

## **Adult Education 2023 End of Session Legislative Wrap Up**

The 2023 Legislative Session officially came to an end on September 14<sup>th</sup> just before midnight. The end of session is always a busy time around the Capitol as policymakers work to determine the fate of hundreds of bills.

Since the Legislature gavelled down, until October 14<sup>th</sup>, the Governor worked his way through hundreds of bills sent to his desk by the Senate and Assembly. During the entirety of the 2023 Legislative Session, he received 1,046 bills from the Legislature having signed roughly 900 and vetoing about 150 bills. For those interested in further statistics including bill signings and vetoes from prior years, please see the following overview of all the [Governor's bill actions](#).

In terms of CCAE and CAEAA legislative priorities this year, we offer the following update:

### **SB447 (Atkins): GO-Biz: Building & Reinforcing Inclusive, Diverse, Gender Supportive Equity Project**

Would lift California's travel ban to states with anti-LGBTQ+ laws and establishes at the Governor's Office of Business and Economic Development (GO-Biz) the Building and Reinforcing Inclusive, Diverse, Gender-Supportive Equity Project (BRIDGE Project) to promote social equity, civil rights, and antidiscrimination through education, marketing, and advertising campaigns. The bill allows media campaigns to be on a national scale and allows campaigns to target states with anti-LGBTQ+ laws. This bill specifies GO-Biz is to create a BRIDGE Project fund where money is to be available, upon appropriation by the Legislature, to support the BRIDGE Project. GO-Biz is to establish a process to receive donations to the fund. In addition, the bill specifies GO-Biz may contract with a nonprofit agency that is the "leading producer of public service advertisements and is able to use the services of volunteer advertising agencies and donated media to conduct the marketing activities." The bill also requires GO-Biz to convene an advisory committee of no more than ten members to advise GO-Biz on BRIDGE Project media campaigns. Lastly, the bill establishes certain requirements for media campaigns funded by the project.

#### **Position:** CCAE & CAEAA SUPPORT

As the state with the largest and most prominent adult education program, California has the opportunity to provide important guidance, support, and advocacy across the country in support of adult education programs that often are focused on those in need of English as a Second Language (ESL) programming, citizenship classes in order to obtain residency, and those who are the most marginalized in our communities in need of basic skills and short-term career training opportunities. Further, adult education programs in California are offered on K12 campuses that provide for stronger access, comfort, and growth for immigrant and refugee populations who may find larger college-type campuses more intimidating and threatening in terms of residency status issues. Unfortunately, however, California's restrictions on travel to discriminatory states has left California's Adult Education Program leaders and adult educators out of important dialogue, professional

development opportunities and federal advocacy. CCAE and CAEAA strongly support rescinding the travel restrictions and focusing on development of a robust civil rights and antidiscrimination campaign to ensure California's values and priorities for protecting and serving the most marginalized and underrepresented in our communities are heard in those states.

**Status:** Signed by the Governor

**[AB 377 \(Muratsuchi\): California CTE Incentive Grant Program: Strong Workforce Program.](#)**

Would have required the consolidation of specified K-12 career technical education (CTE) programs; increased ongoing funding for the Career Technical Education Incentive Grant program (CTEIG) administered by the California Department of Education (CDE); required specified CTE staffing at the state and regional level to support local CTE programs and pathways; and deleted authorization for the K-12 Strong Workforce Program (SWP) administered by the Chancellor of the California Community Colleges (CCCCO). Would also require the CDE to establish a stakeholder workgroup to consider improvements to the CTEIG program.

**Position:** CCAE & CAEAA SUPPORT

CCAЕ & CAEAA requested an amendment to have adult schools included as part of the stakeholder workgroup's membership that is further refined in Section 53076(b)(2) of the bill. As shared with the author's office, adult schools are part of K12 school districts and while they serve students 18 years and older in things like CTE programs, they receive many of the K12 students once they graduate or even in dual enrollment situations once they are 18. Further, adult schools also share the same CTE facilities and equipment and their costs in some cases. So, to coordinate services to provide better continuity of education for students the California Council for Adult Education (CCAЕ) and California Adult Education Administrators Association (CAEAA) have requested an adult school representative be included on the stakeholder workgroup. The amendment was accepted and the bill is now in print with our requested amendment.

**Status:** Held on Suspense in the Senate Appropriations Committee

**[AB 897 \(McCarty\): Certificated school employees: probationary employees: service credit.](#)**

Requires an employer of an adult education teacher to grant the teacher permanent employee status after a two-year probationary period. Additionally, it requires an employer of a certificated school employee working more than 60% of a full time position, and who has served for at least 75% of the number of days of their assignment, to consider the employee as having served a complete school year for purposes of granting permanent status as well as requires an LEA to notify an employee hired using categorical state funding of the following information at the time of hire: the expected end date of employment, the source of funding, and the nature of the categorically funded program or project.

