

Regular Session, 2012

HOUSE BILL NO. 974

BY REPRESENTATIVES CARTER, KLECKLEY, BROADWATER, CHAMPAGNE,
CONNICK, HENRY, HENSGENS, LIGI, LORUSSO, PONTI, ROBIDEAUX,
SCHRODER, SEABAUGH, TALBOT, AND THOMPSON AND SENATORS
ALARIO AND APPEL

TEACHERS: Provides relative to teacher tenure, pay-for-performance, and evaluations

1 AN ACT

2 To amend and reenact R.S. 17:54(B)(1)(b)(i) and (iii), 81(A) and (P)(1), 81.4, 229, and
3 414.1, 441, 442, 443, and 444(B)(1), to enact R.S. 17:418 and 532(C), and to repeal
4 R.S. 17:44, 45, 81(I), 154.2, 235.1(E), 346.1, 419, 419.1, 420, 421, 421.1, 421.2,
5 421.3, 421.5, 422, 422.1, 422.2, 422.3, 422.4, 422.5, 431, 444(A) and (B)(2) and (3),
6 446, 461 through 464, and 1207, relative to elementary and secondary education; to
7 provide with respect to teachers and other school employees; to provide with respect
8 to local school superintendents, their employment, and their duties and
9 responsibilities; to provide relative to local school boards and their functions and
10 powers; to provide relative to school personnel decisions; to provide relative to
11 school board reduction in force policies; to provide with respect to the salaries and
12 compensation of teachers and other school employees; to provide relative to tenure
13 for school employees and the removal of tenured and nontenured teachers; to provide
14 for effectiveness; and to provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 17:54(B)(1)(b)(i) and (iii), 81(A) and (P)(1), 81.4, 229, and 414.1
17 are hereby amended and reenacted to read as follows:

§54. Officers of boards, election; superintendents, qualifications, appointment and removal.

* * *

B.(1)

* * *

(b)(i)(aa) The superintendent of schools shall be employed by a city, parish, or other local public school board pursuant to a written contract. Such contract shall contain but need not be limited to specific performance objectives. However, for the board of a local public school system that received any variation of a school performance letter grade of "C", "D", or "F", such contract shall establish performance targets at the school and district level as follows: (1) student achievement; (2) student achievement for schools that have received any variation of a school performance letter grade designation of "C", "D", or "F"; (3) graduation rates; (4) graduation rates for schools that have received any variation of a school performance letter grade designation of "C", "D", or "F"; and (5) the percentage of teachers with an "effective" or "highly effective" performance rating. Not less than ~~ninety~~ thirty days prior to the termination of such a contract, the school board shall notify the superintendent of termination of employment under such contract, or in lieu thereof the board and the superintendent may negotiate and enter into a contract for subsequent employment.

(bb) Each local public school board shall submit a copy of its current employment contract with the superintendent of schools to the state superintendent of education.

(cc) A local public school board shall notify the state superintendent of education any time it terminates or fails to renew its employment contract with the local school superintendent, along with the reasons therefor.

(dd) Any employment contract executed, negotiated, or renegotiated after July 1, 2012, between a local school board and a superintendent that does not meet

1 the requirements established in this Subsection shall be null and void.

2 * * *

3 (iii) The superintendent shall be retained during the term of a contract;
4 however, if the superintendent is found incompetent, unworthy, or inefficient or is
5 found to have failed to fulfill the terms and performance objectives of his contract
6 or to comply with school board policy, then the superintendent ~~may~~ shall be removed
7 from office as provided by Subsection C of this Section. Before the superintendent
8 can be removed during the contract period, he shall have the right to written charges
9 and a fair hearing before the board after reasonable written notice.

10 * * *

11 §81. General powers of ~~city, parish, and other~~ local public school boards

12 A.(1) Each local public school board shall serve in a policymaking capacity
13 that is in the best interests of all students enrolled in schools under the board's
14 jurisdiction. When establishing board policies, each board shall prioritize student
15 achievement, financial efficiency, and workforce development on a local, regional,
16 and statewide basis. When choosing a local superintendent of schools, each board
17 shall select a leader who shall prioritize student achievement and act in the best
18 interests of all students enrolled in schools under the board's jurisdiction.

19 (2) ~~Each city and parish~~ local public school board shall determine the number
20 of schools to be opened, the location of school houses, and the number of teachers
21 and other school personnel to be employed, ~~and select teachers and all other certified~~
22 ~~personnel from recommendations made by the city or parish superintendent as~~
23 ~~required by this Subsection.~~ The ~~boards~~ local school superintendent shall have
24 authority to employ teachers by the month or by the year, and to fix their salaries;
25 provided that there shall be no discrimination as to sex in the fixing thereof and
26 provided further, that it is not the purpose of this Section to require or direct the
27 reduction of any salary, or salary schedule, presently in force. The ~~boards~~ local
28 school superintendent shall see that the provisions of the state school law are
29 complied with.

