

Act No. 59
Public Acts of 1993
Approved by the Governor
June 11, 1993
Filed with the Secretary of State
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**STATE OF MICHIGAN
87TH LEGISLATURE
REGULAR SESSION OF 1993**

Introduced by Reps. Dalman, Middleton, Bryant, Gernaat, Stille, Walberg, Oxender, Whyman, Hammerstrom, Lowe, Shugars, London, Keith, Jaye, Horton and Brackenridge
Reps. Bankes, Barns, Bender, Crissman, Freeman, Gagliardi, Gire, Goschka, Harrison, Hill, Jamian, Johnson, Kukuk, Llewellyn, McManus, Points, Varga, Vorva, Wetters and Willard named co-sponsors

ENROLLED HOUSE BILL No. 4112

AN ACT to amend sections 1 and 2 of article I, sections 1 and 2 of article II, sections 1 and 2 of article III, and section 5 of article IV of Act No. 4 of the Public Acts of the Extra Session of 1937, entitled as amended "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," being sections 38.71, 38.72, 38.81, 38.82, 38.91, 38.92, and 38.105 of the Michigan Compiled Laws; and to add section 3a to article II and section 3 to article III.

The People of the State of Michigan enact:

Section 1. Sections 1 and 2 of article I, sections 1 and 2 of article II, sections 1 and 2 of article III, and section 5 of article IV of Act No. 4 of the Public Acts of the Extra Session of 1937, being sections 38.71, 38.72, 38.81, 38.82, 38.91, 38.92, and 38.105 of the Michigan Compiled Laws, are amended and section 3a is added to article II and section 3 is added to article III to read as follows:

ARTICLE I.

Sec. 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 of any public educational institution. An individual who is not certificated but is employed for a full school year pursuant to section 1233b of the school code of 1976, Act No. 451 of the Public Acts of 1976, being section 380.1233b of the Michigan Compiled Laws, or is employed pursuant to an annual vocational authorization or a temporary approval, as defined in state board rule, is considered to be a teacher for the purpose of serving the probationary period under article II, but such an individual is not considered a teacher for the purpose of continuing tenure under article III until he or she becomes certificated. Teacher does not include an individual whose teaching certificate has expired or has been suspended or revoked.

Sec. 2. The term "certificated" means holding a valid teaching certificate, as defined by the state board of education. For the purpose of this section, an individual is considered to be holding a valid teaching certificate if the individual has on file with his or her employing school district either an appropriate teaching certificate issued by the state board of

education or, if the individual's application for a teaching certificate has not been confirmed or rejected by the state board, written evidence from the individual's teacher education college that he or she meets the requirements described in section 1535 of the school code of 1976, Act No. 451 of the Public Acts of 1976, being section 380.1535 of the Michigan Compiled Laws.

ARTICLE II.

Sec. 1. (1) Subject to subsections (2) and (3), 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 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 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 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. 3a. (1) If a probationary teacher is employed by a school district for at least 1 full school year, the controlling board of the probationary teacher's employing school district shall ensure that the teacher is provided with an individualized development plan developed by appropriate administrative personnel in consultation with the individual teacher and that the teacher is provided with at least an annual year-end performance evaluation each year during the teacher's probationary period. The annual year-end performance evaluation shall be based on, but is not limited to, at least 2 classroom observations held at least 60 days apart, unless a shorter interval between the 2 classroom observations is mutually agreed upon by the teacher and the administration, and shall include at least an assessment of the teacher's progress in meeting the goals of his or her individualized development plan. This subsection does not prevent a collective bargaining agreement between the controlling board and the teacher's bargaining representative under Act No. 336 of the Public Acts of 1947, being sections 423.201 to 423.216 of the Michigan Compiled Laws, from providing for more performance evaluations or classroom observations in addition to those required under this subsection. Except as specifically stated in this subsection, this section does not require a particular method for conducting a performance evaluation or classroom observation or for providing an individualized development plan.

