance may include a requirement that the certificated employee participate in a program designed to improve appropriate areas of the employee's performance, as specified, and requires any certificated employee who receives an unsatisfactory rating on an evaluation to participate in PAR if the district has such a program.

**Staff Comments:** The Stull Act, in existing law, expresses legislative intent that governing boards establish a uniform system of evaluation and assessment of certificated personnel within each school district, and requires school districts to evaluate and assess teacher performance, as specified in the Background. The state has reimbursed school districts approximately \$18 million in annual mandate costs related to implementing the requirements, but that amount is likely to be adjusted in future years. The 2012-13 Stull Act mandate is included in the new K-12 mandates block grant, under which school districts may opt to accept \$28 per pupil for all active mandates instead of traditional reimbursement. To the extent that school districts choose to participate in the mandates block grant, the state will realize savings related to the Stull Act mandate as it exists under current law.

This bill would, once the school district revenue limit deficit factor is reduced to zero (which would require approximately \$9.2 billion to achieve), repeal those provisions and replace them with new teacher evaluation requirements. The state would presumably stop paying the Stull Act mandate (for traditional reimbursements) and would remove it from the mandates block grant, but would instead pay more extensive mandates to implement this bill's provisions that address the same issue of teacher evaluation. The full cost of implementing this bill will depend on the extent of successful mandate claims filed by school districts. The Commission on State Mandates will ultimately determine which implementation activities and expenses will be reimbursable. That determination will likely include, at a minimum:

Collective bargaining: This bill specifies necessary components of a teacher evaluation system, and mandates that the details of those components be collectively bargained at the local level. Under this bill, approximately 1,000 school districts are required to develop and collectively bargain their teacher evaluation procedures. Collective bargaining expenses related to this requirement, including legal counsel time, will likely be reimbursable, as will staff time spent developing the initial proposals school districts present during collective bargaining.

Training: This bill requires classroom observations be conducted by evaluators who have been "appropriately trained and calibrated to ensure consistency and who have demonstrated competence in teacher evaluation, as determined by the school district." Training evaluators will be a reimbursable expense, and the extent of that expense will be determined by the school district's locally-determined standards.

Evaluation frequency: Upon implementation of a new evaluation system, this bill requires teachers with 10 years or more experience to be evaluated every 3 years and to be observed multiple times for each evaluation. Staff time for multiple classroom observations, written evaluations, evaluation reviews, and meetings with the teacher will all likely be reimbursable.