1 ~~(2)~~ (3) Each ~~city and parish~~ local public school board shall ~~select teachers and~~
2 ~~all other certified personnel from recommendations made by the city or parish~~
3 ~~superintendent regarding~~ delegate authority for the hiring and placement of all school
4 ~~personnel, including those for which state certification is required to the local school~~
5 ~~superintendent.~~ It shall be the responsibility of the superintendent to ensure that all
6 persons ~~recommended~~ have proper certification, as applicable, and are qualified for
7 the position. ~~Nothing shall prevent a school board from rejecting the~~
8 ~~recommendations made by the superintendent and requiring the superintendent to~~
9 ~~submit additional recommendations.~~

10 ~~(3)~~ (4) Each ~~city and parish~~ local public school board shall adopt policies for
11 and establish procedures which require a ~~city or parish~~ local school superintendent
12 to:

13 (a) ~~Consult with~~ Delegate to the principal ~~regarding any recommendations~~
14 ~~made by the superintendent for all decisions regarding~~ the hiring or placement of any
15 teacher or other ~~certified~~ personnel at the school in which the principal is employed,
16 subject to the approval of the local school superintendent. ~~Any recommendations~~
17 ~~made by the principal shall not be binding upon the superintendent but shall be~~
18 ~~considered by the superintendent in making his recommendations to the board.~~

19 (b) Consult with teachers ~~regarding any recommendations made by the~~
20 ~~superintendent for~~ prior to making any decisions regarding the hiring or placement
21 of a principal at the school in which such teachers are employed. Any
22 recommendations made by teachers shall not be binding upon the superintendent but
23 shall be considered by the superintendent ~~in when~~ making ~~his recommendations to~~
24 ~~the board~~ employment decisions.

25 ~~(4)~~ (5) Any policies and procedures adopted by a ~~city or parish~~ local public
26 school board pursuant to the provisions of this Subsection shall be in accordance
27 with all laws, all state rules, regulations, and policies relative to certification of
28 teachers and other personnel, and any court order or restrictions relative to
29 desegregation.

1 (6) The superintendent and the school principal shall make all employment-
2 related decisions based upon performance, effectiveness, and qualifications as
3 applicable to each specific position. Effectiveness, as determined pursuant to R.S.
4 17:3881 through 3905, shall be used as the primary criterion for making personnel
5 decisions; however, in no case shall seniority or tenure be used as the primary
6 criterion when making decisions regarding the hiring, assignment, or dismissal of
7 teachers and other school employees.

8 * * *

9 P.(1) No board member shall act in an individual capacity to use the authority
10 of his office or position as a member of the school board in a manner intended to
11 interfere with, compel, or coerce any personnel decision made by the superintendent
12 or a school principal, including the hiring, promotion, discipline, demotion, transfer,
13 discharge, or assignment of work to any school employee. The superintendent, as the
14 instructional leader of the district and its chief executive officer, shall have primary
15 responsibility for personnel actions in the district. ~~Each school board shall approve~~
16 ~~or disapprove employment of teachers and all other certified personnel from~~
17 ~~recommendations made by the superintendent regarding the hiring and placement of~~
18 ~~all personnel for which state certification is required. The superintendent shall make~~
19 ~~recommendations to the board in open public session at a meeting which has been~~
20 ~~properly noticed. Prior to the board voting in open session on the superintendent's~~
21 ~~recommendations, the board shall provide opportunity for public comment.~~

22 * * *

23 §81.4. Reductions in force; dismissal of teachers and other school employees

24 A. Not later than ~~January 1st, 1984~~ September 1, 2012, each city and parish
25 local public school board shall develop and adopt rules and policies that delegate
26 reduction in force decisions to the superintendent which ~~it~~ he shall use in dismissing
27 teachers and other employees at any time a reduction in force is instituted ~~by such~~
28 ~~school board~~. Such rules and policies shall be made available for inspection by

1 teachers, other school employees and the general public within ten days after final
2 adoption.