(2) Failure of a school district to comply with subsection (1) with respect to an individual teacher in a particular school year is conclusive evidence that the teacher's performance for that school year was satisfactory.

ARTICLE III.

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

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

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

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

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

(6) If the controlling board provides in a contract of employment of a teacher employed other than as a classroom teacher, including but not limited to, a superintendent, assistant superintendent, principal, department head or director

of curriculum, made with the teacher after the completion of the probationary period, that the teacher shall not be considered to be granted continuing tenure in that other capacity by virtue of the contract of employment, then the teacher shall not be granted tenure in that other capacity, but shall be considered to have been granted continuing tenure as an active classroom teacher in the school district. Upon the termination of such a contract of employment, if the controlling board does not reemploy the teacher under contract in the capacity covered by the contract, the teacher shall be continuously employed by the controlling board as an active classroom teacher. Failure of a controlling board to reemploy a teacher in any such capacity upon the termination of any such contract of employment described in this subsection shall not be considered to be a demotion under this act. The salary in the position to which the teacher is assigned shall be the same as if the teacher had been continuously employed in the newly assigned position. Failure of a controlling board to so provide in any such contract of employment of a teacher in a capacity other than a classroom teacher shall be considered to constitute the employment of the teacher on continuing contract in the other capacity and subject to this act.

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

Sec. 2. If a teacher on continuing tenure is employed by another controlling board, the teacher is not subject to another probationary period of more than 2 years beginning with the date of employment, and may at the option of the controlling board be placed immediately on continuing tenure. A notice provided under section 3 of article 2 shall be given not later than 60 days before the completion of the probationary period. If a teacher on continuing tenure becomes an employee of another controlling board as a result of school district annexation, consolidation or other form of school district reorganization, the teacher shall be placed on continuing tenure within 30 days unless the controlling board, by a 2/3 vote on an individual basis, places the teacher on not more than 2 years' probation. However, if such a teacher is under contract but not on continuing tenure with the employing board as of the effective date of the amendatory act that added this sentence, the teacher is not subject to another probationary period of more than 1 year beginning with the date of employment.

Sec. 3. (1) The controlling board of the school district employing a teacher on continuing tenure shall ensure that the teacher is provided with a performance evaluation at least once every 3 years and, if the teacher has received a less than satisfactory performance evaluation, the school district shall provide the teacher with an individualized development plan developed by appropriate administrative personnel in consultation with the individual teacher. The performance evaluation shall be based on, but is not limited to, at least 2 classroom observations conducted during the period covered by the evaluation and, if the teacher has an individualized development plan, shall include at least an assessment of the teacher's progress in meeting the goals of his or her individualized development plan. This section does not prevent a collective bargaining agreement between the controlling board and the teacher's bargaining representative under Act No. 336 of the Public Acts of 1947, being sections 423.201 to 423.216 of the Michigan Compiled Laws, from providing for more performance evaluations or classroom observations in addition to those required under this section. Except as specifically stated in this subsection, this section does not require a particular method for conducting a performance evaluation or classroom observation or for providing an individualized development plan.

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

ARTICLE IV.

Sec. 5. For a period of 3 years after the effective date of the termination of the teacher's services, a teacher on continuing tenure whose services are terminated because of a necessary reduction in personnel shall be appointed to the first vacancy in the school district for which the teacher is certificated and qualified. However, for a teacher on continuing tenure in a school district whose services were terminated before the effective date of the amendatory act that added this sentence, the teacher's right under this section to be appointed to the first vacancy in the school district for which the teacher is certificated and qualified shall continue for a period of 3 years after the effective date of the amendatory act that added this sentence. This section does not prevent a school district from reemploying after the 3-year period specified in this section a teacher described in this section who was previously employed in that school district.

This act is ordered to take immediate effect.

Co-Clerk of the House of Representatives.

Secretary of the Senate.

Approved -----

Governor.