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H. B. 2717

(By Delegates Marcum, Pasdon, Perry, White, R. Phillips, Williams,
Eldridge, Rodighiero, Reynolds and Campbell)

[Introduced February 12, 2015; referred to the
Committee on Education.]

10 A BILL to amend and reenact §18A-4-7a and §18A-4-8b of the Code of West Virginia, 1931, as
11 amended, all relating to hiring of public school employees; providing for hiring decisions to
12 be made in public meetings of a county board of education; requiring detailed reports listing
13 the specific qualifications, seniority and rationale for consideration of each employee
14 candidate; requiring that every board member receive the report prior to the meeting of the
15 county board of education; and providing for consideration of personal information during
16 an executive session of the meeting of the board.

17 *Be it enacted by the Legislature of West Virginia:*

18 That §18A-4-7a and §18A-4-8b of the Code of West Virginia, 1931, as amended, be
19 amended and reenacted, all to read as follows:

20 **ARTICLE 4. SALARIES, WAGES AND OTHER BENEFITS.**

21 **§18A-4-7a. Employment, promotion and transfer of professional personnel; seniority.**

22 (a) A county board of education shall make decisions affecting the filling of vacancies in
23 professional positions of employment on the basis of the applicant with the highest qualifications:

1 *Provided*, That the county superintendent shall be hired under separate criteria pursuant to section
2 two, article four, chapter eighteen of this code.

3 (b) In judging qualifications for the filling of vacancies of professional positions of
4 employment, consideration shall be given to each of the following:

5 (1) Appropriate certification, licensure or both;

6 (2) Amount of experience relevant to the position or, in the case of a classroom teaching
7 position, the amount of teaching experience in the required certification area;

8 (3) The amount of course work, degree level or both in the relevant field and degree level
9 generally;

10 (4) Academic achievement;

11 (5) In the case of a classroom teaching position or the position of principal, certification by
12 the National Board for Professional Teaching Standards;

13 (6) Specialized training relevant to the performance of the duties of the job;

14 (7) Past performance evaluations conducted pursuant to section twelve, article two of this
15 chapter and section two, article three-c of this chapter or, in the case of a classroom teacher, past
16 evaluations of the applicant's performance in the teaching profession;

17 (8) Seniority;

18 (9) Other measures or indicators upon which the relative qualifications of the applicant may
19 fairly be judged;

20 (10) In the case of a classroom teaching position, the recommendation of the principal of the
21 school at which the applicant will be performing a majority of his or her duties; and

22 (11) In the case of a classroom teaching position, the recommendation, if any, resulting from

1 the process established pursuant to the provisions of section five, article five-a, chapter eighteen of
2 this code by the faculty senate of the school at which the employee will be performing a majority of
3 his or her duties.

4 (c) A county board of education shall make all decisions regarding filling vacancies at open,
5 public meetings of the board. For each vacancy considered, the county school system's human
6 resource director or other official responsible for administering the hiring process shall prepare a
7 detailed report reflecting the qualifications and endorsements of every person who has applied for
8 the position, and shall provide a copy of the report to each board member at least forty-eight hours
9 prior to the county board of education meeting in which the filling of the vacancy is to be discussed.
10 For each person who applied for the position, regardless of the person's satisfaction of the required
11 minimum qualifications, the report shall include, but not be limited to, the following items:

12 (1) Name of the person and any other appropriate identifying information;

13 (2) Requirements for the position and the factors that must be considered pursuant to this
14 code, including the factors listed in subsection (b) of this section;

15 (3) Specific qualifications of the applicant;

16 (4) The applicant's years of service within the school system of this state and within the
17 county's school system; and

18 (5) The written explanation of the reasoning behind any recommendation made by the human
19 resource director or the county superintendent of schools for or against the applicant.

20 The complete list shall be kept confidential and used only for the benefit of the elected
21 members of the county board of education in their decision making process and may be discussed
22 by them, upon appropriate motion, in an executive session at the meeting in which the vacancy is

1 to be taken up. The list may also be made available, upon request, to any applicant or to the
2 applicant's designated representative.

3 ~~(c)~~ (d) In considering the filling of a vacancy pursuant to this section, a county board is
4 entitled to determine the appropriate weight to apply to each of the criterion when assessing an
5 applicant's qualifications: *Provided*, That if one or more permanently employed instructional
6 personnel apply for a classroom teaching position and meet the standards set forth in the job posting,
7 each criterion under subsection (b) of this section shall be given equal weight except that the
8 criterion in subdivisions (10) and (11) shall each be double weighted.