3 ~~B. Not later than January 1st, 1986, each city and parish school board shall~~
4 ~~develop and adopt rules and policies which it shall use in dismissing any full-time~~
5 ~~secretary, teacher's aide, school clerk, or custodian at any time a reduction in force~~
6 ~~is instituted by that school board. These rules and policies shall be made available~~
7 ~~for inspection, by any full-time secretary, teacher's aide, school clerk, or custodian,~~
8 ~~and the general public within ten days after their final adoption.~~

9 ~~C. Not later than January 1, 1987, each city and parish school board shall~~
10 ~~develop and adopt rules and policies which it shall use in dismissing school~~
11 ~~employees other than those for which provision is made in Subsections (A) and (B),~~
12 ~~at any time a reduction in force is instituted by the school board. Such rules and~~
13 ~~policies shall be made available for inspection by any such school employee and the~~
14 ~~general public within ten days after their final adoption.~~

15 B. All reduction in force policies adopted for use in dismissing teachers and
16 administrators shall be based solely upon demand, performance, and effectiveness,
17 as determined by the performance evaluation program as provided in R.S. 17:3881
18 through 3905. Any reduction in force by a superintendent shall be instituted by
19 dismissing the least effective teacher within each targeted subject area or area of
20 certification first, and then proceeding by effectiveness rating until the reduction in
21 force has been accomplished.

22 C. All reduction in force policies adopted by a local school board for use by
23 the superintendent in dismissing school employees who are not evaluated pursuant
24 to R.S. 17:3881 through 3905, shall be based upon the following criteria:

25 (1) Performance and effectiveness as determined by school board policy.

26 (2) Certification or academic preparation, if applicable.

27 ~~D. Not later than January 1, 1996, all~~ All reduction in force policies of ~~the~~
28 ~~city and parish~~ local public school boards and special schools as provided in this
29 Section shall include ~~but not be limited to the following minimum standards:~~

~~1 (1) Certification, if applicable.~~

2 ~~(2) Seniority in the system.~~

3 ~~(3) Tenure of employees.~~

4 ~~(4) Academic preparation, if applicable, within the employee's field.~~

5 ~~(5)(a)~~ (1) The right of an employee notified of an action which results from
6 implementation of a reduction in force policy to request in writing a review of such
7 action and to receive notice of the results of such review.

8 ~~(b)~~ (2) The right of an employee to pursue the matter through the school
9 board's adopted grievance procedure.

10 E. No reduction in force policy adopted by a local public school board shall
11 include seniority or tenure as the primary criterion to be considered when instituting
12 a reduction in force.

13 * * *

14 §229. Appointment of visiting teachers, or supervisors of child welfare and
15 attendance

The appointment of parish and city local school superintendent shall appoint visiting teachers, ~~or~~ and supervisors of child welfare and attendance, shall be made by the parish or city school board upon the recommendation of the parish or city superintendent of education; but no person shall be so recommended or so appointed unless certified by the state board of education. It shall be the duty of the parish or city superintendent of education to nominate for the consideration of the school board the person or persons whom he judges to be properly certified and the best qualified and most competent.

~~Visiting teachers, or supervisors of child welfare and attendance, need not be~~
~~qualified electors or residents of the parish or city in which they are appointed to~~
~~serve.~~

27 * * *

§414.1. Public elementary and secondary school principals; duties

The principal ~~appointed by the parish or city school board~~ for each public elementary and secondary school shall ~~serve~~; be appointed by and serve under the ~~overall~~ direction of the ~~parish or city~~ local superintendent of schools; as the administrative officer of the school to which he is assigned. Consistent with the requirements of law and the rules and regulations of the State Board of Elementary and Secondary Education and the ~~parish or city~~ local public school board by which he is employed, he shall have administrative responsibility for the direction and supervision of the personnel and activities and the administration of the affairs of that school.

* * *

Section 2. R.S. 17:418 is hereby enacted to read as follows:

§418. Salaries; teachers and other school employees

A.(1) The governing authority of each local public elementary and secondary school, the state special schools, and the schools and programs administered through the special school district shall establish salary schedules by which to determine the salaries to be paid to teachers and all other school employees. The salaries as provided therein shall be considered as full compensation for all work required and performed within each employee's prescribed scope of duties and responsibilities.

(2) Such salary schedules shall be established and published not later than January 1, 2013, and shall become effective for all employees not later than the beginning of the 2013-2014 school year.

B.(1) Salary schedules established for teachers, administrators, and other certified school personnel shall be based upon the following criteria, with no one criterion accounting for more than fifty percent of the formula used to compute such employees' salaries:

(a) Effectiveness, as determined by the performance evaluation program as provided in R.S. 17:3881 through 3905.

