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## DIGEST

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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)