

2018 Regular Session

HOUSE BILL NO. 655

BY REPRESENTATIVE NANCY LANDRY

SCHOOLS/EMPLOYEES: Provides relative to tenure for teachers and other school employees

1 AN ACT

2 To amend R.S. 17:442 and 443, relative to teachers; to provide relative to tenure; to provide
3 relative to removal of a teacher, disciplinary action against a teacher, and right to
4 review and hearing procedures; to provide for technical changes; and to provide for
5 related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 17:442 and 443 are hereby amended and reenacted to read as
8 follows:

9 §442. Tenure

10 A.(1)(a) A teacher who ~~has~~ acquired tenure before September 1, 2012,
11 retains tenure and is subject to the provisions of this Section.

12 (b) ~~Effective beginning on July 1, 2012, a~~ A teacher rated "highly effective"
13 for five years within a six-year period pursuant to the performance evaluation
14 program as provided in R.S. 17:3881 through 3905 shall be granted tenure.

15 (2) A teacher paid with federal funds shall not be eligible to acquire tenure,
16 ~~nor shall~~ and time spent in employment paid with federal funds shall not be counted
17 toward the time required for acquisition of tenure.

18 B. The school superintendent shall notify a teacher, in writing, when tenure
19 has been awarded, and the teacher is deemed to have acquired tenure on the date
20 specified therein. A teacher who is not awarded tenure remains an at-will employee

1 of the public school board or the special school district but shall acquire tenure upon
2 meeting the criteria established in Subsection A of this Section.

3 C.(1) A tenured teacher who receives a final performance rating of
4 "ineffective" pursuant to the performance evaluation program as provided in R.S.
5 17:3881 through 3905 shall lose his tenure and all rights related thereto immediately
6 upon exhaustion of the grievance procedure established pursuant to R.S.
7 17:3883(A)(5); unless the "ineffective" performance rating is reversed, and such
8 rating shall constitute sufficient grounds for disciplinary action pursuant to R.S.
9 17:443(A). If a teacher is found "highly effective" based on the evidence of the
10 growth portion of the evaluation but is found "ineffective" according to the
11 observation portion, within thirty days after such finding, the teacher shall be entitled
12 to a second observation by members of a team of three designees, chosen by the local
13 superintendent, which shall not include the principal.

14 (2) Such a teacher shall reacquire tenure if the teacher receives a
15 performance rating of "highly effective" for five years within a six-year period
16 subsequent to receiving an "ineffective" rating as provided in Subsection A of this
17 Section.

18 §443. Discipline of teachers; procedure; right of review

19 A. The school superintendent may take disciplinary action against any
20 nontenured teacher after providing such teacher with the written reasons ~~therefor~~ for
21 such action and providing the teacher the opportunity to respond. The teacher shall
22 have seven days to respond, and such response shall be included in the teacher's
23 personnel file. The superintendent shall notify the teacher in writing of his final
24 decision. Within sixty days of such notice, the teacher may seek summary review
25 in a district court pursuant to Code of Civil Procedure Article 2592. The district
26 court's review shall be limited to determining ~~whether~~ if the action taken by the
27 superintendent was arbitrary or capricious.

28 B.(1) A teacher with tenure shall not be disciplined except upon written and
29 signed charges by the superintendent or his designee of poor performance, willful

1 neglect of duty, incompetency, dishonesty, immorality, or of being a member of or
2 contributing to any group, organization, movement, or corporation that is by law or
3 injunction prohibited from operating in the state of Louisiana, and then only if
4 furnished with a copy of such written charges and given the opportunity to respond.
5 The teacher shall have ten calendar days from the written notice of the charges to
6 respond; in person or in writing. Following review of the teacher's response, the
7 superintendent may take interim disciplinary action, which may include placing the
8 teacher on administrative leave. The teacher shall not be placed on administrative
9 leave without pay unless the teacher has been arrested for a violation of any of the
10 following: R.S. 14:42 through 43.5, 80 through 81.5, any other sexual offense
11 affecting minors, any of the crimes provided in R.S. 15:587.1, or any justified
12 complaint of child abuse or neglect on file in the central registry pursuant to
13 Children's Code Article 615. Within ten calendar days after written notice of the
14 interim disciplinary action or within ten calendar days after receipt of the teacher's
15 response if no interim disciplinary action is taken, a teacher may request a hearing
16 before a disciplinary hearing officer. If the teacher fails to timely request a hearing,
17 the disciplinary action becomes final.

