

Regular Session, 2012

HOUSE BILL NO. 974

BY REPRESENTATIVES CARTER, KLECKLEY, BROADWATER, CHAMPAGNE,
CONNICK, HENRY, HENSGENS, LIGI, LORUSSO, PONTI, ROBIDEAUX,
SCHRODER, SEABAUGH, TALBOT, AND THOMPSON AND SENATORS
ALARIO AND APPEL

1 AN ACT

2 To amend and reenact R.S. 17:54(B)(1)(b)(i) and (iii), 81(A) and (P)(1), 81.4, 229, 414.1,
3 441, 442, 443, and 444(B)(1), to enact R.S. 17:418 and 532(C), and to repeal R.S.
4 17:44, 45, 81(I), 154.2, 235.1(E), 346.1, 419, 419.1, 420, 421, 421.1, 421.2, 421.3,
5 421.5, 422, 422.1, 422.2, 422.3, 422.4, 422.5, 431, 444(A) and (B)(2) and (3), 446,
6 461 through 464, and 1207, relative to elementary and secondary education; to
7 provide with respect to teachers and other school employees; to provide with respect
8 to local school superintendents, their employment, and their duties and
9 responsibilities; to provide relative to local school boards and their functions and
10 powers; to provide relative to school personnel decisions; to provide relative to
11 school board reduction in force policies; to provide with respect to the salaries and
12 compensation of teachers and other school employees; to provide relative to tenure
13 for school employees and the removal of tenured and nontenured teachers; to provide
14 for effectiveness; and to provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 17:54(B)(1)(b)(i) and (iii), 81(A) and (P)(1), 81.4, 229, and 414.1
17 are hereby amended and reenacted to read as follows:

18 §54. Officers of boards, election; superintendents, qualifications, appointment and
19 removal.

20 * * *

21 B.(1)

22 * * *

1 can be removed during the contract period, he shall have the right to written charges
2 and a fair hearing before the board after reasonable written notice.

3 * * *

4 §81. General powers of ~~city, parish, and other~~ local public school boards

5 A.(1) Each local public school board shall serve in a policymaking capacity
6 that is in the best interests of all students enrolled in schools under the board's
7 jurisdiction. When establishing board policies, each board shall prioritize student
8 achievement, financial efficiency, and workforce development on a local, regional,
9 and statewide basis. When choosing a local superintendent of schools, each board
10 shall select a leader who shall prioritize student achievement and act in the best
11 interests of all students enrolled in schools under the board's jurisdiction.

12 (2) ~~Each city and parish~~ local public school board shall determine the
13 number of schools to be opened, the location of school houses, and the number of
14 teachers and other school personnel to be employed; ~~and select teachers and all other~~
15 ~~certified personnel from recommendations made by the city or parish superintendent~~
16 ~~as required by this Subsection.~~ The ~~boards~~ local school superintendent shall have
17 authority to employ teachers by the month or by the year, and to fix their salaries;
18 provided that there shall be no discrimination as to sex in the fixing thereof and
19 provided further, that it is not the purpose of this Section to require or direct the
20 reduction of any salary, or salary schedule, presently in force. The ~~boards~~ local
21 school superintendent shall see that the provisions of the state school law are
22 complied with.

23 ~~(2)~~ (3) ~~Each city and parish~~ local public school board shall ~~select teachers~~
24 ~~and all other certified personnel from recommendations made by the city or parish~~
25 ~~superintendent regarding~~ delegate authority for the hiring and placement of all school
26 personnel, including those for which state certification is required to the local school
27 superintendent. It shall be the responsibility of the superintendent to ensure that all
28 persons ~~recommended~~ have proper certification, as applicable, and are qualified for
29 the position. ~~Nothing shall prevent a school board from rejecting the~~

1 recommendations made by the superintendent and requiring the superintendent to
2 submit additional recommendations.