1 **(b) Demand inclusive of area of certification, particular school need,**
2 **geographic area, and subject area, which may include advanced degree levels.**

3 **(c) Experience.**

4 **(2) No teacher or administrator who is rated "ineffective" pursuant to the**
5 **performance evaluation program as provided in R.S. 17:3881 through 3905 shall**
6 **receive a higher salary in the year following the evaluation than he received in the**
7 **year of the evaluation.**

8 **C.(1) The amount of the annual salary paid to a teacher or other school**
9 **employee in any school year shall not be reduced below the amount of such salary**
10 **paid during the previous school year, nor shall the amount of the annual salary paid**
11 **to such school personnel be reduced at any time during an academic year.**

12 **(2) Each vocational agricultural teacher employed by a city, parish, or other**
13 **local public school board shall teach a twelve-month program for a twelve-month**
14 **budget period and shall be paid a proportional salary for a twelve-month budget**
15 **period according to the salary schedule established by his employing school board.**

16 **(3) The limitations on the reduction in the amount of the annual salary paid**
17 **to teachers and other school employees shall not be applicable to:**

18 **(a) The correction of any accounting errors or to a reduction necessitated by**
19 **the elimination of a state program or state funding.**

20 **(b) The reduction of any local salary supplement funded, in whole or in part,**
21 **from a revenue source requiring voter approval when such voter approval has not**
22 **been obtained.**

23 **(c) A teacher or other school employee who has been promoted to a position**
24 **of higher salary is demoted in accordance with applicable law and local board or**
25 **special school district policy to a lower position. In such case the teacher or other**
26 **school employee shall return to the salary previously received in the lower position**
27 **from which he was promoted.**

28 **D. The provisions of this Section shall not apply to any employee who is in**
29 **the classified service of the state.**

1 Section 3. R.S. 17:441, 442, 443, and 444(B)(1) are hereby amended and reenacted
2 and R.S. 17:532(C) is hereby enacted to read as follows:

3 §441. Definitions

4 As used in this Subpart, the word "teacher" means:

5 (1) Any employee of ~~any parish or city~~ a local public school board, state
6 special school, or a school or program administered by the special school district
7 who holds a teacher's certificate and whose legal employment requires such teacher's
8 certificate;

9 (2) Any school lunch supervisor employed by a ~~parish or city~~ local public
10 school board who holds a special parish school lunch supervisor's certificate issued
11 by the ~~department~~ Department of ~~education~~ Education of the state of Louisiana and
12 whose employment requires such certificate. No employee as defined in this
13 Paragraph hired on or after July 1, 2012, shall be eligible to acquire tenure.

14 §442. ~~Probation and tenure of parish or city school teachers~~ Tenure

15 ~~Each teacher shall serve a probationary term of three years to be reckoned~~
16 ~~from the date of his first appointment in the parish or city in which the teacher is~~
17 ~~serving his probation. During the probationary term the parish or city school board,~~
18 ~~as the case may be, may dismiss or discharge any probationary teacher upon the~~
19 ~~written recommendation of the parish or city superintendent of schools, as the case~~
20 ~~may be, accompanied by valid reasons therefor.~~

21 ~~Any teacher found unsatisfactory by the parish or city school board, as the~~
22 ~~case may be, at the expiration of the said probationary term, shall be notified in~~
23 ~~writing by the board that he has been discharged or dismissed; in the absence of such~~
24 ~~notification, such probationary teacher shall automatically become a regular and~~
25 ~~permanent teacher in the employ of the school board of the parish or city, as the case~~
26 ~~may be, in which he has successfully served his three year probationary term, all~~
27 ~~teachers in the employ of any parish or city school board as of July 31, 1946 who~~
28 ~~hold proper certificates and who have served satisfactorily as teachers in that parish~~

1 ~~or city for more than three consecutive years, are declared to be regular and~~
2 ~~permanent teachers in the employ of the school board of that parish or city.~~

3 A.(1)(a) A teacher who has acquired tenure before July 1, 2012, retains
4 tenure and is subject to the provisions of this Section.

5 (b) Effective beginning on July 1, 2012, a teacher rated "highly effective" for
6 five years within a six-year period pursuant to the performance evaluation program
7 as provided in R.S. 17:3881 through 3905 shall be granted tenure.

8 (2) A teacher paid with federal funds shall not be eligible to acquire tenure,
9 nor shall time spent in employment paid with federal funds be counted toward the
10 time required for acquisition of tenure.

11 B. The school superintendent shall notify a teacher, in writing, when tenure
12 has been awarded and the teacher is deemed to have acquired tenure on the date
13 specified therein. A teacher who is not awarded tenure remains an at-will employee
14 of the public school board or the special school district but shall acquire tenure upon
15 meeting the criteria established in Subsection A of this Section.

