

Regular Session, 2014

HOUSE BILL NO. 982

BY REPRESENTATIVE GAINES

TEACHERS: Provides relative to the process for discharging, demoting, or disciplining a permanent public school teacher

1 AN ACT

2 To enact R.S. 17:443.1 through 443.4 and to repeal R.S. 17:443, relative to permanent
3 teachers; to provide for a process with respect to the discharge, demotion, or
4 discipline of permanent teachers; to provide relative to appeals; to provide for the
5 qualifications of arbitrators for appeals; to repeal provisions relative to the
6 termination of teachers and to tenure hearings; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 17:443.1 through 443.4 are hereby enacted to read as follows:

9 §443.1. Discharge, demotion, and discipline of permanent teachers; procedure

10 A.(1) A teacher in the employ of a city, parish, or other local public school
11 board who holds a proper certificate and who has served satisfactorily as a teacher
12 for more than three consecutive years in the city, parish, or other locality is declared
13 to be a permanent teacher in the employ of the school board.

14 (2) A permanent teacher shall not be discharged, demoted, or otherwise
15 disciplined except upon the written and signed recommendation of the local school
16 superintendent alleging willful neglect of duty, incompetency, dishonesty,
17 immorality, or being a member of or contributing to any group, organization,
18 movement, or corporation that is by law or injunction prohibited from operating in
19 the state of Louisiana, and then only if that recommendation is accepted by the
20 school board. The recommendation shall include specifics relating to the reason for

1 the proposed discharge, demotion, or other discipline, including but not limited to
2 the following:

3 (a) The date and place of an alleged offense.

4 (b) The names of individuals involved in or witnessing an offense.

5 (c) The proposed discipline if the school board accepts the allegations
6 against the teacher.

7 (3) The copy of the recommendation, including copies of all documents that
8 support the charges, shall be provided to the permanent teacher not less than seven
9 days prior to the school board meeting during which the allegations and proposed
10 discipline are to be considered by the school board.

11 B.(1) The school board shall either accept or reject the allegations by a
12 majority vote at a regular board meeting. The permanent teacher against whom the
13 allegations have been made shall have the right to appear before the board to refute
14 the allegations.

15 (2) If the school board rejects the allegations, the matter shall be deemed
16 resolved in favor of the permanent teacher, and no disciplinary action arising from
17 the allegations shall be made against the permanent teacher in the future.

18 (3)(a) If the school board accepts the allegations, the school board shall then
19 either reject, modify, or accept the proposed discipline by a majority vote at a regular
20 meeting of the school board. The permanent teacher against whom the discipline is
21 proposed shall have the right to appear before the school board to contest the
22 proposed discipline.

23 (b) If the school board rejects the proposed discipline and determines that no
24 discipline is appropriate, the matter shall be deemed resolved in favor of the
25 permanent teacher and no disciplinary action arising from the same allegations shall
26 be made against the permanent teacher in the future.

27 (c) If the school board rejects the proposed discipline but determines that a
28 measure of discipline different from that recommended by the superintendent is
29 appropriate, the school board may modify the discipline measure as it deems

1 appropriate, after considering all of the facts and circumstances surrounding the
2 allegations, by majority vote.

3 (d) If the school board accepts the proposed discipline, the discipline shall
4 be imposed upon the permanent teacher subject to the right of appeal provided in
5 R.S. 17:443.2.

6 C. The superintendent shall provide the teacher, by certified mail, return
7 receipt requested, with a copy of the board's decision and an extract of the minutes
8 of the school board's action on his recommendation not later than seven days
9 following the school board meeting at which the recommendation was considered
10 by the school board.

11 D. For the purposes of this Section, immorality shall mean any conviction
12 of a felony offense affecting the public morals enumerated in Part V of Chapter 1 of
13 Title 14 of the Louisiana Revised Statutes of 1950.

14 §443.2. Removal of permanent teachers; appeal from school board decision

15 A. A permanent teacher aggrieved by any discipline imposed by a school
16 board pursuant to R.S. 17:443.1 may appeal within ten days of receipt of the
17 information provided to the teacher pursuant to R.S. 17:443.1(C) by filing a Notice
18 of Appeal with the New Orleans regional office of the American Arbitration
19 Association.

20 B.(1) If a Notice of Appeal is not timely filed by the permanent teacher, he
21 shall be considered to have waived any right to contest the allegations or discipline
22 and the action of the school board shall be final, definitive, and not subject to further
23 review.

24 (2) If a Notice of Appeal is timely filed by a permanent teacher, the appeal
25 shall be conducted pursuant to R.S. 17:443.3.

26 §443.3. Removal of permanent teachers; binding arbitration

27 A. Appeals from discipline imposed upon a permanent teacher by a school
28 board shall be subject to mandatory binding arbitration.

1 B. The parties to the arbitration will be the permanent teacher and the school
2 board.

3 C.(1) The parties shall select a panel of arbitrators from a list of eligible
4 persons maintained by the American Arbitration Association. Arbitrators shall be
5 residents of Louisiana and shall have attended not less than eight hours of training
6 in the field of employment arbitration sponsored by the American Bar Association
7 or the American Arbitration Association.

8 (2) Each party shall select an arbitrator, and the two arbitrators selected by
9 the parties shall select a third arbitrator, who shall serve as the chairperson.

