
DIGEST

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Thompson

HB No. 1277

Abstract: Provides relative to teacher tenure and the discipline of teachers.

Present law provides for the requirements and procedures for awarding tenure to a teacher and provides that the term "teacher" includes any school employee who holds a teaching certificate and whose legal employment requires a teaching certificate.

Present law provides that a tenured teacher who receives an "ineffective" performance rating immediately loses tenure and all related rights. Further provides that if a teacher is rated "highly effective" on the growth portion of the evaluation but is rated "ineffective" on the observation portion, the teacher shall be entitled to a second observation. Provides that a teacher shall reacquire tenure (immediately) if the teacher's "ineffective" rating is reversed pursuant to the grievance procedure or the teacher receives a "highly effective" rating for five out of six years after receiving an "ineffective" rating.

Proposed law provides instead that a teacher who receives a summative performance rating of "ineffective" shall immediately lose tenure upon exhaustion of the grievance procedure established pursuant to present law, unless the "ineffective" rating is reversed and provides that such rating shall constitute sufficient grounds for disciplinary action. Proposed law otherwise retains present law.

Present law authorizes termination of a nontenured teacher by a school superintendent with written notice of the reasons for termination. Requires that the teacher is given seven days to respond. Proposed law instead authorizes a school superintendent to take disciplinary action against a nontenured teacher. Requires the superintendent to notify the teacher in writing of his final decision and provides that within 60 days of such notice, the teacher may seek summary review in a district court pursuant to present law. Provides that the court's review shall be limited to determining whether the action taken by the superintendent was arbitrary or capricious.

Present law provides for removal of a tenured teacher upon written charges of willful neglect of duty, incompetency, dishonesty, immorality, poor performance or of being a member of an entity prohibited from operating in the state. 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 requested within seven days of removal. Provides for appointment of a panel to conduct such a hearing. Prohibits 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 from being designated to serve on the panel.

Requires the hearing panel to submit its recommendation to the superintendent who may reinstate the teacher. Requires that 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.

Proposed law provides instead for the disciplining of a tenured teacher for the grounds as provided in present law and specifies that such action shall be by the superintendent or his designee. Provides that the teacher has 10 calendar days from written notice of the charges to respond, in person or in writing. Authorizes the superintendent to take interim disciplinary action including placing the teacher on administrative leave. Prohibits the teacher from being placed on administrative leave without pay except if the teacher has been arrested for a violation of certain crimes as specified in proposed law. Provides that within 10 calendar days after written notice of the interim disciplinary action, a teacher may request a hearing before a disciplinary hearing officer. Further provides that if the teacher fails to timely request a hearing, the interim disciplinary action becomes final.

Proposed law adds that upon request for a review hearing, the superintendent shall randomly appoint a hearing officer from a list of persons previously approved by the school board to serve as "disciplinary hearing officers" for the school board. Requires school boards to maintain lists of hearing officers and specifies how many officers are to be on the lists depending on the number of students in the school district. Authorizes the superintendent to appoint a hearing officer from a list approved by the State Board of Elementary and Secondary Education (BESE) if the school board fails to maintain a list. Provides that a disciplinary hearing officer is a mediator qualified under present law, an arbitrator approved by the American Arbitration Association or the Federal Mediation and Conciliation Service, an attorney, or a retired member of the judiciary. Provides that such hearing may be private or public, at the option of the teacher and shall commence no sooner than 10 calendar days nor later than 30 calendar days after receipt of the teacher's request for such hearing. Provides that the disciplinary hearing officer shall have the power to issue subpoenas. Requires the school board to adopt and maintain procedures to govern the conduct of the hearing including a method for the examination of witnesses and the introduction of evidence and for the presence of a court reporter and maintenance of the court reporter's record. Provides that the teacher has the right to appear before the disciplinary hearing officer with witnesses and counsel of his selection. Requires the disciplinary hearing officer to hold a hearing and review whether the interim decision of the superintendent was arbitrary or capricious, and to either affirm or reverse the action of the superintendent. Further requires the disciplinary hearing officer to notify the superintendent and the teacher of his final determination, with written reasons, within 10 days from the date of the hearing. Provides that if the superintendent's disciplinary action is affirmed it is effective upon the teacher's receipt of the decision of the disciplinary hearing officer and if the superintendent's disciplinary action is reversed, the teacher shall be restored to duty and the disciplinary hearing officer shall issue written reasons.

Proposed law provides that the school board or the teacher may petition a court of competent jurisdiction to review the matter as a summary proceeding pursuant to present law. Provides that

the court shall determine whether the disciplinary hearing officer abused his discretion in deciding whether the action of the superintendent was arbitrary or capricious based on the record of the disciplinary review hearing. Retains present law that provides that if the action of the superintendent is reversed by the court and the teacher is ordered reinstated and restored to duty, the teacher shall be entitled to full pay for any loss of time or salary he may have sustained by reason of the action of the superintendent.

Proposed law provides that the time periods contained in proposed law may be extended by mutual agreement of the parties and prohibits paid administrative leave as provided in proposed law from exceeding 50 days from notice of the superintendent's interim decision.

Present law provides that the results of a teacher's evaluation evaluating the teacher's performance as "ineffective" shall constitute sufficient proof of poor performance, incompetence, or willful neglect of duty and no additional documentation shall be required to substantiate such charges. Proposed law deletes present law.

Present law provides that a teacher shall be retained during the term of a contract unless found incompetent or inefficient or found to have failed to fulfill the terms and performance objectives of his contract. Provides that before he can be removed during the contract period, he shall have the right to written charges and a fair hearing before the board after reasonable written notice. Proposed law instead provides that before he can be removed he shall have the right to a hearing before a disciplinary hearing officer in the manner provided in proposed law. Proposed law otherwise retains present law.

Proposed law provides for definitions.

Effective upon signature of governor or lapse of time for gubernatorial action.

(Amends R.S. 17:441, 442(C), 443, and 444(B)(4)(c)(iii))

Summary of Amendments Adopted by House

House Floor Amendments to the engrossed bill.

1. In addition to upon hand delivery, provides that written notice is considered given on the day it is delivered to the teacher by registered mail, certified mail, or a commercial courier rather than on the 7th calendar day after it was mailed.
2. Adds to requirement that the procedures that govern the conduct of the hearing include a method for the presence of a court reporter and maintenance of the court reporter's record.