9 ~~(d)~~ (e) For a classroom teaching position, if the recommendations resulting from the
10 operations of subdivisions (10) and (11), subsection (b) of this section are for the same applicant,
11 and the superintendent concurs with that recommendation, then the other provisions of subsections
12 (b) and (c) of this section do not apply and the county board shall appoint that applicant
13 notwithstanding any other provision of this code to the contrary.

14 ~~(e)~~ (f) The state board shall promulgate a rule, including an emergency rule if necessary, in
15 accordance with the provisions of article three-b, chapter twenty-nine-a of this code to implement
16 and interpret the provisions of this section, including provisions that may provide for the
17 compensation based on the appropriate daily rate of a classroom teacher who directly participates
18 in making recommendations pursuant to this section for periods beyond his or her individual
19 contract.

20 ~~(f)~~ (g) Recommendations made pursuant to subdivisions (10) and (11), subsection (b) of this
21 section shall be made based on a determination as to which of the applicants is the highest qualified
22 for the position: *Provided*, That nothing in this subsection shall require principals or faculty senates

1 to assign any amount of weight to any factor in making a recommendation.

2 ~~(g)~~ (h) With the exception of guidance counselors, the seniority of classroom teachers, as
3 defined in section one, article one of this chapter, shall be determined on the basis of the length of
4 time the employee has been employed as a regular full-time certified and/or licensed professional
5 educator by the county board of education and shall be granted in all areas that the employee is
6 certified, licensed or both.

7 ~~(h)~~ (i) Upon completion of one hundred thirty-three days of employment in any one school
8 year, substitute teachers, except retired teachers and other retired professional educators employed
9 as substitutes, shall accrue seniority exclusively for the purpose of applying for employment as a
10 permanent, full-time professional employee. One hundred thirty-three days or more of said
11 employment shall be prorated and shall vest as a fraction of the school year worked by the
12 permanent, full-time teacher.

13 ~~(i)~~ (j) Guidance counselors and all other professional employees, as defined in section one,
14 article one of this chapter, except classroom teachers, shall gain seniority in their nonteaching area
15 of professional employment on the basis of the length of time the employee has been employed by
16 the county board of education in that area: *Provided*, That if an employee is certified as a classroom
17 teacher, the employee accrues classroom teaching seniority for the time that that employee is
18 employed in another professional area. For the purposes of accruing seniority under this paragraph,
19 employment as principal, supervisor or central office administrator, as defined in section one, article
20 one of this chapter, shall be considered one area of employment.

21 ~~(j)~~ (k) Employment for a full employment term shall equal one year of seniority, but no
22 employee may accrue more than one year of seniority during any given fiscal year. Employment for

1 less than the full employment term shall be prorated. A random selection system established by the
2 employees and approved by the board shall be used to determine the priority if two or more
3 employees accumulate identical seniority: *Provided*, That when two or more principals have
4 accumulated identical seniority, decisions on reductions in force shall be based on qualifications.

5 ~~(k)~~ (l) Whenever a county board is required to reduce the number of professional personnel
6 in its employment, the employee with the least amount of seniority shall be properly notified and
7 released from employment pursuant to the provisions of section two, article two of this chapter. The
8 provisions of this subsection are subject to the following:

9 (1) All persons employed in a certification area to be reduced who are employed under a
10 temporary permit shall be properly notified and released before a fully certified employee in such
11 a position is subject to release;

12 (2) Notwithstanding any provision of this code to the contrary, all employees subject to
13 release shall be considered applicants for any vacancy in an established, existing or newly created
14 position that, on or before February 15, is known to exist for the ensuing school year, and for which
15 they are qualified, and, upon recommendation of the superintendent, the board shall appoint the
16 successful applicant from among them before posting such vacancies for application by other
17 persons;

18 (3) An employee subject to release shall be employed in any other professional position
19 where the employee is certified and was previously employed or to any lateral area for which the
20 employee is certified, licensed or both, if the employee's seniority is greater than the seniority of any
21 other employee in that area of certification, licensure or both;

22 (4) If an employee subject to release holds certification, licensure or both in more than one

1 lateral area and if the employee's seniority is greater than the seniority of any other employee in one
2 or more of those areas of certification, licensure or both, the employee subject to release shall be
3 employed in the professional position held by the employee with the least seniority in any of those
4 areas of certification, licensure or both; and

5 (5) If, prior to August 1 of the year a reduction in force is approved, the reason for any
6 particular reduction in force no longer exists as determined by the county board in its sole and
7 exclusive judgment, the board shall rescind the reduction in force or transfer and shall notify the
8 released employee in writing of his or her right to be restored to his or her position of employment.
9 Within five days of being so notified, the released employee shall notify the board, in writing, of his
10 or her intent to resume his or her position of employment or the right to be restored shall terminate.
11 Notwithstanding any other provision of this subdivision, if there is another employee on the preferred
12 recall list with proper certification and higher seniority, that person shall be placed in the position
13 restored as a result of the reduction in force being rescinded.

