

HOUSE BILL No. 4365

March 2, 2011, Introduced by Reps. MacGregor, Rogers, Lyons, McMillin, Olson,
Bumstead, Haveman, Hooker and Yonker 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 sections 1, 2, 3, and 3a of article II and sections 1, 2, and 3 of article III (MCL 38.81, 38.82, 38.83, 38.83a, 38.91, 38.92, and 38.93), sections 1 and 2 of article II and section 2 of article III as amended and section 3a of article II and section 3 of article III as added by 1993 PA 59 and section 1 of article III as amended by 1996 PA 282, and by adding sections 3b and 3c to article II and sections 1a and 1b to article III.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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ARTICLE II

Sec. 1. (1) Subject to subsections (2) and (3) **AND SECTIONS 1A AND 1B OF ARTICLE III**, a teacher is in a probationary period during his or her first 4 full school years of employment.

(2) A teacher under contract but not on continuing tenure as of ~~the effective date of the amendatory act that added this subsection~~ **JUNE 11, 1993** is in a probationary period during his or her first 2 full school years of employment.

(3) A teacher on continuing tenure as of ~~the effective date of the amendatory act that added this subsection~~ **JUNE 11, 1993** continues to be on continuing tenure even if the teacher has not served for at least 4 full school years of employment.

Sec. 2. ~~A~~ **EXCEPT AS OTHERWISE PROVIDED IN SECTIONS 1A AND 1B OF ARTICLE III**, A teacher shall not be required to serve more than 1 probationary period in any 1 school district or institution. However, upon notice to the tenure commission, the controlling board may grant a third year of probation to a teacher described in section 1(2) of this article.

Sec. 3. (1) ~~At~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2)**, **AT** least 60 days before the close of each school year the controlling board shall provide the probationary teacher with a definite written statement as to whether or not his work has been satisfactory. ~~Failure~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2)**, **FAILURE** to submit a written statement shall be considered as conclusive evidence that the teacher's work is satisfactory. ~~Any~~ **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2)**, A probationary

1 teacher or teacher not on continuing contract shall be employed for
2 the ensuing year unless notified in writing at least 60 days before
3 the close of the school year that his services will be
4 discontinued.

5 (2) SUBSECTION (1) DOES NOT APPLY TO A TEACHER WHO IS IN THE
6 FINAL YEAR OF HIS OR HER PROBATIONARY PERIOD. FOR A TEACHER
7 DESCRIBED IN THIS SUBSECTION, ALL OF THE FOLLOWING APPLY:

8 (A) THE TEACHER SHALL NOT BE CONSIDERED TO HAVE SUCCESSFULLY
9 COMPLETED THE PROBATIONARY PERIOD UNLESS THE TEACHER IS RATED AS
10 EFFECTIVE, BASED ON THE PERFORMANCE EVALUATION UNDER SECTION 1249
11 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1249.

12 (B) FAILURE OF THE CONTROLLING BOARD TO SUBMIT THE WRITTEN
13 STATEMENT UNDER SUBSECTION (1) IS NOT CONSIDERED AS CONCLUSIVE
14 EVIDENCE THAT THE TEACHER'S WORK IS SATISFACTORY. FAILURE OF THE
15 CONTROLLING BOARD TO PROVIDE THE TEACHER WITH A PERFORMANCE
16 EVALUATION UNDER SECTION 1249 OF THE REVISED SCHOOL CODE, 1976 PA
17 451, MCL 380.1249, IN A PARTICULAR SCHOOL YEAR IS NOT CONSIDERED TO
18 BE CONCLUSIVE EVIDENCE THAT THE TEACHER'S PERFORMANCE FOR THAT
19 SCHOOL YEAR WAS SATISFACTORY, AND THE TEACHER SHALL NOT BE
20 CONSIDERED TO BE RATED AS EFFECTIVE SOLELY BECAUSE OF THE FAILURE
21 OF THE CONTROLLING BOARD TO PROVIDE THE PERFORMANCE EVALUATION.

