

**LEGISLATIVE FISCAL OFFICE**  
**Fiscal Note**



Fiscal Note On: **HB 892** HLS 16RS 1188  
 Bill Text Version: **ORIGINAL**  
 Opp. Chamb. Action:  
 Proposed Amd.:  
 Sub. Bill For.:

<b>Date:</b> May 2, 2016 6:08 PM	<b>Author:</b> JAMES
<b>Dept./Agy.:</b> EDUCATION	<b>Analyst:</b> Jodi Mauroner
<b>Subject:</b> Teacher Tenure and Due Process	

TEACHERS OR SEE FISC NOTE LF EX Page 1 of 2  
 Provides relative to due process for teachers

Present law provides that a teacher who acquired "tenure" before Sept. 1, 2012, retains tenure. Proposed law provides a teacher who has acquired "permanent status" before such date retains that status. 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 as such date, a teacher whose final evaluation is within the "effective" range for three consecutive years shall automatically become a "permanent" teacher. Proposed law deletes present law provisions relative to the removal of teachers with tenure and adds a new disciplinary process for permanent teachers. Present law provides that when a tenured teacher is promoted from a position of lower salary to one of higher salary, he shall not be eligible to earn tenure in the position to which he is promoted, but shall retain any tenure acquired as a teacher. Proposed law instead provides that when a permanent teacher is promoted to a position as an administrator, he shall retain his status as a permanent teacher and that when a probationary teacher is promoted to a position as an administrator, his probationary period shall continue to run; if his final evaluation is within the "effective" range for three consecutive years he shall automatically attain the status of a permanent teacher. **Continued on Page Two**

<b>EXPENDITURES</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Agy. Self-Gen.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
<b>Annual Total</b>						

<b>REVENUES</b>	<b>2016-17</b>	<b>2017-18</b>	<b>2018-19</b>	<b>2019-20</b>	<b>2020-21</b>	<b>5 -YEAR TOTAL</b>
State Gen. Fd.	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Agy. Self-Gen.	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	SEE BELOW	
Ded./Other	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Federal Funds	\$0	\$0	\$0	\$0	\$0	<b>\$0</b>
Local Funds	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>	<b><u>\$0</u></b>
<b>Annual Total</b>						

**EXPENDITURE EXPLANATION**

There will be an indeterminable impact to school districts as a result of the change in the criteria for awarding tenure or permanent status to teachers, as well as the change in the process for disciplinary actions against such teachers. The impact will be determined by the number of teachers in a district who are granted permanent status, the number who may be charged with disciplinary action, whether such charges are approved by the local school board and whether those teachers seek further hearings from the Division of Administrative Law (DAL) and/or the District Court. Districts may be allocated a share of the annual cost of the DAL based on utilization. Finally, there may be an increase in costs for the DAL associated with an increase in hearings conducted under the new process but those costs cannot be quantified at this time.

Proposed law reduces the time frame for awarding tenure or permanent teacher status from one that requires a rating of Highly Effective for five years within a six year period to one which provides such status for teachers achieving within the "effective" range for three year consecutive years. DOE projects this will result in an increase of some 26,300 in the number of permanent teachers. Teacher evaluation data provided below identifies the breakdown of teacher ratings for approximately 48,300 teachers over the past three years. DOE indicates there are currently 6,700 tenured teachers.

	<u>Ineffective</u>	<u>Effective: Emerging</u>	<u>Effective: Proficient</u>	<u>Highly Effective</u>
2012-2013	4% 1,937	8% 3,874	57% 27,601	32% 15,495
2013-2014	2% 966	6% 2,898	49% 23,669	43% 20,771
2014-2015	1% 483	6% 2,898	46% 22,218	48% 23,184

Note: The value-added assessment model which is used to evaluate teachers and administrators requires that 50% of such evaluations shall be based on evidence of growth in student achievement. During the transition to new standards and assessments value added data was not available in 2013-2014, 2014-2015 and will not be available for 2015-2016. During this time the Department of Education provided transitional student growth data to be used as the measure of student growth; local districts may also use student learning targets. To the extent future evaluations utilize the value added model there may be shifts in the number of teachers scoring ineffective and effective. **Continued on Page Two**

**REVENUE EXPLANATION**

There could be an increase in self generated revenues for the Division of Administrative Law as a result of the agency conducting hearings at the request of a permanent teacher. The amount is indeterminable at this time and will depend upon the number of teachers charged with disciplinary action, the extent to which teachers choose to avail themselves of this hearing option, and the school district in which those hearings would occur (DAL offices are located in Baton Rouge and New Orleans; Administrative Law Judges may be required to travel to parishes to conduct hearings).