14 ~~(t)~~ (m) For the purpose of this article, all positions which meet the definition of "classroom
15 teacher" as defined in section one, article one of this chapter shall be lateral positions. For all other
16 professional positions, the county board of education shall adopt a policy by October 31, 1993, and
17 may modify the policy thereafter as necessary, which defines which positions shall be lateral
18 positions. The board shall submit a copy of its policy to the state board within thirty days of
19 adoption or any modification, and the state board shall compile a report and submit the report to the
20 Legislative Oversight Commission on Education Accountability by December 31, 1993, and by that
21 date in any succeeding year in which any county board submits a modification of its policy relating
22 to lateral positions. In adopting the policy, the board shall give consideration to the rank of each

1 position in terms of title; nature of responsibilities; salary level; certification, licensure or both; and
2 days in the period of employment.

3 ~~(m)~~ (n) After the twentieth day prior to the beginning of the instructional term, no person
4 employed and assigned to a professional position may transfer to another professional position in the
5 county during that instructional term unless the person holding that position does not have valid
6 certification. The provisions of this subsection are subject to the following:

7 (1) The person may apply for any posted, vacant positions with the successful applicant
8 assuming the position at the beginning of the next instructional term;

9 (2) Professional personnel who have been on an approved leave of absence may fill these
10 vacancies upon their return from the approved leave of absence;

11 (3) The county board, upon recommendation of the superintendent may fill a position before
12 the next instructional term when it is determined to be in the best interest of the students. The county
13 superintendent shall notify the state board of each transfer of a person employed in a professional
14 position to another professional position after the twentieth day prior to the beginning of the
15 instructional term;

16 (4) The provisions of this subsection do not apply to the filling of a position vacated because
17 of resignation or retirement that became effective on or before the twentieth day prior to the
18 beginning of the instructional term, but not posted until after that date; and

19 (5) The Legislature finds that it is not in the best interest of the students particularly in the
20 elementary grades to have multiple teachers for any one grade level or course during the instructional
21 term. It is the intent of the Legislature that the filling of positions through transfers of personnel
22 from one professional position to another after the twentieth day prior to the beginning of the

1 instructional term should be kept to a minimum.

2 ~~(n)~~ (o) All professional personnel whose seniority with the county board is insufficient to
3 allow their retention by the county board during a reduction in work force shall be placed upon a
4 preferred recall list. As to any professional position opening within the area where they had
5 previously been employed or to any lateral area for which they have certification, licensure or both,
6 the employee shall be recalled on the basis of seniority if no regular, full-time professional personnel,
7 or those returning from leaves of absence with greater seniority, are qualified, apply for and accept
8 the position.

9 ~~(o)~~ (p) Before position openings that are known or expected to extend for twenty consecutive
10 employment days or longer for professional personnel may be filled by the board, the board shall be
11 required to notify all qualified professional personnel on the preferred list and give them an
12 opportunity to apply, but failure to apply shall not cause the employee to forfeit any right to recall.
13 The notice shall be sent by certified mail to the last known address of the employee, and it shall be
14 the duty of each professional personnel to notify the board of continued availability annually, of any
15 change in address or of any change in certification, licensure or both.

16 ~~(p)~~ (q) Openings in established, existing or newly created positions shall be processed as
17 follows:

18 (1) Boards shall be required to post and date notices of each opening at least once. At their
19 discretion, boards may post an opening for a position other than classroom teacher more than once
20 in order to attract more qualified applicants. At their discretion, boards may post an opening for a
21 classroom teacher one additional time after the first posting in order to attract more qualified
22 applicants only if fewer than three individuals apply during the first posting subject to the following:

1 (A) Each notice shall be posted in conspicuous working places for all professional personnel
2 to observe for at least five working days;

3 (B) At least one notice shall be posted within twenty working days of the position openings
4 and shall include the job description;

5 (C) Any special criteria or skills that are required by the position shall be specifically stated
6 in the job description and directly related to the performance of the job;