22 (C) REGARDLESS OF WHETHER OR NOT THE TEACHER IS NOTIFIED IN
23 WRITING AT LEAST 60 DAYS BEFORE THE CLOSE OF THE SCHOOL YEAR THAT
24 HIS OR HER SERVICES WILL BE DISCONTINUED, THE TEACHER SHALL NOT BE
25 EMPLOYED FOR THE ENSUING YEAR UNLESS THE TEACHER IS RATED AS
26 EFFECTIVE, BASED ON THE PERFORMANCE EVALUATION UNDER SECTION 1249
27 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1249.

1 Sec. 3a. ~~(1)~~—If a probationary teacher is employed by a school
2 district for at least 1 full school year, the controlling board of
3 the probationary teacher's employing school district shall ensure
4 that the teacher is provided with an individualized development
5 plan developed by appropriate administrative personnel in
6 consultation with the individual teacher and that the teacher is
7 provided with at least an annual year-end performance evaluation
8 each year during the teacher's probationary period. The annual
9 year-end performance evaluation shall be based on, but is not
10 limited to, at least 2 classroom observations held at least 60 days
11 apart, unless a shorter interval between the 2 classroom
12 observations is mutually agreed upon by the teacher and the
13 administration, ~~and~~ shall include at least an assessment of the
14 teacher's progress in meeting the goals of his or her
15 individualized development plan, **AND SHALL MEET THE REQUIREMENTS OF**
16 **SECTION 1249 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1249.**
17 This subsection does not prevent a collective bargaining agreement
18 between the controlling board and the teacher's bargaining
19 representative under ~~Act No. 336 of the Public Acts of 1947, being~~
20 ~~sections 423.201 to 423.216 of the Michigan Compiled Laws 1947 PA~~
21 **336, MCL 423.201 TO 423.217**, from providing for more performance
22 evaluations or classroom observations in addition to those required
23 under this subsection. Except as specifically stated in this
24 subsection, this section does not require a particular method for
25 conducting a performance evaluation or classroom observation or for
26 providing an individualized development plan.
27 ~~— (2) Failure of a school district to comply with subsection (1)~~

1 in a school district that participates in the consortium, the
2 teacher shall be considered to be on continuing tenure only in that
3 school district.

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

16 (4) If a teacher employed in a public school academy
17 established under the revised school code, ~~Act No. 451 of the~~
18 ~~Public Acts of 1976, being sections 380.1 to 380.1852 of the~~
19 ~~Michigan Compiled Laws 1976 PA 451, MCL 380.1 TO 380.1852,~~ is on
20 leave of absence from a school district and was on continuing
21 tenure in the school district at the time he or she began the leave
22 of absence, the teacher retains continuing tenure in that school
23 district during the period he or she is employed in the public
24 school academy.

25 (5) If a teacher satisfactorily completes the probationary
26 period as an adult education teacher, the teacher shall be
27 considered to be on continuing tenure in the school district only

1 for adult education and shall not by virtue of completing the
2 probationary period as an adult education teacher be considered to
3 be on continuing tenure in the school district for elementary and
4 secondary education.

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

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

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

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

12 SEC. 1A. (1) IF A TEACHER WHO IS ON CONTINUING TENURE IS RATED
13 AS INEFFECTIVE FOR 2 CONSECUTIVE SCHOOL YEARS ON THE PERFORMANCE
14 EVALUATION UNDER SECTION 1249 OF THE REVISED SCHOOL CODE, 1976 PA
15 451, MCL 380.1249, THEN THE CONTROLLING BOARD MAY REQUIRE THE
16 TEACHER TO SERVE ANOTHER 4-YEAR PROBATIONARY PERIOD UNDER ARTICLE
17 II.

18 (2) A TEACHER WHO IS PLACED IN A PROBATIONARY PERIOD UNDER
19 SUBSECTION (1) IS A PROBATIONARY TEACHER DURING THAT TIME FOR ALL
20 PURPOSES UNDER THIS ACT AND SHALL NOT BE CONSIDERED TO BE ON
21 CONTINUING TENURE DURING THAT PROBATIONARY PERIOD FOR ANY PURPOSE
22 UNDER THIS ACT.

