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## DIGEST

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HB No. 1172

**Abstract:** Provides relative to due process rights for teachers; provides relative to how certain teachers may be removed from office; defines transfer, novice, emerging, provisional, professional, and master teachers.

### Types of teachers

Proposed law provides the following terms and definitions:

- (1) Novice teacher: A teacher who has been employed by a public school governing authority for less than one year and does not meet the definition of emerging, provisional, professional, or master teacher. Includes a transfer teacher who has not completed a one-year term as a novice teacher.
- (2) Emerging teacher: A teacher who has successfully completed a one-year term as a novice teacher, has been employed by a public school governing authority for fewer than three years, and does not meet the definition of provisional, professional, or master teacher. Includes a transfer teacher if he has successfully completed a one-year term as a novice teacher and a transfer teacher who was previously employed as a permanent or tenured teacher in a public school in another state.
- (3) Provisional teacher: A teacher who has been employed by a public school governing authority between three and four years and has not attained at least the mid-range of effectiveness in all areas by the second semester of his third year of employment. Includes a transfer teacher if the transfer teacher was previously employed as a teacher by another public school governing authority in the state and attained tenure or due process rights.
- (4) Professional teacher: A teacher who has acquired tenure or due process rights.
- (5) Master teacher: A teacher who has been employed as a classroom teacher for more than seven years, has earned "effective" to "highly effective" ratings for four of those years, has retained "effective accomplished" or "highly effective" ratings while classified as a master teacher, has earned a master's degree, a doctorate degree, or National Board Certification that is continuous and current, and has demonstrated service to the teaching profession, professional organizations, and the community in which he is employed.
- (6) Transfer teacher: A teacher who was previously employed as a teacher by a public school

governing authority in the state or as a tenured or permanent teacher in a public school in another state.

### Tenure & due process

Present law provides that a teacher who acquired tenure before Sept. 1, 2012, retains tenure. Proposed law provides that such a teacher shall be designated as a professional teacher.

Present law provides that as of July 1, 2012, a teacher rated "highly effective" for five years within a six-year period pursuant to the present law performance evaluation program shall be granted tenure.

Proposed law instead provides that a teacher who is designated as an emerging teacher, who is not found unsatisfactory by the public school governing authority, and who has attained at least the mid-range of effectiveness by the second semester of his third year of employment with the public school governing authority shall be granted due process rights, shall be designated as a professional teacher, and shall not thereafter be discharged, demoted, or otherwise disciplined except in accordance with proposed law. Provides that an emerging teacher who has not attained such level of effectiveness by such time may either be retained as a provisional teacher for one year or discharged in accordance with present law relative to the removal of nontenured teachers.

Present law provides that a teacher paid with federal funds shall not be eligible to acquire tenure, nor shall time spent in employment paid with federal funds be counted toward the time required for acquisition of tenure. Requires the superintendent to notify a teacher, in writing, when tenure has been awarded and provides that the teacher is deemed to have acquired tenure on the date specified therein. Provides that a teacher who is not awarded tenure remains an at-will employee of the public school board or the special school district but shall acquire tenure upon meeting the required criteria. Proposed law retains present law except refers to the attainment of tenure or due process rights.

Proposed law provides the following relative to a provisional teacher, by the second semester of his fourth year of employment with the public school governing authority:

- (1) If he has attained at least the mid-range of effectiveness, he shall automatically be designated as a professional teacher and shall not thereafter be discharged, demoted, or otherwise disciplined except in accordance with proposed law.
- (2) If he has not attained such level of effectiveness by such time, he shall be discharged in accordance with present law relative to the removal of nontenured teachers.

Present law further provides as follows:

- (1) Beginning with the 2013-2014 school year, a tenured teacher who receives a performance rating of "ineffective" shall immediately lose tenure.

- (2) 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 present law grievance procedure.
  - (b) The teacher receives a "highly effective" performance rating for five years within a six-year period.

Proposed law deletes present law and instead provides the following:

- (1) A professional teacher is any teacher who has acquired tenure or due process rights.
- (2) A professional teacher shall retain "professional" status as long as he attains at least the mid-range of effectiveness and when he becomes a master teacher.
- (3) A professional teacher who receives a summative performance rating of "ineffective" at the end of his intensive assistance program may either be retained for a minimum of one year or discharged in accordance with proposed law.

Relative to a transfer teacher previously employed as a teacher by a public school governing authority in the state:

- (1) If he has not acquired tenure or due process rights, he shall receive credit for previous service as a novice teacher, complete any remaining service as a novice teacher, if applicable, and thereafter be considered an emerging teacher.
- (2) If he has acquired tenure or due process rights, he shall be considered an emerging teacher and be under provisional status for one year. By the second semester of his first year of employment with the (new) public school governing authority:
  - (a) If he attains at least the mid-range of effectiveness, he shall automatically become a professional teacher and shall not thereafter be discharged, demoted, or otherwise disciplined except in accordance with proposed law.
  - (b) If he fails to attain such level of effectiveness, he shall be discharged in accordance with present law relative to the removal of nontenured teachers.
- (2) Provides that a transfer teacher who was previously employed as a permanent teacher in the public schools of another state shall be considered an emerging teacher.

#### Removal of teachers

Present law, relative to nontenured teachers: (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 requires the response to be included in the teacher's personnel file. Proposed law retains present law.

Present law prohibits a teacher with tenure from being removed from office except upon written and signed charges of poor performance, willful neglect of duty, incompetency, dishonesty, immorality, or of being a member of or contributing to any group, organization, movement, or corporation that is prohibited from operating in the state, and then only if furnished with a copy of the charges and given the opportunity to respond. Proposed law changes this terminology from "a teacher with tenure" to "a professional teacher" and otherwise retains present law.

Present law provides the following procedures relative to the removal of such teachers:

- (1) Grants a teacher seven days to respond to charges and requires such response to be included in his personnel file. Grants the superintendent the authority to terminate the teacher's employment at the end of such time period.
- (2) Prohibits the termination of a teacher for an "ineffective" performance rating until completion of the grievance procedure established in present law.
- (3) 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 the hearing. Requires the 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.
- (4) Grants the teacher 60 days to petition a court to review the superintendent's action and determine whether it was arbitrary or capricious. Requires that the record on review be limited to evidence presented to the panel and requires the court to review the matter not later than 10 days after the petition's filing. Provides that if the court reverses the superintendent's action and the teacher is ordered reinstated and restored to duty, he shall be entitled to full pay for any loss of time or salary he may have sustained by reason of superintendent's action.

Proposed law retains present law applicable to disciplinary actions affecting professional teachers.

(Amends R.S. 17:441, 442, and 443(B)(1))