7 (D) Postings for vacancies made pursuant to this section shall be written so as to ensure that
8 the largest possible pool of qualified applicants may apply; and

9 (E) Job postings may not require criteria which are not necessary for the successful
10 performance of the job and may not be written with the intent to favor a specific applicant;

11 (2) No vacancy shall be filled until after the five-day minimum posting period of the most
12 recent posted notice of the vacancy;

13 (3) If one or more applicants under all the postings for a vacancy meets the qualifications
14 listed in the job posting, the successful applicant to fill the vacancy shall be selected by the board
15 within thirty working days of the end of the first posting period;

16 (4) A position held by a teacher who is certified, licensed or both, who has been issued a
17 permit for full-time employment and is working toward certification in the permit area shall not be
18 subject to posting if the certificate is awarded within five years; and

19 (5) Nothing provided herein shall prevent the county board of education from eliminating a
20 position due to lack of need.

21 ~~(q)~~ (r) Notwithstanding any other provision of the code to the contrary, where the total
22 number of classroom teaching positions in an elementary school does not increase from one school

1 year to the next, but there exists in that school a need to realign the number of teachers in one or
2 more grade levels, kindergarten through six, teachers at the school may be reassigned to grade levels
3 for which they are certified without that position being posted: *Provided*, That the employee and the
4 county board mutually agree to the reassignment.

5 ~~(r)~~ (s) Reductions in classroom teaching positions in elementary schools shall be processed
6 as follows:

7 (1) When the total number of classroom teaching positions in an elementary school needs to
8 be reduced, the reduction shall be made on the basis of seniority with the least senior classroom
9 teacher being recommended for transfer; and

10 (2) When a specified grade level needs to be reduced and the least senior employee in the
11 school is not in that grade level, the least senior classroom teacher in the grade level that needs to
12 be reduced shall be reassigned to the position made vacant by the transfer of the least senior
13 classroom teacher in the school without that position being posted: *Provided*, That the employee is
14 certified, licensed or both and agrees to the reassignment.

15 ~~(s)~~ (t) Any board failing to comply with the provisions of this article may be compelled to
16 do so by mandamus and shall be liable to any party prevailing against the board for court costs and
17 reasonable attorney fees as determined and established by the court. Further, employees denied
18 promotion or employment in violation of this section shall be awarded the job, pay and any
19 applicable benefits retroactive to the date of the violation and payable entirely from local funds.
20 Further, the board shall be liable to any party prevailing against the board for any court reporter costs
21 including copies of transcripts.

22 ~~(t)~~ (u) The county board shall compile, update annually on July 1 and make available by

1 electronic or other means to all employees a list of all professional personnel employed by the
2 county, their areas of certification and their seniority.

3 ~~(u)~~ (v) Notwithstanding any other provision of this code to the contrary, upon
4 recommendation of the principal and approval by the classroom teacher and county board, a
5 classroom teacher assigned to the school may at any time be assigned to a new or existing classroom
6 teacher position at the school without the position being posted.

7 ~~(v)~~ (w) The amendments to this section during the 2013 regular session of the Legislature
8 shall be effective for school years beginning on or after July 1, 2013, and the provisions of this
9 section immediately prior to those amendments remain in effect until July 1, 2013.

10 **§18A-4-8b. Seniority rights for school service personnel.**

11 (a) A county board shall make decisions affecting promotions and the filling of any service
12 personnel positions of employment or jobs occurring throughout the school year that are to be
13 performed by service personnel as provided in section eight of this article, on the basis of seniority,
14 qualifications and evaluation of past service. Decisions and all board discussions leading to the
15 decisions regarding filling any positions, through direct hire, promotion or transfer, shall be made
16 at open, public meetings of the board. For each position considered, the county school system's
17 human resource director or other official responsible for administering the hiring process shall
18 prepare a detailed report reflecting the qualifications and endorsements of every person who has
19 applied for the position or who is automatically eligible for the position through seniority, and shall
20 provide a copy of the report to each board member at least forty-eight hours prior to the county board
21 of education meeting in which the filling of the position is to be discussed. For each person,
22 regardless of the person's satisfaction of the required minimum qualifications, the report shall

1 include, but not be limited to, the following items:

2 (1) Name of the person and any other appropriate identifying information;

3 (2) The requirements for the position and the factors that must be considered pursuant to this
4 code;

5 (3) The person's specific qualifications;

6 (4) The person's ranking in terms of seniority as calculated under section eight-g of this
7 article and a listing of all of the person's service used in this calculation; and

8 (5) The written explanation of the reasoning behind any recommendation made by the human
9 resource director or the county superintendent of schools for or against the person.