16 C.(1) Beginning with the 2013-2014 school year, a tenured teacher who
17 receives a performance rating of "ineffective" pursuant to the performance evaluation
18 program as provided in R.S. 17:3881 through 3905 shall immediately lose his tenure
19 and all rights related thereto.

20 (2) Such teacher shall reacquire tenure if any of the following applies:

21 (a) The teacher's "ineffective" performance rating is reversed pursuant to the
22 grievance procedure established pursuant to R.S. 17:3883(A)(5). In such case, the
23 teacher's tenure shall be immediately reinstated.

24 (b) The teacher receives a performance rating of "highly effective" for five
25 years within a six-year period subsequent to receiving an "ineffective" rating as
26 provided in Subsection A of this Section.

27 §443. Removal of teachers; procedure; right to appeal

28 A. The school superintendent may terminate the employment of any
29 nontenured teacher after providing such teacher with the written reasons therefor and

1 providing the teacher the opportunity to respond. The teacher shall have seven days
2 to respond, and such response shall be included in the teacher's personnel file.

3 ~~A.B.(1)~~ A ~~permanent~~ teacher with tenure shall not be removed from office
4 except upon written and signed charges of poor performance, willful neglect of duty,
5 ~~or~~ incompetency, dishonesty, ~~or~~ immorality, or of being a member of or contributing
6 to any group, organization, movement, or corporation that is by law or injunction
7 prohibited from operating in the state of Louisiana, and then only if ~~found guilty~~
8 after furnished with a copy of such written charges and given the opportunity to
9 respond. The teacher shall have seven days to respond, and such response shall be
10 included in the teacher's personnel file. At the end of this seven-day time period, the
11 superintendent may terminate the teacher's employment. A teacher shall not be
12 terminated for an "ineffective" performance rating until completion of the grievance
13 procedure established pursuant to R.S. 17:3883(A)(5) if a grievance was timely filed.
14 Within seven days after dismissal, a teacher may request and upon request shall be
15 granted a hearing by the school board of the parish or city, as the case may be a panel
16 composed of a designee of the superintendent, a designee of the principal or the
17 administrative head of the state special school in which the teacher was employed,
18 and a designee of the teacher. In no case shall the superintendent, the principal or
19 state special school administrative head, or teacher designate an immediate family
20 member or any full-time employee of the school system by which the teacher was
21 employed who is under the supervision of the person making the designation. Such,
22 ~~which~~ hearing may be private or public, at the option of the teacher, ~~At least twenty~~
23 ~~days in advance of the date of the hearing, the superintendent with approval of the~~
24 ~~school board shall furnish the teacher with a copy of the written charges. Such~~
25 ~~statement of charges shall include a complete and detailed list of the specific reasons~~
26 ~~for such charges and shall include but not be limited to the following: date and place~~
27 ~~of alleged offense or offenses, names of individuals involved in or witnessing such~~
28 ~~offense or offenses, names of witnesses called or to be called to testify against the~~
29 ~~teacher at said hearing, and whether or not any such charges previously have been~~
30 brought against the teacher and shall begin within seven business days after receipt

1 of the teacher's request for such hearing. The teacher shall have the right to appear
2 before the ~~board~~ tenure hearing panel with witnesses ~~in~~ on his behalf and with
3 counsel of his selection, all of whom shall be heard by the ~~board~~ panel at ~~said the~~
4 hearing. For the purpose of conducting hearings hereunder, the ~~board~~ panel shall
5 have the power to issue subpoenas to compel the attendance of all witnesses ~~on~~
6 ~~behalf of the teacher.~~ Nothing herein contained shall impair the right ~~of appeal to~~
7 to seek supervisory review from a court of competent jurisdiction.

8 B. ~~(2) If a permanent teacher is found guilty by a school board, after due and~~
9 ~~legal hearing as provided herein, on charges of willful neglect of duty, or of~~
10 ~~incompetency, dishonesty, or immorality, or of being a member of or contributing~~
11 ~~to any group, organization, movement, or corporation that is by law or injunction~~
12 ~~prohibited from operating in the state of Louisiana, and ordered removed from office,~~
13 ~~or disciplined by the board, the superintendent with approval of the board shall~~
14 ~~furnish to the teacher a written statement of recommendation of removal or~~
15 ~~discipline, which shall include but not be limited to the exact reason(s), offense(s),~~
16 ~~or instance(s) upon which the recommendation is based. The tenure hearing panel~~
17 shall submit its recommendation to the superintendent, and the superintendent may
18 choose to reinstate the teacher. If the superintendent does not reinstate the teacher,
19 the superintendent shall notify the teacher of his final determination, in writing, and
20 Such ~~such~~ teacher may, not more than ~~one year~~ sixty days from the ~~date of the said~~
21 finding, the postmarked date of such written notification, petition a court of
22 competent jurisdiction ~~for a full hearing to review whether the action of the school~~
23 ~~board superintendent, and the~~ was arbitrary or capricious. The court shall have
24 jurisdiction to affirm or reverse the action of the ~~school board~~ superintendent in the
25 matter. The record on review shall be limited to evidence presented to the tenure
26 hearing panel, and the court shall review the matter not later than ten days after the
27 petition has been filed. If the ~~finding action~~ of the school board superintendent is
28 reversed by the court and the teacher is ordered reinstated and restored to duty, the
29 teacher shall be entitled to full pay for any loss of time or salary he ~~or she~~ may have
30 sustained by reason of the action of the ~~said school board~~ superintendent.