23 SEC. 1B. (1) IF A TEACHER WHO IS ON CONTINUING TENURE IS ON A
24 LEAVE OF ABSENCE OF ANY KIND FOR MORE THAN 2 CONSECUTIVE SCHOOL
25 YEARS, THEN THE CONTROLLING BOARD SHALL REQUIRE THE TEACHER TO
26 SERVE ANOTHER 4-YEAR PROBATIONARY PERIOD UNDER ARTICLE II.

27 (2) A TEACHER WHO IS PLACED IN A PROBATIONARY PERIOD UNDER

1 SUBSECTION (1) IS A PROBATIONARY TEACHER DURING THAT TIME FOR ALL
 2 PURPOSES UNDER THIS ACT AND SHALL NOT BE CONSIDERED TO BE ON
 3 CONTINUING TENURE DURING THAT PROBATIONARY PERIOD FOR ANY PURPOSE
 4 UNDER THIS ACT.

5 Sec. 2. ~~If~~ EXCEPT IF THE TEACHER IS PLACED IN A PROBATIONARY
 6 PERIOD UNDER SECTION 1A OR 1B OF THIS ARTICLE, IF a teacher on
 7 continuing tenure is employed by another controlling board, the
 8 teacher is not subject to another probationary period of more than
 9 2 years beginning with the date of employment, and may at the
 10 option of the controlling board be placed immediately on continuing
 11 tenure. A notice provided under section 3 of article 2-II shall be
 12 given not later than 60 days before the completion of the
 13 probationary period. If a teacher on continuing tenure becomes an
 14 employee of another controlling board as a result of school
 15 district annexation, consolidation or other form of school district
 16 reorganization, the teacher shall be placed on continuing tenure
 17 within 30 days unless the controlling board, by a 2/3 vote on an
 18 individual basis, places the teacher on not more than 2 years'
 19 probation. However, if such a teacher is under contract but not on
 20 continuing tenure with the employing board as of ~~the effective date~~
 21 ~~of the amendatory act that added this sentence~~ JUNE 11, 1993, the
 22 teacher is not subject to another probationary period of more than
 23 1 year beginning with the date of employment.

24 Sec. 3. ~~(1)~~ The controlling board of the school district
 25 employing a teacher on continuing tenure shall ensure that the
 26 teacher is provided with a performance evaluation at least ~~once~~
 27 ~~every 3 years~~ ANNUALLY, and, if the teacher has received a less

1 than satisfactory performance evaluation, the school district shall
2 provide the teacher with an individualized development plan
3 developed by appropriate administrative personnel in consultation
4 with the individual teacher. The performance evaluation shall be
5 based on, but is not limited to, at least 2 classroom observations
6 conducted during the period covered by the evaluation, ~~and, if the~~
7 ~~teacher has an individualized development plan,~~ shall include at
8 least an assessment of the teacher's progress in meeting the goals
9 of his or her individualized development plan **IF THE TEACHER HAS AN**
10 **INDIVIDUALIZED DEVELOPMENT PLAN, AND SHALL MEET THE REQUIREMENTS OF**
11 **SECTION 1249 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1249.**
12 This section does not prevent a collective bargaining agreement
13 between the controlling board and the teacher's bargaining
14 representative under ~~Act No. 336 of the Public Acts of 1947, being~~
15 ~~sections 423.201 to 423.216 of the Michigan Compiled Laws 1947 PA~~
16 **336, MCL 423.201 TO 423.217,** from providing for more performance
17 evaluations or classroom observations in addition to those required
18 under this section. Except as specifically stated in this
19 subsection, this section does not require a particular method for
20 conducting a performance evaluation or classroom observation or for
21 providing an individualized development plan.

22 ~~—— (2) Failure of a school district to comply with subsection (1)~~
23 ~~with respect to an individual teacher in a particular 3-year period~~
24 ~~is conclusive evidence that the teacher's performance for that~~
25 ~~period was satisfactory.~~