
DIGEST

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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.