**Position:** CCAE & CAEAA SUPPORT

AB 897 was presented to the joint CCAE and CAEAA legislative team for feedback almost two years ago. The intent of the bill as presented to us by the

author was to ensure that Adult School teachers are treated fairly and equally compared to other teachers in the K-12 system when it comes to permanent status. The team agreed with this intent, believing that a strong and stable teaching force is one of the most critical factors for a successful adult education program. We gave feedback on language that better clarified the intent and addressed concerns we had. The feedback was incorporated.

Notably, there are two Education Codes that come to mind when considering permanent status for teachers. Did they work more than 60% of what your District considers full time for certificated hourly employees (44929.25) and did they work 75% of the school year calendar (44908, now defined by AB 897 in terms of hours vs days). Not meeting both conditions would mean a teacher remains in temporary status. This bill points to another Education Code that allows for a district to keep a teacher in temporary status even when meeting the first two criteria. Education Code 44909 allows for a school district to keep a teacher in temporary status if the program is not state or federally mandated (i.e., the funding source for the program is itself temporary).

Certainly, CCAE and CAEAA discussed whether adult education funding (CAEP) was permanent and dedicated funding, having come to the consensus that the funding was indeed permanent dedicated funding based on numerous conversations with the Department of Finance and Legislature that reassured us the funding is such. Once agreeing on this, we believe that the application of Education Code 44909 towards Adult Education is inappropriate, and that AB 897 is an appropriate clarification and fix to this problem.

We understand that this change in law might pose some challenges for some school districts, but we want to point out that both the requirement for working more than 60% of a full-time weekly schedule (defined locally) and working 75% of a school year for two consecutive years remain requirements for permanent status. In addition, the bill is not retroactive and gives time for school districts to consider the implications and adjust staffing and work with local bargaining units to adjust language around such topics as benefits and work schedules, as necessary. To be clear, this change does not automatically make a teacher permanent or entitle them to additional benefits that may have a financial impact on school budgets.

The CCAE and CAEAA legislative team remain available to the field to help talk through any challenges a school might be facing and offer suggestions for next steps.

**Status:** Signed by the Governor

**Frequently Asked Questions / Response to Concerns:**

- ***Does AB 897 invalidate already established collective bargaining agreements?***
  - To the extent that the provisions of AB 897 conflict with a provision of a collective bargaining agreement entered into by a public school employer

and an exclusive bargaining representative before July 1, 2024, pursuant to Chapter 10.7 (commencing with Section 3540) of Division 4 of Title 1 of the Government Code, the changes made by AB 897 shall not apply to the school district until expiration or renewal of that collective bargaining agreement.

- **Does AB 897 apply to CTE Teachers?**
  - Unlike its predecessor AB 2573 (2022) that included adult education teachers and CTE teachers, AB 897 only applies to adult education teachers. That said, CTE teachers for adult education programs are in scope for these requirements (K12 CTE teachers are not included).
- **Can you clarify the intent and impact of Section 4 of the bill? It says it doesn't apply to adult education teachers, which seems to be in conflict with the overarching intent of the bill.**
  - While the language in AB 897 Section 4 is a bit confusing, we recommend looking at Section 3 (b) of the bill. Section 3, which is existing law under Education Code Section 44909, is repealed under AB 897 and replaced by the new Section 4 as of 7/1/24. This new Section 4 is the new language that addresses exemption of any categorically funded positions from obtaining permanent status. The Legislature, Administration, CTA and CFT no longer consider adult education a categorical program given ongoing, stable funding at the state level. Section 4 is merely updating the existing Code to be clear that the permanent status exemption no longer applies to teachers in adult education (they now can obtain permanent status), but ensures programs that are deemed to be categorically funded or do not have consistent funding remain exempt from permanent status obligations.
- **If Adult Education teachers become permanent, will layoffs be determined by seniority? We have heard concerns from the adult education field that such an approach based on seniority could place an instructor in a position very different from their current expertise if they hold the same type of credential as an individual with less seniority.**
  - While existing law requires more junior permanent certificated employees to be laid off first, there are several exceptions to this rule that ensure positions can be filled by teachers with the appropriate qualifications, regardless of seniority, including:
    - Skipping. Notwithstanding EDC 44955 (b), legal precedent (Bledsoe v. Biggs, 2009) allows a district to choose to retain a more junior employee despite a more senior employee having the same “qualifications,” so long as the district can demonstrate:
      - 1) A specific need for an employee to teach a specific course or course of study; and
      - 2) That the more junior employee has the “special training and experience necessary” to teach the course.
    - Competence. Competence is the threshold inquiry regarding bumping rights. If a permanent teacher “is certificated and competent to render” a service provided by a more junior teacher,

the senior teacher is entitled to bump into that position and not be laid off. (EDC 44955(b).) However, the district can adopt competencies, including minimum experience standards, to determine if an employee is competent to render services, as found in Duax v. Kern CCD (1987).