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

4 D. For purposes of this Section, the results of a teacher's evaluation
5 performed pursuant R.S. 17:3881 through 3905 evaluating the teacher's performance
6 as "ineffective" shall constitute sufficient proof of poor performance, incompetence,
7 or willful neglect of duty and no additional documentation shall be required to
8 substantiate such charges.

9 §444. Promotions to and employment into positions of higher salary and tenure

10 * * *

11 B.(1) Whenever a teacher who has acquired ~~permanent status~~ tenure, as set
12 forth in R.S. 17:442, in a ~~parish or city~~ local public school system or the special
13 school district is promoted by the ~~employing school board~~ superintendent by moving
14 such teacher from a position of lower salary to one of higher salary, such teacher
15 shall not ~~gain permanent status~~ be eligible to earn tenure in the position to which he
16 is promoted, but shall retain ~~permanent status~~ any tenure acquired as a teacher,
17 pursuant to R.S. 17:442.

18 * * *

19 §532. Probationary term and tenure

20 * * *

21 C. No employee, as defined in R.S. 17:531, hired on or after July 1, 2012,
22 shall be eligible to acquire permanent status.

23 Section 4. R.S. 17:44, 45, 81(I), 154.2, 235.1(E), 346.1, 419, 419.1, 420, 421, 421.1,
24 421.2, 421.3, 421.5, 422, 422.1, 422.2, 422.3, 422.4, 422.5, 431, 444(A) and (B)(2) and (3),
25 446, 461 through 464, and 1207 are hereby repealed in their entirety.

26 Section 5. This Act shall become effective on July 1, 2012; if vetoed by the governor
27 and subsequently approved by the legislature, this Act shall become effective on July 1,
28 2012, or on the day following such approval by the legislature, whichever is later.

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)]

Carter

HB No. 974

Abstract: Provides relative to the employment contracts of local superintendents; the powers of local school boards and superintendents with respect to personnel decisions; salary schedules and performance-based salary criteria; and tenure, including criteria for the acquiring, losing, and reacquiring thereof and procedures related to tenure hearings.

Employment contracts and personnel matters

Relative to employment contracts and personnel matters:

- (1) Proposed law requires local school boards to include specified performance targets in employment contracts with the local superintendent and submit copies of such contracts to the state superintendent of education. Provides that any employment contract executed, negotiated, or renegotiated after July 1, 2012, between a board and superintendent that does not meet requirements of present law and proposed law is null and void.
- (2) Present law grants local school boards certain authority with respect to personnel decisions. Proposed law instead requires local school boards to delegate authority for personnel decisions to the local superintendent, including policies related to reductions in force.
- (3) Present law requires the local superintendent to consult with principals relative to hiring and placement decisions and provides that recommendations made by the principal shall not be binding upon the superintendent. Proposed law instead requires him to delegate such decisions to the principals, subject to his approval.
- (4) Proposed law requires that all school personnel employment decisions be based upon performance, effectiveness, and qualifications. Provides for effectiveness as the primary criterion when making personnel decisions and prohibits the use of seniority or tenure as such.
- (5) Present law requires a school board to approve or disapprove employment of teachers and certified personnel from recommendations made by the superintendent. Requires the superintendent to make recommendations to the board in open public session at a meeting which has been properly noticed. Requires the board to provide opportunity for public comment prior to the board voting in open session on the superintendent's recommendations. Proposed law deletes present law.
- (6) Present law requires school boards to have rules and policies for the dismissal of school employees when there is a reduction in force and that these shall be available for public inspection. Requires reduction in force policies to include the following minimum standards: certification, if applicable; seniority in the system; tenure of employees; and academic preparation, if applicable, within the employee's field. Proposed law deletes present law and instead provides the following relative to reduction in force policies:
 - (a) Policies for teachers and administrators shall be based solely on demand, performance, and effectiveness.