18 (2)(a) Upon a request for a review hearing, the superintendent shall
19 randomly appoint a hearing officer from a list of persons previously approved by the
20 school board to serve as "disciplinary hearing officers" for the school board. The
21 school board shall maintain a list of at least five hearing officers for districts of fewer
22 than twenty thousand students and a list of at least ten hearing officers for districts
23 with more than twenty thousand students according to the February first student
24 membership count. If a school board fails to maintain such a list, a superintendent
25 may randomly appoint a hearing officer from a list of persons previously approved
26 by the State Board of Elementary and Secondary Education. Only the following
27 persons may serve as a disciplinary hearing officer: a mediator qualified under R.S.
28 9:4106, an arbitrator approved by the American Arbitration Association or the

1 Federal Mediation and Conciliation Service, an attorney, or a retired member of the
2 judiciary.

3 (b) Such hearing may be private or public, at the option of the teacher, and
4 shall commence no sooner than ten calendar days nor later than thirty calendar days
5 after receipt of the teacher's request for such hearing. For purposes of this Section,
6 the disciplinary hearing officer shall have the power to issue subpoenas. The school
7 board shall adopt and maintain procedures to govern the conduct of the hearing,
8 which shall include, at a minimum, a method for the examination of witnesses and
9 the introduction of evidence and for the presence of a court reporter and maintenance
10 of the court reporter's record. The teacher shall have the right to appear before the
11 disciplinary hearing officer with witnesses on his behalf and with counsel of his
12 selection. The disciplinary hearing officer shall hold a hearing and review on
13 ~~whether~~ if the interim decision of the superintendent was arbitrary or capricious and
14 shall either affirm or reverse the action of the superintendent. The disciplinary
15 hearing officer shall notify the superintendent and the teacher of his final
16 determination; with written reasons; within ten days from the date of the hearing. If
17 the superintendent's disciplinary action is affirmed, it shall become effective upon
18 the teacher's receipt of the decision of the disciplinary hearing officer. If the
19 superintendent's disciplinary action is reversed, the teacher shall be restored to duty.

20 (3) Within sixty days from the postmarked date of written notification of the
21 decision of the disciplinary hearing officer, the school board or the teacher may
22 petition a court of competent jurisdiction to review the matter as a summary
23 proceeding pursuant to Code of Civil Procedure Article 2592. The court shall
24 determine, based on the record of the disciplinary review hearing, ~~whether~~ if the
25 disciplinary hearing officer abused his discretion in deciding whether the action of
26 the superintendent was arbitrary or capricious. If the action of the superintendent is
27 reversed by the court and the teacher is ordered reinstated and restored to duty, the
28 teacher shall be entitled to full pay for any loss of time or salary he may have
29 sustained by reason of the action of the superintendent.

1 C. For the purposes of this Section, immorality shall mean any conviction
2 of a felony offense affecting the public morals enumerated in Part V of Chapter 1 of
3 Title 14 of the Louisiana Revised Statutes of 1950.

4 D. The time periods contained in this Section may be extended by mutual
5 agreement of the parties. However, paid administrative leave as provided in
6 Paragraph (B)(1) of this Section shall not exceed fifty days from the notice of the
7 superintendent's interim decision.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 655 Original

2018 Regular Session

Nancy Landry

Abstract: Provides for technical changes relative to teacher tenure and the discipline of teachers.

Present law provides relative to teacher tenure and the discipline of teachers. Further provides relative to the removal of teachers and the right to review and hearing procedures. Proposed law provides for technical changes.

(Amends 17:442 and 443)