3 ~~(3)~~ (4) Each city and parish local public school board shall adopt policies for
4 and establish procedures which require a city or parish local school superintendent
5 to:

6 (a) ~~Consult with Delegate to the principal regarding any recommendations~~
7 ~~made by the superintendent for all decisions regarding the hiring or placement of any~~
8 ~~teacher or other certified personnel at the school in which the principal is employed,~~
9 subject to the approval of the local school superintendent. Any recommendations
10 ~~made by the principal shall not be binding upon the superintendent but shall be~~
11 ~~considered by the superintendent in making his recommendations to the board.~~

12 (b) Consult with teachers regarding any recommendations made by the
13 superintendent for prior to making any decisions regarding the hiring or placement
14 of a principal at the school in which such teachers are employed. Any
15 recommendations made by teachers shall not be binding upon the superintendent but
16 shall be considered by the superintendent in when making his recommendations to
17 ~~the board~~ employment decisions.

18 ~~(4)~~ (5) Any policies and procedures adopted by a city or parish local public
19 school board pursuant to the provisions of this Subsection shall be in accordance
20 with all laws, all state rules, regulations, and policies relative to certification of
21 teachers and other personnel, and any court order or restrictions relative to
22 desegregation.

23 (6) The superintendent and the school principal shall make all employment-
24 related decisions based upon performance, effectiveness, and qualifications as
25 applicable to each specific position. Effectiveness, as determined pursuant to R.S.
26 17:3881 through 3905, shall be used as the primary criterion for making personnel
27 decisions; however, in no case shall seniority or tenure be used as the primary
28 criterion when making decisions regarding the hiring, assignment, or dismissal of
29 teachers and other school employees.

30 * * *

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 P.(1) No board member shall act in an individual capacity to use the
2 authority of his office or position as a member of the school board in a manner
3 intended to interfere with, compel, or coerce any personnel decision made by the
4 superintendent or a school principal, including the hiring, promotion, discipline,
5 demotion, transfer, discharge, or assignment of work to any school employee. The
6 superintendent, as the instructional leader of the district and its chief executive
7 officer, shall have primary responsibility for personnel actions in the district. Each
8 ~~school board shall approve or disapprove employment of teachers and all other~~
9 ~~certified personnel from recommendations made by the superintendent regarding the~~
10 ~~hiring and placement of all personnel for which state certification is required. The~~
11 ~~superintendent shall make recommendations to the board in open public session at~~
12 ~~a meeting which has been properly noticed. Prior to the board voting in open session~~
13 ~~on the superintendent's recommendations, the board shall provide opportunity for~~
14 ~~public comment.~~

* * *

§81.4. Reductions in force; dismissal of teachers and other school employees

17 A. Not later than ~~January 1st, 1984~~ September 1, 2012, each ~~city and parish~~
18 local public school board shall develop and adopt rules and policies that delegate
19 reduction in force decisions to the superintendent which it ~~he~~ shall use in dismissing
20 teachers and other employees at any time a reduction in force is instituted ~~by such~~
21 ~~school board~~. Such rules and policies shall be made available for inspection by
22 teachers, other school employees, and the general public within ten days after final
23 adoption.

24 ~~B. Not later than January 1st, 1986, each city and parish school board shall~~
25 ~~develop and adopt rules and policies which it shall use in dismissing any full-time~~
26 ~~secretary, teacher's aide, school clerk, or custodian at any time a reduction in force~~
27 ~~is instituted by that school board. These rules and policies shall be made available~~
28 ~~for inspection, by any full-time secretary, teacher's aide, school clerk, or custodian,~~
29 ~~and the general public within ten days after their final adoption.~~

1 ~~C. Not later than January 1, 1987, each city and parish school board shall~~
 2 ~~develop and adopt rules and policies which it shall use in dismissing school~~
 3 ~~employees other than those for which provision is made in Subsections (A) and (B),~~
 4 ~~at any time a reduction in force is instituted by the school board. Such rules and~~
 5 ~~policies shall be made available for inspection by any such school employee and the~~
 6 ~~general public within ten days after their final adoption.~~

7 B. All reduction in force policies adopted for use in dismissing teachers and
 8 administrators shall be based solely upon demand, performance, and effectiveness,
 9 as determined by the performance evaluation program as provided in R.S. 17:3881
 10 through 3905. Any reduction in force by a superintendent shall be instituted by
 11 dismissing the least effective teacher within each targeted subject area or area of
 12 certification first, and then proceeding by effectiveness rating until the reduction in
 13 force has been accomplished.