- |   |  |              |
|---|--|--------------|
| <u>Senate</u>   | <u>Dual Referral Rules</u>   | <u>House</u> |
| <input type="checkbox"/> 13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}       | <input type="checkbox"/> 6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}                    |              |
| <input type="checkbox"/> 13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H} | <input type="checkbox"/> 6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S} |              |

*Evan Brasseaux*  
**Evan Brasseaux**  
**Staff Director**

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CONTINUED EXPLANATION from page one:

Proposed law provides the following relative to the effect of evaluations on the status of teachers: (1) A teacher whose final evaluation rating is "ineffective" shall be provided the intensive assistance required by present law by the employing school board. (2) A superintendent shall take disciplinary action against any teacher who, despite being provided the intensive assistance, receives a final evaluation rating of "ineffective" for two consecutive years. (3) No disciplinary action shall be taken against a teacher until the teacher fully exhausts the grievance procedure established pursuant to present law. (4) If a teacher is found "highly effective" based on the evidence of the growth portion of his evaluation but is found "ineffective" according to the observation portion, within thirty days after such finding, the teacher shall be entitled to a second observation by members of a team of three designees, chosen by the school superintendent, which shall not include the teacher's principal. Present law authorizes a school superintendent to take disciplinary action against any non-tenured teacher after providing such teacher with the written reasons therefor and the opportunity to respond. Proposed law instead requires a superintendent, when proposing to take disciplinary action against a probationary teacher, to provide the teacher with the written reasons therefor and the opportunity to respond.

Expenditure Explanation Continued From Page One

Proposed law revises the due process procedure for both probationary and permanent teachers which extends the time frame for the process to take place and will now require the approval of the school board for proposed disciplinary actions. Permanent teachers will now be eligible for a hearing before an administrative law judge, rather than a disciplinary hearing officer. Finally, paid administrative leave is currently capped at 50 days from the notice of the superintendent's interim decision; this cap has been removed. These changes in the process could have cost implications for local districts. There may be workload increases for districts to compile documentation for submission to the school board. Costs associated with an administrative law hearing may be higher or lower than those fees currently paid to the hearing officers and districts may incur costs for the extended paid administrative leave period, as well as increased costs for substitute teacher pay while those teachers are on leave.

Based on the 2014-2015 Teacher Exit Survey Report indicates that fewer teachers left their positions than in 2013 and 2014 and that only 2% (92) were discharged due to unsuitability. Additional information reported by districts indicated that over the same three year period only 23 formal grievances were filed. It is unknown whether these instances included duplicate incidents, whether the teachers involved were tenured and whether the cases involved court hearings.

The Division of Administrative Law (DAL) is Louisiana's centralized state administrative hearings panel. When disputes arise between state agencies and the citizens they regulate, the DAL provides adjudications conducted by independent Administrative Law Judges (ALJs). State agencies utilizing DAL are assessed a statewide rate at the beginning of each year based on the number of hearings conducted in the prior year. An end-of-year reconciliation may result in a credit for an agency that does not fully utilize DAL services at the assessed rate. Presumably, local districts will be assessed an annual rate which would be adjusted annually based on prior year utilization. To the extent the increase in hearings would require additional staffing, costs could increase by \$133,000 for an attorney (\$88,000 salary and related benefits) and/or \$56,300 for support staff (\$35,500 salary and related benefits). If workload adjustments can be absorbed utilizing existing staff, there could be less significant cost increases for travel costs associated with an increase in the number of hearings conducted by ALJs. Without knowing the potential caseload and location of those hearings, DAL cannot identify potential impacts.

Senate Dual Referral Rules House

13.5.1 >= \$100,000 Annual Fiscal Cost {S&H}

6.8(F)(1) >= \$100,000 SGF Fiscal Cost {H & S}

13.5.2 >= \$500,000 Annual Tax or Fee Change {S&H}

6.8(G) >= \$500,000 Tax or Fee Increase or a Net Fee Decrease {S}

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