10 The complete list shall be kept confidential and used only for the benefit of the elected
11 members of the county board of education in their decision making process and may be discussed
12 by them, upon appropriate motion, in an executive session at the meeting in which the vacancy is
13 to be taken up. The list may also be made available, upon request, to any applicant or to the
14 applicant's designated representative.

15 (b) Qualifications means the applicant holds a classification title in his or her category of
16 employment as provided in this section and is given first opportunity for promotion and filling
17 vacancies. Other employees then shall be considered and shall qualify by meeting the definition of
18 the job title that relates to the promotion or vacancy, as defined in section eight of this article. If
19 requested by the employee, the county board shall show valid cause why a service person with the
20 most seniority is not promoted or employed in the position for which he or she applies. Qualified
21 applicants shall be considered in the following order:

22 (1) Regularly employed service personnel who hold a classification title within the

1 classification category of the vacancy;

2 (2) Service personnel who have held a classification title within the classification category
3 of the vacancy whose employment has been discontinued in accordance with this section;

4 (3) Regularly employed service personnel who do not hold a classification title within the
5 classification category of vacancy;

6 (4) Service personnel who have not held a classification title within the classification
7 category of the vacancy and whose employment has been discontinued in accordance with this
8 section;

9 (5) Substitute service personnel who hold a classification title within the classification
10 category of the vacancy;

11 (6) Substitute service personnel who do not hold a classification title within the classification
12 category of the vacancy; and

13 (7) New service personnel.

14 (c) The county board may not prohibit a service person from retaining or continuing his or
15 her employment in any positions or jobs held prior to the effective date of this section and thereafter.

16 (d) A promotion means any change in employment that the service person considers to
17 improve his or her working circumstance within the classification category of employment.

18 (1) A promotion includes a transfer to another classification category or place of employment
19 if the position is not filled by an employee who holds a title within that classification category of
20 employment.

21 (2) Each class title listed in section eight of this article is considered a separate classification
22 category of employment for service personnel, except for those class titles having Roman numeral

1 designations, which are considered a single classification of employment:

2 (A) The cafeteria manager class title is included in the same classification category as cooks;

3 (B) The executive secretary class title is included in the same classification category as
4 secretaries;

5 (C) Paraprofessional, autism mentor and braille or sign language specialist class titles are
6 included in the same classification category as aides; and

7 (D) The mechanic assistant and chief mechanic class titles are included in the same
8 classification category as mechanics.

9 (3) The assignment of an aide to a particular position within a school is based on seniority
10 within the aide classification category if the aide is qualified for the position.

11 (4) Assignment of a custodian to work shifts in a school or work site is based on seniority
12 within the custodian classification category.

13 (e) For purposes of determining seniority under this section a service person's seniority
14 begins on the date that he or she enters into the assigned duties.

15 (f) *Extra-duty assignments.* --

16 (1) For the purpose of this section, "extra-duty assignment" means an irregular job that occurs
17 periodically or occasionally such as, but not limited to, field trips, athletic events, proms, banquets
18 and band festival trips.

19 (2) Notwithstanding any other provisions of this chapter to the contrary, decisions affecting
20 service personnel with respect to extra-duty assignments are made in the following manner:

21 (A) A service person with the greatest length of service time in a particular category of
22 employment is given priority in accepting extra duty assignments, followed by other fellow

1 employees on a rotating basis according to the length of their service time until all employees have
2 had an opportunity to perform similar assignments. The cycle then is repeated.

3 (B) An alternative procedure for making extra-duty assignments within a particular
4 classification category of employment may be used if the alternative procedure is approved both by
5 the county board and by an affirmative vote of two thirds of the employees within that classification
6 category of employment.

7 (g) County boards shall post and date notices of all job vacancies of existing or newly created
8 positions in conspicuous places for all school service personnel to observe for at least five working
9 days.

10 (1) Posting locations include any website maintained by or available for the use of the county
11 board.

12 (2) Notice of a job vacancy shall include the job description, the period of employment, the
13 work site, the starting and ending time of the daily shift, the amount of pay and any benefits and
14 other information that is helpful to prospective applicants to understand the particulars of the job.
15 The notice of a job vacancy in the aide classification categories shall include the program or primary
16 assignment of the position. Job postings for vacancies made pursuant to this section shall be written
17 to ensure that the largest possible pool of qualified applicants may apply. Job postings may not
18 require criteria which are not necessary for the successful performance of the job and may not be
19 written with the intent to favor a specific applicant.

