

By: Williams

S.B. No. 1489

A BILL TO BE ENTITLED

AN ACT

relating to the termination of a teacher's contract for a financial exigency that requires a reduction in personnel.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 21.104(a), Education Code, is amended to read as follows:

(a) A teacher employed under a probationary contract may be discharged at any time for:

(1) good cause as determined by the board of trustees;

or

(2) a financial exigency that requires a reduction in personnel [~~, good cause being the failure to meet the accepted standards of conduct for the profession as generally recognized and applied in similarly situated school districts in this state~~].

SECTION 2. Subchapter C, Chapter 21, Education Code, is amended by adding Section 21.1041 to read as follows:

Sec. 21.1041. HEARING FOR CERTAIN DISCHARGES UNDER PROBATIONARY CONTRACT. (a) If the board of trustees proposes to discharge a teacher under Section 21.104(a)(2), the board shall give written notice of the proposed action to the teacher.

(b) If the teacher desires a hearing after receiving notice of the proposed discharge, the teacher shall notify the board of trustees in writing, not later than the 15th day after the date the teacher receives the notice of the proposed action. The board shall

1 provide for a hearing to be held not later than the 15th day after
2 the date the board receives the request for a hearing unless the
3 parties agree in writing to a different date. The hearing must be
4 closed unless the teacher requests an open hearing. The hearing
5 must be conducted in accordance with rules adopted by the board. At
6 the hearing, the teacher may:

7 (1) be represented by a representative of the
8 teacher's choice;

9 (2) hear the evidence supporting the reason for the
10 discharge;

11 (3) cross-examine adverse witnesses; and

12 (4) present evidence.

13 (c) After a hearing held under Subsection (b), the board of
14 trustees shall:

15 (1) take the appropriate action to discharge the
16 teacher or allow the teacher to complete the probationary contract
17 term; and

18 (2) notify the teacher in writing of its decision not
19 later than the 15th day after the date of the hearing.

20 (d) If the teacher does not request a hearing under
21 Subsection (b), the board of trustees shall take the appropriate
22 action to discharge the teacher and shall notify the teacher in
23 writing of that action not later than the 30th day after the date
24 the notice of proposed discharge for a financial exigency that
25 requires a reduction in personnel was sent to the teacher.

26 SECTION 3. Subchapter E, Chapter 21, Education Code, is
27 amended by adding Section 21.2111 to read as follows:

1 Sec. 21.2111. HEARING FOR CERTAIN DISCHARGES UNDER TERM
2 CONTRACT. (a) If the board of trustees proposes to discharge a
3 teacher under Section 21.211(a)(2), the board shall give written
4 notice of the proposed action to the teacher.

5 (b) If the teacher desires a hearing after receiving notice
6 of the proposed discharge, the teacher shall notify the board of
7 trustees in writing, not later than the 15th day after the date the
8 teacher receives the notice of the proposed action. The board shall
9 provide for a hearing to be held not later than the 15th day after
10 the date the board receives the request for a hearing unless the
11 parties agree in writing to a different date. The hearing must be
12 closed unless the teacher requests an open hearing. The hearing
13 must be conducted in accordance with rules adopted by the board. At
14 the hearing, the teacher may:

15 (1) be represented by a representative of the
16 teacher's choice;

17 (2) hear the evidence supporting the reason for the
18 discharge;

19 (3) cross-examine adverse witnesses; and

20 (4) present evidence.

21 (c) After the hearing, the board of trustees shall:

22 (1) take the appropriate action to discharge the
23 teacher or allow the teacher to complete the current contract term;
24 and

25 (2) notify the teacher in writing of its decision not
26 later than the 15th day after the date of the hearing.

27 (d) If the teacher does not request a hearing under

1 Subsection (b), the board of trustees shall take the appropriate
2 action to discharge the teacher and shall notify the teacher in
3 writing of that action not later than the 30th day after the date
4 the notice of proposed discharge for a financial exigency that
5 requires a reduction in personnel was sent to the teacher.

6 SECTION 4. Section 21.251, Education Code, is amended to
7 read as follows:

8 Sec. 21.251. APPLICABILITY. (a) This subchapter applies
9 if a teacher requests a hearing after receiving notice of the
10 proposed decision to:

11 (1) terminate the teacher's continuing contract at any
12 time;

13 (2) except as provided by Subsection (b)(3), terminate
14 the teacher's probationary or term contract before the end of the
15 contract period; or

16 (3) suspend the teacher without pay.

17 (b) This subchapter does not apply to:

18 (1) a decision to terminate a teacher's employment at
19 the end of a probationary contract; ~~or~~

20 (2) a decision not to renew a teacher's term contract,
21 unless the board of trustees of the employing district has decided
22 to use the process prescribed by this subchapter for that purpose;
23 or

24 (3) a decision to terminate a teacher's probationary
25 contract or term contract before the end of the contract period for
26 a financial exigency that requires a reduction in personnel.

27 SECTION 5. Section 21.301(a), Education Code, is amended to

1 read as follows:

2 (a) Not later than the 20th day after the date the board of
3 trustees or board subcommittee announces its decision under Section
4 21.259, ~~[or]~~ the board advises the teacher of its decision not to
5 renew the teacher's contract under Section 21.208, or the board
6 advises the teacher of its decision to terminate a teacher's
7 probationary contract under Section 21.1041(c) or (d) or term
8 contract under Section 21.2111(c) or (d), the teacher may appeal
9 the decision by filing a petition for review with the commissioner.

10 SECTION 6. Section 21.303(a), Education Code, is amended to
11 read as follows:

12 (a) If the board of trustees decided not to renew a
13 teacher's term contract or decided to terminate a teacher's
14 probationary contract under Section 21.1041(c) or (d) or term
15 contract under Section 21.2111(c) or (d), the commissioner may not
16 substitute the commissioner's judgment for that of the board of
17 trustees unless the decision was arbitrary, capricious, or unlawful
18 or is not supported by substantial evidence.

19 SECTION 7. The changes in law made by this Act apply only to
20 a discharge under a probationary or term contract for which written
21 notice of the proposed discharge is given to a teacher on or after
22 September 1, 2005. A discharge under a probationary or term
23 contract for which written notice of the proposed discharge is
24 given to a teacher before September 1, 2005, is governed by the law
25 in effect when the notice is given, and the former law is continued
26 in effect for that purpose.

27 SECTION 8. This Act takes effect September 1, 2005.