- (b) Policies for noncertified school personnel shall be based on performance and effectiveness as determined by local board policy.
- (c) No reduction in force policy shall include seniority or tenure as the primary criterion.
- (7) Present law provides for appointment of a principal by the local school board. Proposed law instead provides for principal appointment by the local superintendent.

Salaries of teachers and other school employees

Proposed law provides the following relative to salaries:

- (1) Requires all public school governing authorities (public schools, state special schools, and schools and programs of the special school district) to establish salary schedules. Schedules for certified personnel shall be based upon the following: effectiveness; demand inclusive of area of certification, particular school need, geographic area, and subject area, which may include advanced degree levels; and experience.
- (2) Provides that such salaries shall be considered as full compensation for all work required within each employee's prescribed scope of duties and responsibilities.
- (3) Prohibits any teacher or administrator rated as "ineffective" pursuant to present law performance evaluation program from receiving a higher salary in the year following the evaluation than he received in the year of the evaluation.
- (4) Prohibits salary reductions, with certain exceptions.
- (5) Provides that a vocational agricultural teacher shall teach a 12-month program for a 12-month budget period and be paid a proportional salary for a 12-month budget period according to the salary schedule established by his employing school board.

Proposed law also repeals present law provisions relative to minimum salary schedule requirements and extra compensation and salary requirements.

Tenure

Proposed law provides the following with respect to tenure:

- (1) Eliminates the probationary period for the acquisition of tenure.
- (2) Provides that a teacher who has acquired tenure before July 1, 2012, retains tenure and is subject to proposed law tenure provisions.
- (3) Provides the following relative to acquiring, losing, and reacquiring tenure:
 - (a) A teacher who receives a performance rating of "highly effective" for five years within a six-year period shall be granted tenure.
 - (b) A teacher who is not awarded tenure remains an at-will employee but shall acquire tenure upon meeting this rating requirement.
 - (c) Beginning with the 2013-2014 school year, a tenured teacher who receives a performance rating of "ineffective" shall immediately lose tenure but shall reacquire it if any one of the following conditions applies:

- (i) The "ineffective" rating is reversed pursuant to the grievance procedure established in present law.
 - (ii) He receives a "highly effective" performance rating for five years within a six-year period.
- (4) Requires the superintendent to notify a teacher in writing when tenure has been awarded and provides that such tenure is effective on the date specified in the notification.

Proposed law consolidates the tenure provisions for all certified school employees and repeals provisions in present law providing for separate provisions for teachers in Orleans Parish and the special school district.

Proposed law adds that an employee of the Iberville Parish School Board who (1) is a member of or is eligible for membership in the State Teachers' Retirement System of La. and who is not covered by the provisions of present law relative to tenure and (2) is hired on or after July 1, 2012, shall not be eligible to acquire permanent status.

Termination of employment

Relative to nontenured teachers, proposed 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.

Relative to tenured teachers:

- (1) Present law authorizes removal from office upon written charges of willful neglect of duty, incompetency, dishonesty, immorality, or of being a member of an entity prohibited from operating in the state, and then only if found guilty after a hearing by the school board. Specifies what details must be included in such charges. Proposed law provides as follows:
 - (a) Adds poor performance to the list of potential charges.
 - (b) Deletes requirement that the teacher be found guilty by the board and the specified details that the statement of charges must include.
 - (c) Adds that an "ineffective" rating on a performance evaluation shall constitute sufficient proof of poor performance, incompetence, or willful neglect of duty and requires no additional documentation to substantiate such charges.
 - (d) Prohibits a teacher from being terminated for an ineffective evaluation until completion of the grievance procedure established pursuant to present law if a grievance was timely filed.
- (2) Present law requires the superintendent, at least 20 days before the hearing, to furnish the teacher with a copy of the written charges. Requires the superintendent, with board approval, if a permanent teacher is found guilty of the charges outlined in present law and ordered removed from office, or disciplined by the board, to furnish to the teacher a written statement of recommendation of removal or discipline, including the exact reason(s), offense(s), or instance(s) upon which the recommendation is based. Proposed law deletes present law and instead provides the following:

- (a) The teacher must be furnished with a copy of charges and be given seven days to respond, at the end of which time period he may be terminated.
 - (b) Within seven days after dismissal, the teacher may request, and upon request shall be granted, a hearing by a panel composed of a designee of the superintendent, a designee of the principal or the administrative head of the state special school in which the teacher was employed, 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.
 - (c) Such hearing shall begin within seven business days following the teacher's request for such hearing.
 - (d) The panel shall submit its recommendation to the superintendent, who may reinstate the teacher.
- (3) Present law provides that it does not impair the right of appeal to a court of competent jurisdiction. Proposed law instead provides that it does not impair the right to seek supervisory review from such court.
- (4) Present law grants the teacher one year to petition the court to review the action of the board. Proposed law instead requires the superintendent, if he does not reinstate the teacher, to notify the teacher in writing. Grants the teacher 60 days from the postmarked date of such notification 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 and that the court review the matter not later than 10 days after the petition is filed.
- (5) Present law provides that a local superintendent may be removed from office upon being found incompetent, unworthy, or inefficient or to have failed to fulfill the terms and performance objectives of his contract or to comply with school board policy. Proposed law provides instead that he shall be removed from office under these circumstances.

Effective July 1, 2012.

(Amends R.S. 17:54(B)(1)(b)(i) and (iii), 81(A) and (P)(1), 81.4, 229, 414.1, 441, 442, 443, and 444(B)(1); Adds R.S. 17:418 and 532(C); Repeals R.S. 17:44, 45, 81(I), 154.2, 235.1(E), 346.1, 419, 419.1, 420, 421, 421.1, 421.2, 421.3, 421.5, 422, 422.1, 422.2, 422.3, 422.4, 422.5, 431, 444(A) and (B)(2) and (3), 446, 461-464, and 1207)

Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Education to the original bill.

Employment contracts and personnel matters

1. Prohibits, in addition to seniority, tenure from being used as a primary criterion relative to personnel decisions or reductions in force.

Salaries for teachers and other school employees

1. Provides for particular school need and geographic area as additional criteria upon which salary schedules shall be based.

Tenure

1. Requires, rather than authorizes, that a teacher who has not acquired tenure do so upon meeting criteria established in proposed law (receiving a performance rating of "highly effective" for five straight years).

Termination of employment

1. Relative to the opportunity provided in proposed law for teachers to respond to written termination reasons or charges, grants a seven-day response period.
2. Adds that a teacher shall not be terminated for an ineffective evaluation until completion of the grievance procedure established pursuant to present law if a grievance was timely filed.
3. Changes composition of the hearing panel from the superintendent, principal of the school where the teacher is employed, and a teacher selected by the teacher to a designee of the superintendent, a designee of the principal or the administrative head of the state special school in which the teacher was employed, 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.
4. Instead of requiring the superintendent, at least 20 days before the hearing, to furnish the teacher with a copy of written charges, provides that the hearing shall occur within 10 business days following dismissal.
5. Reinstates present law relative to the authority to issue subpoenas to compel the attendance of all witnesses, but grants such authority to the panel instead of the school board and removes provision limiting the use of subpoenas to on behalf of the teacher.
6. Instead of authorizing a teacher to petition a court of competent jurisdiction if a tenure hearing panel affirms or disapproves the superintendent's action in terminating his employment, requires the panel to submit its recommendation to the superintendent, authorizes the superintendent to reinstate the teacher, and authorizes the teacher to make such petition if not reinstated.
7. Limits the petition to a request for review of whether the termination was arbitrary or capricious; limits the record on review to evidence presented at the tenure hearing; requires the court to give a scheduling preference to the matter.

House Floor Amendments to the engrossed bill.Salaries for teachers and other school employees

1. Authorizes the inclusion of advanced degree levels for consideration in the salary schedules.
2. Adds provision for a vocational agricultural teacher to teach a 12-month program and be paid a proportional salary for a 12-month budget period.

Tenure

1. Specifies that a teacher who has acquired tenure before July 1, 2012, retains tenure and is subject to the provisions of proposed law.

2. Relative to performance rating requirements pertaining to tenure:
 - (a) Provides that a teacher shall, rather than may, acquire or reacquire tenure upon attaining a "highly effective" performance rating for certain number of years; changes such time period from five straight years to five years within a six-year period.
 - (b) Relative to the requirement that a tenured teacher who receives one "ineffective" performance rating immediately lose tenure, delays implementation until the 2013-2014 school year.
4. Adds the following specifications relative to time frames for tenure hearing procedures and court proceedings:
 - (a) Grants a teacher seven days after dismissal to request a hearing, and requires such hearing to begin within seven days of such request rather than requiring the hearing within 10 days of dismissal.
 - (b) Requires the superintendent to notify the teacher in writing if he is not reinstated, and gives the teacher 60 days from the postmarked date of the notification to file a petition in court.
 - (c) Rather than requiring the court to give preferential scheduling to review the matter, requires that the court review the matter not later than 10 days after the petition has been filed.