20 (3) After the five-day minimum posting period, all vacancies shall be filled within twenty
21 working days from the posting date notice of any job vacancies of existing or newly created
22 positions.

1 (4) The county board shall notify any person who has applied for a job posted pursuant to this
2 section of the status of his or her application as soon as possible after the county board makes a
3 hiring decision regarding the posted position.

4 (h) All decisions by county boards concerning reduction in work force of service personnel
5 shall be made on the basis of seniority, as provided in this section.

6 (i) The seniority of a service person is determined on the basis of the length of time the
7 employee has been employed by the county board within a particular job classification. For the
8 purpose of establishing seniority for a preferred recall list as provided in this section, a service person
9 who has been employed in one or more classifications retains the seniority accrued in each previous
10 classification.

11 (j) If a county board is required to reduce the number of service personnel within a particular
12 job classification, the following conditions apply:

13 (1) The employee with the least amount of seniority within that classification or grades of
14 classification is properly released and employed in a different grade of that classification if there is
15 a job vacancy;

16 (2) If there is no job vacancy for employment within that classification or grades of
17 classification, the service person is employed in any other job classification which he or she
18 previously held with the county board if there is a vacancy and retains any seniority accrued in the
19 job classification or grade of classification.

20 (k) After a reduction in force or transfer is approved, but prior to August 1, a county board
21 in its sole and exclusive judgment may determine that the reason for any particular reduction in force
22 or transfer no longer exists.

1 (1) If the board makes this determination, it shall rescind the reduction in force or transfer
2 and notify the affected employee in writing of the right to be restored to his or her former position
3 of employment.

4 (2) The affected employee shall notify the county board of his or her intent to return to the
5 former position of employment within five days of being notified or lose the right to be restored to
6 the former position.

7 (3) The county board may not rescind the reduction in force of an employee until all service
8 personnel with more seniority in the classification category on the preferred recall list have been
9 offered the opportunity for recall to regular employment as provided in this section.

10 (4) If there are insufficient vacant positions to permit reemployment of all more senior
11 employees on the preferred recall list within the classification category of the service person who
12 was subject to reduction in force, the position of the released service person shall be posted and filled
13 in accordance with this section.

14 (l) If two or more service persons accumulate identical seniority, the priority is determined
15 by a random selection system established by the employees and approved by the county board.

16 (m) All service personnel whose seniority with the county board is insufficient to allow their
17 retention by the county board during a reduction in work force are placed upon a preferred recall list
18 and shall be recalled to employment by the county board on the basis of seniority.

19 (n) A service person placed upon the preferred recall list shall be recalled to any position
20 openings by the county board within the classification(s) where he or she had previously been
21 employed, to any lateral position for which the service person is qualified or to a lateral area for
22 which a service person has certification and/or licensure.

1 (o) A service person on the preferred recall list does not forfeit the right to recall by the
2 county board if compelling reasons require him or her to refuse an offer of reemployment by the
3 county board.

4 (p) The county board shall notify all service personnel on the preferred recall list of all
5 position openings that exist from time to time. The notice shall be sent by certified mail to the last
6 known address of the service person. Each service person shall notify the county board of any
7 change of address.

8 (q) No position openings may be filled by the county board, whether temporary or permanent,
9 until all service personnel on the preferred recall list have been properly notified of existing
10 vacancies and have been given an opportunity to accept reemployment.

11 (r) A service person released from employment for lack of need as provided in sections six
12 and eight-a, article two of this chapter is accorded preferred recall status on July 1 of the succeeding
13 school year if he or she has not been reemployed as a regular employee.

14 (s) A county board failing to comply with the provisions of this article may be compelled to
15 do so by mandamus and is liable to any party prevailing against the board for court costs and the
16 prevailing party's reasonable attorney fee, as determined and established by the court.

17 (1) A service person denied promotion or employment in violation of this section shall be
18 awarded the job, pay and any applicable benefits retroactively to the date of the violation and shall
19 be paid entirely from local funds.

20 (2) The county board is liable to any party prevailing against the board for any court reporter
21 costs including copies of transcripts.

NOTE: The purpose of this bill is to provide transparency in the process of hiring employees of county school systems by requiring the school board to be informed of all persons who have applied to fill vacancies and the detailed qualifications of each applicant.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.