14 C. All reduction in force policies adopted by a local school board for use by
 15 the superintendent in dismissing school employees who are not evaluated pursuant
 16 to R.S. 17:3881 through 3905, shall be based upon the following criteria:

17 (1) Performance and effectiveness as determined by school board policy.

18 (2) Certification or academic preparation, if applicable.

19 ~~D. Not later than January 1, 1996, all~~ All reduction in force policies of the
 20 ~~city and parish~~ local public school boards and special schools as provided in this
 21 Section shall include ~~but not be limited to the following minimum standards:~~

22 ~~(1) Certification, if applicable.~~

23 ~~(2) Seniority in the system.~~

24 ~~(3) Tenure of employees.~~

25 ~~(4) Academic preparation, if applicable, within the employee's field.~~

26 ~~(5)~~ (a) (1) The right of an employee notified of an action which results from
 27 implementation of a reduction in force policy to request in writing a review of such
 28 action and to receive notice of the results of such review.

29 ~~(b)~~ (2) The right of an employee to pursue the matter through the school
 30 board's adopted grievance procedure.

1 E. No reduction in force policy adopted by a local public school board shall
 2 include seniority or tenure as the primary criterion to be considered when instituting
 3 a reduction in force.

* * *

5 §229. Appointment of visiting teachers, or supervisors of child welfare and
 6 attendance

7 ~~The appointment of parish and city local school superintendent shall appoint~~
 8 ~~visiting teachers, or and supervisors of child welfare and attendance, shall be made~~
 9 ~~by the parish or city school board upon the recommendation of the parish or city~~
 10 ~~superintendent of education; but no person shall be so recommended or so appointed~~
 11 ~~unless certified by the state board of education. It shall be the duty of the parish or~~
 12 ~~city superintendent of education to nominate for the consideration of the school~~
 13 ~~board the person or persons whom he judges to be properly certified and the best~~
 14 ~~qualified and most competent.~~

15 ~~Visiting teachers, or supervisors of child welfare and attendance, need not be~~
 16 ~~qualified electors or residents of the parish or city in which they are appointed to~~
 17 ~~serve.~~

* * *

19 §414.1. Public elementary and secondary school principals; duties

20 ~~The principal appointed by the parish or city school board for each public~~
 21 ~~elementary and secondary school shall serve; be appointed by and serve under the~~
 22 ~~overall~~ direction of the ~~parish or city~~ local superintendent of schools; as the
 23 administrative officer of the school to which he is assigned. Consistent with the
 24 requirements of law and the rules and regulations of the State Board of Elementary
 25 and Secondary Education and the ~~parish or city~~ local public school board by which
 26 he is employed, he shall have administrative responsibility for the direction and
 27 supervision of the personnel and activities and the administration of the affairs of
 28 that school.

* * *

1 Section 2. R.S. 17:418 is hereby enacted to read as follows:

2 §418. Salaries; teachers and other school employees

3 A.(1) The governing authority of each local public elementary and secondary
4 school, the state special schools, and the schools and programs administered through
5 the special school district shall establish salary schedules by which to determine the
6 salaries to be paid to teachers and all other school employees. The salaries as
7 provided therein shall be considered as full compensation for all work required and
8 performed within each employee's prescribed scope of duties and responsibilities.

9 (2) Such salary schedules shall be established and published not later than
10 January 1, 2013, and shall become effective for all employees not later than the
11 beginning of the 2013-2014 school year.

12 B.(1) Salary schedules established for teachers, administrators, and other
13 certified school personnel shall be based upon the following criteria, with no one
14 criterion accounting for more than fifty percent of the formula used to compute such
15 employees' salaries:

16 (a) Effectiveness, as determined by the performance evaluation program as
17 provided in R.S. 17:3881 through 3905.

18 (b) Demand inclusive of area of certification, particular school need,
19 geographic area, and subject area, which may include advanced degree levels.

20 (c) Experience.

