

SENATE BILL No. 638

June 11, 2009, Introduced by Senator BIRKHOLZ and referred to the Committee on Education.

A bill to amend 1937 (Ex Sess) PA 4, entitled

"An act relative to continuing tenure of office of certificated teachers in public educational institutions; to provide for probationary periods; to regulate discharges or demotions; to provide for resignations and leaves of absence; to create a state tenure commission and to prescribe the powers and duties thereof; and to prescribe penalties for violation of the provisions of this act,"

by amending section 1 of article I and section 1 of article III (MCL 38.71 and 38.91), as amended by 1996 PA 282.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

ARTICLE I

Sec. 1. (1) The term "teacher" as used in this act means a certificated individual employed for a full school year by any board of education or controlling board.

(2) An individual who is not certificated but is employed for

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1 a full school year pursuant to section 1233b of the revised school
2 code, ~~Act No. 451 of the Public Acts of 1976, being section~~
3 ~~380.1233b of the Michigan Compiled Laws 1976 PA 451, MCL 380.1233B,~~
4 or is employed pursuant to an annual vocational authorization or a
5 temporary approval, as defined in state board rule, is considered
6 to be a teacher for the purpose of serving the probationary period
7 under article II, but such an individual is not considered a
8 teacher for the purpose of continuing tenure under article III
9 until he or she becomes certificated.

10 (3) An individual employed as a teacher in a public school
11 academy established under ~~Act No. 451 of the Public Acts of 1976,~~
12 ~~being sections 380.1 to 380.1852 of the Michigan Compiled Laws~~ **THE**
13 **REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1 TO 380.1852, OR AN**
14 **INDIVIDUAL EMPLOYED AS A TEACHER IN A NEIGHBORHOOD PUBLIC SCHOOL**
15 **ESTABLISHED UNDER PART 6D OF THE REVISED SCHOOL CODE, 1976 PA 451,**
16 is not considered a teacher during that employment for the purpose
17 of continuing tenure under article III. However, an individual
18 described in section 1(4) of article III is a teacher for the
19 purpose of retaining continuing tenure as described in that
20 section.

21 (4) Teacher does not include an individual whose teaching
22 certificate has expired or has been suspended or revoked.

23 ARTICLE III

24 Sec. 1. (1) After the satisfactory completion of the
25 probationary period, a teacher shall be employed continuously by
26 the controlling board under which the probationary period has been
27 completed, and shall not be dismissed or demoted except as

1 specified in this act.

2 (2) If a teacher employed in a program operated by a
3 consortium of school districts was previously on continuing tenure
4 in a school district that participates in the consortium, the
5 teacher shall be considered to be on continuing tenure only in that
6 school district.

7 (3) If a teacher employed in a program operated by a
8 consortium of school districts was not previously on continuing
9 tenure in a school district that participates in the consortium and
10 satisfactorily completes the probationary period, the teacher shall
11 be considered to be on continuing tenure only in the school
12 district that is the fiscal agent for the consortium. However, if
13 there is a written agreement between the teacher and another
14 participating school district that provides that the teacher will
15 have continuing tenure in that school district, the teacher shall
16 be considered to be on continuing tenure only in that school
17 district and shall not be considered to be on continuing tenure in
18 the school district that is the fiscal agent for the consortium.

19 (4) If **AN INDIVIDUAL EMPLOYED AS** a teacher ~~employed~~ in a
20 public school academy established under the revised school code,
21 ~~Act No. 451 of the Public Acts of 1976, being sections 380.1 to~~
22 ~~380.1852 of the Michigan Compiled Laws 1976 PA 451, MCL 380.1 TO~~
23 **380.1852, OR AN INDIVIDUAL EMPLOYED AS A TEACHER IN A NEIGHBORHOOD**
24 **PUBLIC SCHOOL ESTABLISHED UNDER PART 6D OF THE REVISED SCHOOL CODE,**
25 **1976 PA 451,** is on leave of absence from a school district and was
26 on continuing tenure in the school district at the time he or she
27 began the leave of absence, the teacher retains continuing tenure

1 in that school district during the period he or she is employed in
2 the public school academy **OR NEIGHBORHOOD PUBLIC SCHOOL**.

3 (5) If a teacher satisfactorily completes the probationary
4 period as an adult education teacher, the teacher shall be
5 considered to be on continuing tenure in the school district only
6 for adult education and shall not by virtue of completing the
7 probationary period as an adult education teacher be considered to
8 be on continuing tenure in the school district for elementary and
9 secondary education.

10 (6) If a teacher satisfactorily completes the probationary
11 period as an elementary or secondary education teacher, the teacher
12 shall be considered to be on continuing tenure in the school
13 district only for elementary and secondary education and shall not
14 by virtue of completing the probationary period as an elementary or
15 secondary education teacher be considered to be on continuing
16 tenure in the school district for adult education.

17 (7) If the controlling board provides in a contract of
18 employment of a teacher employed other than as a classroom teacher,
19 including but not limited to, a superintendent, assistant
20 superintendent, principal, department head or director of
21 curriculum, made with the teacher after the completion of the
22 probationary period, that the teacher shall not be considered to be
23 granted continuing tenure in that other capacity by virtue of the
24 contract of employment, then the teacher shall not be granted
25 tenure in that other capacity, but shall be considered to have been
26 granted continuing tenure as an active classroom teacher in the
27 school district. Upon the termination of such a contract of

1 employment, if the controlling board does not reemploy the teacher
2 under contract in the capacity covered by the contract, the teacher
3 shall be continuously employed by the controlling board as an
4 active classroom teacher. Failure of a controlling board to
5 reemploy a teacher in any such capacity upon the termination of any
6 such contract of employment described in this subsection shall not
7 be considered to be a demotion under this act. The salary in the
8 position to which the teacher is assigned shall be the same as if
9 the teacher had been continuously employed in the newly assigned
10 position. Failure of a controlling board to so provide in any such
11 contract of employment of a teacher in a capacity other than a
12 classroom teacher shall be considered to constitute the employment
13 of the teacher on continuing contract in the other capacity and
14 subject to this act.

15 (8) Continuing tenure does not apply to an annual assignment
16 of extra duty for extra pay.

17 Enacting section 1. This amendatory act does not take effect
18 unless Senate Bill No. 636

19 of the 95th Legislature is enacted into law.