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## DIGEST

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HB No. 653

**Abstract:** Reenacts those provisions of Acts 2012, No. 1 relative to tenure for school employees and the removal of tenured and nontenured teachers.

Proposed law reenacts those provisions of Acts 2012, No. 1 relative to tenure for school employees and the removal of tenured and nontenured teachers, except changes effective date from July 1, 2012, to July 1, 2014. (Note: Acts 2012, No. 1 has been declared unconstitutional by the 19th JDC as violative of the single object requirements of the constitution. The decision may be appealed to the supreme court. In general, changes made by an unconstitutional Act of the legislature are ineffective and, therefore, the law prior to the unconstitutional Act remains effective. Coding in bill shows changes in the law as it existed prior to Acts 2012, No. 1. This digest treats the law prior to Acts 2012, No. 1 as present law and the reenacted changes of this Act as proposed law.)

Present law requires each teacher to serve a three-year probationary term. Authorizes local school boards to dismiss or discharge any probationary teacher upon written recommendation of the local superintendent accompanied by valid reasons. Provides that any teacher found unsatisfactory by the local school board at the end of the probationary term be dismissed. Provides that if not dismissed, the teacher automatically becomes a regular and permanent teacher. Provides separate provisions for teachers in Orleans Parish and the special school district.

Proposed law provides instead as follows:

- (1) A teacher who receives a performance rating of "highly effective" for five years within a six-year period shall be granted tenure.
- (2) A teacher who is not awarded tenure remains an at-will employee but shall acquire tenure upon meeting this rating requirement.
- (3) Beginning with the 2015-2016 school year, a tenured teacher who receives a performance rating of "ineffective" shall immediately lose tenure.
- (4) A teacher who loses tenure for receiving an "ineffective" performance rating shall reacquire tenure if any one of the following conditions applies:
  - (a) The "ineffective" rating is reversed pursuant to the grievance procedure

established in present law.

- (b) The teacher receives a "highly effective" performance rating for five years within a six-year period.
- (5) Provides that a teacher who has acquired tenure before September 1, 2014, retains tenure and is subject to proposed law.
- (6) Consolidates the tenure provisions for all certified school employees.

Proposed law provides that a school lunch supervisor shall not be eligible for tenure on or after June 1, 2014.

Proposed law adds that an employee of the Iberville Parish School Board who (1) is a member of or is eligible for membership in the State Teachers' Retirement System of La. and who is not covered by the provisions of present law relative to tenure and (2) is hired on or after July 1, 2014, shall not be eligible to acquire permanent status.

Present law authorizes removal of a tenured teacher upon written charges of willful neglect of duty, incompetency, dishonesty, immorality, or of being a member of an entity prohibited from operating in the state. Proposed law provides that poor performance is also grounds for removal of a tenured teacher. Proposed law provides that an "ineffective" rating on a performance evaluation constitutes proof of poor performance, incompetence, or willful neglect of duty and that no additional documentation to substantiate such charges is required.

Present law provides for a hearing by the school board to determine whether the teacher was guilty of the charges.

Proposed law provides that a teacher has seven days to respond to written charges, after which time the superintendent may remove the teacher. Requires that the removed teacher be given a hearing if he requests one within seven days of removal. Provides for appointment of a panel to conduct such a hearing; the panel is composed of a designee of the superintendent, a designee of the principal or the administrative head of the state special school, and a designee of the teacher; prohibits the designation of an immediate family member or any full-time employee of the school system by which the teacher was employed who is under the supervision of the person making the designation.

Present law provides that if the teacher is found guilty and ordered removed or disciplined by the board, the superintendent with approval of the board is required to furnish to the teacher a written statement of recommendation of removal or discipline. Authorizes the teacher to, within one year, petition a court for a full hearing to review the action of the school board. Provides that if the court reverses the finding of the school board and orders the teacher reinstated, the teacher is entitled to full pay for any loss of time or salary.

Proposed law requires the hearing panel to submit its recommendation to the superintendent, who

may reinstate the teacher. If he does not reinstate the teacher, he shall notify the teacher in writing. Grants the teacher 60 days to petition a court to review the superintendent's action and to determine whether it was arbitrary or capricious. Requires that the record on review be limited to evidence presented to the tenure hearing panel.

Present law provides that it does not impair the right of appeal to a court of competent jurisdiction. Proposed law instead provides that it does not impair the right to seek supervisory review from such court.

Relative to nontenured teachers, proposed law:

- (1) Authorizes a superintendent to terminate employment upon providing the teacher with written charges therefor and the opportunity to respond.
- (2) Grants the teacher seven days to respond and provides that the response shall be included in the teacher's personnel file.

Effective July 1, 2014.

(Amends R.S. 17:441, 442, 443, and 444(B)(1); Adds R.S. 17:532(C); Repeals R.S. 17:45, 81(I), 444(A) and (B)(2) and (3), 446, and 461- 464)