- ***Small school districts need more flexibility because their budgets can fluctuate, and student needs can change from year to year. For example, sudden changes in ADA require staffing changes or a particular service is no longer needed because a student graduated or left the district.***
  - By providing teachers at small districts a pathway to attain permanent status, AB 897 will not prevent small school districts from laying off employees; it will simply require them to follow due process when they do so. Existing law provides a process for laying off permanent and probationary employees, when necessary. This bill will require all districts to use this process, regardless of their size. Under existing law, a governing board may lay off permanent and probationary teachers during March 15 Layoffs for the following reasons:
    1. A particular kind of service will be reduced or discontinued (PKS layoffs);
    2. The district's ADA in the first six months of school declines below either of the previous two school year's ADA during the same period (ADA layoffs);
    3. The board determines that attendance in the district will drop the following year due to termination of an inter-district tuition agreement; or
    4. State law requires modification of curriculum. (EDC 44955(b)).The governing board may also lay off a permanent or probationary employee between five days after the Legislature's enactment of the Budget Act and August 15, if the district's total Local Control Funding Formula (LCFF) per unit of ADA has not increased by at least 2% and that it is necessary to decrease the number of permanent employees. (EDC 44955.5.)

#### **ACR 31 (Pacheco): Adult Education Week.**

Proclaims the week of March 19, 2023, to March 25, 2023, inclusive, as Adult Education Week, and would honor the teachers, administrators, classified staff, and students of adult education programs statewide for their efforts, persistence, and accomplishments.

**Position:** CCAE & CAEAA SUPPORT / Sponsor

**Status:** Chaptered and Filed with the Secretary of State on May 3, 2023

The following bills also passed the Legislature and were signed into law. While CCAE and CAEAA did not take positions on these measures, they may be of interest to the adult education field:

- **AB 557 (Hart), Open meetings: local agencies: teleconferences.** Eliminates the sunset date on provisions of law allowing local agencies to use

teleconferencing without complying with specified Ralph. M Brown Act (Brown Act) requirements during a proclaimed state of emergency.

- **[AB 873 \(Berman\)](#), Pupil instruction: media literacy: curriculum frameworks.** Requires the Instructional Quality Commission (IQC) to consider incorporating the Model Library Standards and media literacy content at each grade level when the English language arts/English language development (ELA/ELD) curriculum framework is next revised and media literacy content into the mathematics, science, and history-social science curriculum frameworks (H-SS Framework) when those frameworks are next revised after January 1, 2024.
- **[SB 544 \(Laird\)](#), Bagley-Keene Open Meeting Act: teleconferencing.** Revises, until January 1, 2026, certain teleconference requirements under the Bagley-Keene Open Meeting Act, which requires all meetings of a state body be open and public.

Other noteworthy end of session activity that may be of interest included some last-minute deals as follows:

- **[AB 1228 \(Holden\)](#), Fast food restaurant industry: Fast Food Council: health, safety, employment, and minimum wage.** This bill represents a deal between labor unions and the fast food industry. Specifically, it raises the statewide minimum wage to \$20 per hour for fast-food workers effective April 1, 2024. This bill is contingent on the withdrawal of the referendum against [AB 257](#) — last year’s bill that created the Fast Food Council within the Department of Industrial Relations to establish minimum standards on wages, hours, and other working conditions. Notably, AB 1288 would also establish a new Fast Food Council.
- **[SB 525 \(Durazo\)](#), Minimum wages: health care workers.** This represents an agreement between the California Hospital Association and SEIU California. Specifically, this bill includes four different schedules that would eventually set a \$25 minimum across the healthcare industry. The bill would also prohibit local measures that aim to increase compensation for medical workers.

With the Legislature now adjourned and the Governor having completed his bill review and associated actions, the Legislature will largely remain in their respective districts until they reconvene on January 3<sup>rd</sup> for the 2024 legislative session. As a reminder this year was the first year of a two-year legislative session, some of the bills that stalled may be brought back in 2024 for reconsideration. These measures are commonly referred to as “two-year bills” and must clear their house of origin by January 31<sup>st</sup>. Stay tuned...

In terms of next steps, CCAE and CAEAA have already begun the planning process to determine our legislative and budget priorities for the next few years. Among the topics being discussed in detail include ongoing discussions regarding possible reforms to the

Adult Education Program, funding, teacher credentialing and reciprocity, and more. We look forward to further discussion with the field on these items in the coming months.

Additionally, we are looking forward to getting back to an in-person Leg Day in Sacramento in 2024. We have set the date for this one-day convening on April 10<sup>th</sup>. Save the date and make plans to join us – more information to come....

In the meantime, we encourage all CCAE and CAEAA members to begin outreach to you respective Senators and Assemblymembers to continue your relationship building. Remember, engaging your legislators is not just about Leg Day or having a specific “ask,” but building a rapport with them year-round and ensuring they are familiar with your adult school, the programs you offer and their constituents you serve. Be on the lookout for a new Legislative Advocacy School Choice Board with ideas and instructions to support each school in legislative outreach. This type of relationship building and maintenance is key to our long-term success and helps ensure they know your value and the broader value of adult education we need to make difficult “asks” of them in the future. Go forth and engage!