21 (2) No teacher or administrator who is rated "ineffective" pursuant to the
22 performance evaluation program as provided in R.S. 17:3881 through 3905 shall
23 receive a higher salary in the year following the evaluation than he received in the
24 year of the evaluation.

25 C.(1) The amount of the annual salary paid to a teacher or other school
26 employee in any school year shall not be reduced below the amount of such salary
27 paid during the previous school year, nor shall the amount of the annual salary paid
28 to such school personnel be reduced at any time during an academic year.

29 (2) Each vocational agricultural teacher employed by a city, parish, or other
30 local public school board shall teach a twelve-month program for a twelve-month

1 budget period and shall be paid a proportional salary for a twelve-month budget
2 period according to the salary schedule established by his employing school board.

3 (3) The limitations on the reduction in the amount of the annual salary paid
4 to teachers and other school employees shall not be applicable to:

5 (a) The correction of any accounting errors or to a reduction necessitated by
6 the elimination of a state program or state funding.

7 (b) The reduction of any local salary supplement funded, in whole or in part,
8 from a revenue source requiring voter approval when such voter approval has not
9 been obtained.

10 (c) A teacher or other school employee who has been promoted to a position
11 of higher salary is demoted in accordance with applicable law and local board or
12 special school district policy to a lower position. In such case, the teacher or other
13 school employee shall return to the salary previously received in the lower position
14 from which he was promoted.

15 D. The provisions of this Section shall not apply to any employee who is in
16 the classified service of the state.

17 Section 3. R.S. 17:441, 442, 443, and 444(B)(1) are hereby amended and reenacted
18 and R.S. 17:532(C) is hereby enacted to read as follows:

19 §441. Definitions

20 As used in this Subpart, the word "teacher" means:

21 (1) Any employee of ~~any parish or city~~ a local public school board, state
22 special school, or a school or program administered by the special school district
23 who holds a teacher's certificate and whose legal employment requires such teacher's
24 certificate;

25 (2) Any school lunch supervisor employed by a ~~parish or city~~ local public
26 school board who holds a special parish school lunch supervisor's certificate issued
27 by the ~~department~~ Department of ~~education~~ Education of the state of Louisiana and
28 whose employment requires such certificate. No employee as defined in this
29 Paragraph hired on or after July 1, 2012, shall be eligible to acquire tenure.

1 ~~§442. Probation and tenure of parish or city school teachers~~ Tenure

2 Each teacher shall serve a probationary term of three years to be reckoned
3 from the date of his first appointment in the parish or city in which the teacher is
4 serving his probation. ~~During the probationary term the parish or city school board,~~
5 ~~as the case may be, may dismiss or discharge any probationary teacher upon the~~
6 ~~written recommendation of the parish or city superintendent of schools, as the case~~
7 ~~may be, accompanied by valid reasons therefor.~~

8 Any teacher found unsatisfactory by the parish or city school board, as the
9 case may be, at the expiration of the said probationary term, shall be notified in
10 writing by the board that he has been discharged or dismissed; in the absence of such
11 notification, such probationary teacher shall automatically become a regular and
12 permanent teacher in the employ of the school board of the parish or city, as the case
13 may be, in which he has successfully served his three year probationary term; all
14 teachers in the employ of any parish or city school board as of July 31, 1946 who
15 hold proper certificates and who have served satisfactorily as teachers in that parish
16 or city for more than three consecutive years, are declared to be regular and
17 permanent teachers in the employ of the school board of that parish or city.

18 A.(1)(a) A teacher who has acquired tenure before September 1, 2012,
19 retains tenure and is subject to the provisions of this Section.

20 (b) Effective beginning on July 1, 2012, a teacher rated "highly effective"
21 for five years within a six-year period pursuant to the performance evaluation
22 program as provided in R.S. 17:3881 through 3905 shall be granted tenure.

23 (2) A teacher paid with federal funds shall not be eligible to acquire tenure,
24 nor shall time spent in employment paid with federal funds be counted toward the
25 time required for acquisition of tenure.

