

HOUSE BILL No. 4626

May 10, 2011, Introduced by Rep. Scott 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 4 of article I and sections 1 and 3 of article IV (MCL 38.74, 38.101, and 38.103), section 4 of article I and section 3 of article IV as amended by 2005 PA 124 and section 1 of article IV as amended by 2005 PA 136.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

ARTICLE I

Sec. 4. The word "demote" means to **SUSPEND WITHOUT PAY FOR 20 OR MORE CONSECUTIVE DAYS OR** reduce compensation for a particular school year by more than an amount equivalent to ~~3~~**40** days' compensation or to transfer to a position carrying a lower salary.

1 However, demote does not include discontinuance of salary pursuant
2 to section 3 of article IV **OR A NECESSARY REDUCTION IN PERSONNEL,**
3 **INCLUDING, BUT NOT LIMITED TO, A REDUCTION IN WORKWEEKS OR**
4 **WORKDAYS.**

5 ARTICLE IV

6 Sec. 1. (1) Except as otherwise provided in section 1a of this
7 article, discharge or demotion of a teacher on continuing tenure
8 may be made only for ~~reasonable and just cause~~ **A REASON THAT IS NOT**
9 **ARBITRARY AND CAPRICIOUS** and only as provided in this act.

10 (2) **THERE IS A REBUTTABLE PRESUMPTION THAT A TEACHER WHOSE JOB**
11 **PERFORMANCE HAS BEEN RATED AS INEFFECTIVE ON 2 CONSECUTIVE**
12 **PERFORMANCE EVALUATIONS UNDER SECTION 1249 OF THE REVISED SCHOOL**
13 **CODE, 1976 PA 451, MCL 380.1249, IS AN INEFFECTIVE TEACHER.**

14 (3) This act does not prevent any controlling board from
15 establishing a reasonable policy for retirement to apply equally to
16 all teachers who are eligible for retirement under the public
17 school employees retirement act of 1979, 1980 PA 300, MCL 38.1301
18 to ~~38.1408, 38.1437~~, or, having established a reasonable retirement
19 age policy, from temporarily continuing on a year-to-year basis on
20 criteria equally applied to all teachers the contract of any
21 teacher whom the controlling board might wish to retain beyond the
22 established retirement age for the benefit of the school system.

23 Sec. 3. (1) On the filing of charges in accordance with this
24 article, the controlling board may suspend the accused teacher from
25 active performance of duty until 1 of the following occurs:

26 (a) The teacher fails to contest the decision to proceed upon
27 the charges within the time period specified in section 4(1) of

1 this article.

2 (b) A preliminary decision and order discharging or demoting
3 the teacher is issued by the administrative law judge under section
4 4(5)(i) of this article.

5 (c) If the preliminary decision and order is to reinstate the
6 teacher, a final decision and order is rendered by the tenure
7 commission under section 4(5)(m) of this article.

8 (2) If a teacher is suspended as described in subsection (1),
9 the teacher's salary shall continue during the suspension **UNTIL THE**
10 **EXPIRATION OF 90 DAYS AFTER THE TEACHER'S CLAIM OF APPEAL IS FILED**
11 **WITH THE TENURE COMMISSION OR UNTIL THE CONCLUSION OF THE HEARING**
12 **CONDUCTED UNDER SECTION 4(5) OF THIS ARTICLE, WHICHEVER IS EARLIER.**

13 However, if the teacher is convicted of a felony that is not a
14 listed offense or of a misdemeanor that is a listed offense, the
15 controlling board may discontinue the teacher's salary effective
16 upon the date of the conviction. If the teacher is convicted of a
17 felony that is a listed offense, the controlling board shall
18 discontinue the teacher's salary effective upon the date of
19 conviction. As used in this subsection, "listed offense" means that
20 term as defined in section 2 of the sex offenders registration act,
21 1994 PA 295, MCL 28.722.

22 (3) If a preliminary decision and order discharging a teacher
23 is issued by the administrative law judge and the tenure commission
24 subsequently reverses the preliminary decision and order of the
25 administrative law judge, the tenure commission may order back pay.

26 Enacting section 1. This amendatory act shall not take effect
27 unless all of the following bills of the 96th Legislature are

1 enacted into law:

2 (a) Senate Bill No. ____ or House Bill No. 4625 (request no.
3 00145'11 *).

4 (b) Senate Bill No. ____ or House Bill No. 4627 (request no.
5 02178'11).

6 (c) Senate Bill No. ____ or House Bill No. 4628 (request no.
7 02178'11 a).