10 (3) The arbitrators shall be selected by the parties as follows:

11 (a) The permanent teacher shall select an arbitrator from the "Employee List
12 of Arbitrators". Such arbitrator shall have not less than ten years of experience as
13 a classroom teacher.

14 (b) The school board shall select an arbitrator from the "Employer List of
15 Arbitrators". Such arbitrator shall have not less than five years of experience as a
16 classroom teacher and not less than five years of experience as a principal or
17 superintendent or not less than ten years experience in the field of education law.

18 (c) The third arbitrator shall be selected from the "Neutral List of
19 Arbitrators".

20 D. The arbitration shall be conducted in accordance with Louisiana Binding
21 Arbitration Law, R.S. 9:4201 et seq. In the event of a conflict between the Labor
22 Arbitration Rules of the American Arbitration Association and the Louisiana Binding
23 Arbitration Law, the Labor Arbitration Rules of the American Arbitration
24 Association shall control.

25 §443.4. Removal of permanent teachers; issues to be determined in arbitration

26 A. The panel of arbitrators shall determine both of the following issues from
27 the facts presented at the arbitration:

28 (1) Whether the school board proved by a preponderance of the evidence that
29 the permanent teacher is guilty of willful neglect of duty, incompetency, dishonesty,

1 immorality, or of being a member of or contributing to any group, organization,
2 movement, or corporation that is by law or injunction prohibited from operating in
3 the state of Louisiana.

4 (2) Whether any discipline imposed by the school board on the permanent
5 teacher was commensurate with the offense or offenses.

6 B. After consideration of all of the evidence, the panel of arbitrators may
7 make any award that a majority of them deem to be just and appropriate under the
8 circumstances.

9 C. There shall be no appeal from any order confirming, modifying,
10 correcting, or vacating an arbitration award or from a judgment entered upon an
11 arbitration award.

12 Section 2. R.S. 17:443 is hereby repealed in its entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Gaines

HB No. 982

Abstract: Provides a process for the discharge, demotion, and discipline of permanent public school teachers.

Proposed law provides that a teacher in the employ of a city, parish, or other local public school board who holds a proper certificate and who has served satisfactorily as a teacher for more than three consecutive years in the city, parish, or other locality is declared to be a permanent teacher in the school board's employ.

Proposed law provides that a permanent teacher shall not be discharged, demoted, or otherwise disciplined except upon the superintendent's written and signed recommendation alleging willful neglect of duty, incompetency, dishonesty, immorality, or being a member of or contributing to a group, organization, movement, or corporation prohibited from operating in La., and then only if the recommendation is accepted by the school board. Requires that such recommendation include specifics relating to the reason and be provided to the teacher at least seven days prior to the school board meeting at which the allegations and proposed discipline are considered.

Proposed law grants the teacher the right to appear before the board to refute the allegations, requires the school board either to accept or reject the allegations by a majority vote, and provides for the following scenarios:

- (1) If board rejects the allegations, the matter shall be deemed resolved in favor of the teacher, and no disciplinary action arising from the same allegations shall be made against the teacher in the future.

- (2) If the board accepts the allegations, it shall then either reject, modify, or accept the proposed discipline by a majority vote:
 - (a) If the board rejects the proposed discipline and determines that no discipline is appropriate, the matter shall be deemed resolved in favor of the teacher and no disciplinary action arising from the same allegations shall be made against the teacher in the future; if the board determines that a different discipline measure is appropriate, it may modify the discipline measure by majority vote.
 - (b) If the board accepts the proposed discipline, it shall be imposed upon the teacher subject to the right of appeal set forth in proposed law.

Proposed law requires the superintendent to provide the teacher with a copy of the board's decision and an extract of the minutes of the school board's action not later than seven days following the meeting at which the recommendation was considered by the board.

Proposed law authorizes a permanent teacher aggrieved by any discipline imposed by a school board pursuant to proposed law to appeal within 10 days of receipt of this information by filing a Notice of Appeal with the New Orleans regional office of the American Arbitration Association (AAA). If notice is not timely filed, the teacher shall be considered to have waived any right to contest the allegations or discipline, and the action of the school board shall be final, definitive, and not subject to further review. If such notice is timely filed, the appeal shall be conducted pursuant to proposed law, as follows:

- (1) Appeals from discipline imposed upon a permanent teacher by a school board shall be subject to mandatory binding arbitration, and the parties shall be the teacher and the board.
- (2) Each party shall select an arbitrator, and the two arbitrators selected by the parties shall select a third arbitrator, who shall serve as chairperson; provides for qualifications of arbitrators.
- (3) Arbitration shall be conducted in accordance with the La. Binding Arbitration Law, and if a conflict between the Labor Arbitration Rules of the AAA and such law, the AAA rules shall control.
- (4) The arbitrators shall:
 - (a) Determine whether the school board proved by a preponderance of the evidence that the teacher is guilty of any of the offenses provided in proposed law.
 - (b) Determine whether discipline imposed by the school board was commensurate with the offense.
- (5) The arbitrators may make any award that a majority of them deem to be just and appropriate.
- (6) There shall be no appeal from any order confirming, modifying, correcting, or vacating an arbitration award or from a judgment entered upon an arbitration award.

Present law authorizes 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 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 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.

Relative to nontenured teachers, present 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.

Proposed law repeals present law.

(Adds R.S. 17:443.1-443.4; Repeals R.S. 17:443)