26 B. The school superintendent shall notify a teacher, in writing, when tenure
27 has been awarded and the teacher is deemed to have acquired tenure on the date
28 specified therein. A teacher who is not awarded tenure remains an at-will employee
29 of the public school board or the special school district but shall acquire tenure upon
30 meeting the criteria established in Subsection A of this Section.

1 C.(1) Beginning with the 2013-2014 school year, a tenured teacher who
2 receives a performance rating of "ineffective" pursuant to the performance evaluation
3 program as provided in R.S. 17:3881 through 3905 shall immediately lose his tenure
4 and all rights related thereto. If a teacher is rated "highly effective" based on the
5 evidence of the growth portion of the evaluation but is rated "ineffective" according
6 to the observation portion, within thirty days after such finding, the teacher shall be
7 entitled to a second observation by members of a team of three designees, chosen by
8 the local superintendent, which shall not include the principal.

9 (2) Such teacher shall reacquire tenure if any of the following applies:

10 (a) The teacher's "ineffective" performance rating is reversed pursuant to the
11 grievance procedure established pursuant to R.S. 17:3883(A)(5). In such case, the
12 teacher's tenure shall be immediately reinstated.

13 (b) The teacher receives a performance rating of "highly effective" for five
14 years within a six-year period subsequent to receiving an "ineffective" rating as
15 provided in Subsection A of this Section.

16 §443. Removal of teachers; procedure; right to appeal

17 A. The school superintendent may terminate the employment of any
18 nontenured teacher after providing such teacher with the written reasons therefor and
19 providing the teacher the opportunity to respond. The teacher shall have seven days
20 to respond, and such response shall be included in the teacher's personnel file.

21 ~~A.B.(1)~~ A permanent teacher with tenure shall not be removed from office
22 except upon written and signed charges of poor performance, willful neglect of duty,
23 ~~or~~ incompetency, dishonesty, ~~or~~ immorality, or of being a member of or contributing
24 to any group, organization, movement, or corporation that is by law or injunction
25 prohibited from operating in the state of Louisiana, and then only if ~~found guilty~~
26 ~~after~~ furnished with a copy of such written charges and given the opportunity to
27 respond. The teacher shall have seven days to respond, and such response shall be
28 included in the teacher's personnel file. At the end of this seven-day time period, the
29 superintendent may terminate the teacher's employment. A teacher shall not be
30 terminated for an "ineffective" performance rating until completion of the grievance

1 procedure established pursuant to R.S. 17:3883(A)(5) if a grievance was timely filed.
 2 Within seven days after dismissal, a teacher may request and upon request shall be
 3 granted a hearing by the school board of the parish or city, as the case may be a panel
 4 composed of a designee of the superintendent, a designee of the principal or the
 5 administrative head of the state special school in which the teacher was employed,
 6 and a designee of the teacher. In no case shall the superintendent, the principal or
 7 state special school administrative head, or teacher designate an immediate family
 8 member or any full-time employee of the school system by which the teacher was
 9 employed who is under the supervision of the person making the designation. Such;
 10 ~~which~~ hearing may be private or public, at the option of the teacher, ~~At least twenty~~
 11 ~~days in advance of the date of the hearing, the superintendent with approval of the~~
 12 ~~school board shall furnish the teacher with a copy of the written charges. Such~~
 13 ~~statement of charges shall include a complete and detailed list of the specific reasons~~
 14 ~~for such charges and shall include but not be limited to the following: date and place~~
 15 ~~of alleged offense or offenses, names of individuals involved in or witnessing such~~
 16 ~~offense or offenses, names of witnesses called or to be called to testify against the~~
 17 ~~teacher at said hearing, and whether or not any such charges previously have been~~
 18 ~~brought against the teacher~~ and shall begin within seven business days after receipt
 19 of the teacher's request for such hearing. The teacher shall have the right to appear
 20 before the ~~board~~ tenure hearing panel with witnesses ~~in~~ on his behalf and with
 21 counsel of his selection, all of whom shall be heard by the ~~board~~ panel at ~~said the~~
 22 hearing. For the purpose of conducting hearings hereunder, the ~~board~~ panel shall
 23 have the power to issue subpoenas to compel the attendance of all witnesses ~~on~~
 24 ~~behalf of the teacher.~~ Nothing herein contained shall impair the right ~~of appeal to~~
 25 to seek supervisory review from a court of competent jurisdiction.

26 B: ~~(2) If a permanent teacher is found guilty by a school board, after due and~~
 27 ~~legal hearing as provided herein, on charges of willful neglect of duty, or of~~
 28 ~~incompetency, dishonesty, or immorality, or of being a member of or contributing~~
 29 ~~to any group, organization, movement, or corporation that is by law or injunction~~
 30 ~~prohibited from operating in the state of Louisiana, and ordered removed from office,~~

1 ~~or disciplined by the board, the superintendent with approval of the board shall~~
 2 ~~furnish to the teacher a written statement of recommendation of removal or~~
 3 ~~discipline, which shall include but not be limited to the exact reason(s), offense(s),~~
 4 ~~or instance(s) upon which the recommendation is based. The tenure hearing panel~~
 5 ~~shall submit its recommendation to the superintendent, and the superintendent may~~
 6 ~~choose to reinstate the teacher. If the superintendent does not reinstate the teacher,~~
 7 ~~the superintendent shall notify the teacher of his final determination, in writing, and~~
 8 ~~Such such teacher may, not more than one year sixty days from the date of the said~~
 9 ~~finding, postmarked date of such written notification, petition a court of competent~~
 10 ~~jurisdiction for a full hearing to review whether the action of the ~~school board~~~~
 11 ~~superintendent, and the was arbitrary or capricious. The court shall have jurisdiction~~
 12 ~~to affirm or reverse the action of the ~~school board~~ superintendent in the matter. The~~
 13 ~~record on review shall be limited to evidence presented to the tenure hearing panel,~~
 14 ~~and the court shall review the matter not later than ten days after the petition has~~
 15 ~~been filed. If the finding action of the ~~school board~~ superintendent is reversed by the~~
 16 ~~court and the teacher is ordered reinstated and restored to duty, the teacher shall be~~
 17 ~~entitled to full pay for any loss of time or salary he ~~or she~~ may have sustained by~~
 18 ~~reason of the action of the ~~said school board~~ superintendent.~~

19 C. For the purposes of this Section, immorality shall mean any conviction
 20 of a felony offense affecting the public morals enumerated in Part V of Chapter 1 of
 21 Title 14 of the Louisiana Revised Statutes of 1950.

22 D. For purposes of this Section, the results of a teacher's evaluation
 23 performed pursuant R.S. 17:3881 through 3905 evaluating the teacher's performance
 24 as "ineffective" shall constitute sufficient proof of poor performance, incompetence,
 25 or willful neglect of duty and no additional documentation shall be required to
 26 substantiate such charges.

27 §444. Promotions to and employment into positions of higher salary and tenure

* * *

29 B.(1) Whenever a teacher who has acquired ~~permanent status~~ tenure, as set
 30 forth in R.S. 17:442, in a ~~parish or city~~ local public school system or the special

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 ~~school district~~ is promoted by the ~~employing school board~~ superintendent by moving
 2 such teacher from a position of lower salary to one of higher salary, such teacher
 3 shall not ~~gain permanent status~~ be eligible to earn tenure in the position to which he
 4 is promoted, but shall retain ~~permanent status~~ any tenure acquired as a teacher,
 5 pursuant to R.S. 17:442.

* * *

§532. Probationary term and tenure

* * *

9 C. No employee, as defined in R.S. 17:531, hired on or after July 1, 2012,
 10 shall be eligible to acquire permanent status.

11 Section 4. R.S. 17:44, 45, 81(I), 154.2, 235.1(E), 346.1, 419, 419.1, 420, 421, 421.1,
 12 421.2, 421.3, 421.5, 422, 422.1, 422.2, 422.3, 422.4, 422.5, 431, 444(A) and (B)(2) and (3),
 13 446, 461 through 464, and 1207 are hereby repealed in their entirety.

14 Section 5. This Act shall become effective on July 1, 2012; if vetoed by the governor
 15 and subsequently approved by the legislature, this Act shall become effective on July 1,
 16 2012, or on the day following such approval by the legislature, whichever is later.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____