

By: Huffines

S.B. No. 609

A BILL TO BE ENTITLED

1 AN ACT
2 relating to elimination of the use of continuing contracts by
3 school districts in employing teachers and other professionals.

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

5 ARTICLE 1. ELIMINATION OF CONTINUING CONTRACTS

6 SECTION 1.01. Sections 7.056(e) and (f), Education Code,
7 are amended to read as follows:

8 (e) Except as provided by Subsection (f), a school campus or
9 district may not receive an exemption or waiver under this section
10 from:

11 (1) a prohibition on conduct that constitutes a
12 criminal offense;

13 (2) a requirement imposed by federal law or rule,
14 including a requirement for special education or bilingual
15 education programs; or

16 (3) a requirement, restriction, or prohibition
17 relating to:

18 (A) essential knowledge or skills under Section
19 28.002 or high school graduation requirements under Section 28.025;

20 (B) public school accountability as provided by
21 Subchapters B, C, D, E, F, and J, Chapter 39;

22 (C) extracurricular activities under Section
23 33.081 or participation in a University Interscholastic League
24 area, regional, or state competition under Section 33.0812;

- 1 (D) health and safety under Chapter 38;
- 2 (E) purchasing under Subchapter B, Chapter 44;
- 3 (F) elementary school class size limits, except
- 4 as provided by Section 25.112;
- 5 (G) removal of a disruptive student from the
- 6 classroom under Subchapter A, Chapter 37;
- 7 (H) at-risk programs under Subchapter C, Chapter
- 8 29;
- 9 (I) prekindergarten programs under Subchapter E,
- 10 Chapter 29;
- 11 (J) educator rights and benefits under
- 12 Subchapters A, C, ~~D~~ E, F, G, and I, Chapter 21, or under
- 13 Subchapter A, Chapter 22;
- 14 (K) special education programs under Subchapter
- 15 A, Chapter 29;
- 16 (L) bilingual education programs under
- 17 Subchapter B, Chapter 29; or
- 18 (M) the requirements for the first day of
- 19 instruction under Section 25.0811.
- 20 (f) A school district ~~[or campus]~~ that is required to
- 21 develop and implement a student achievement improvement plan under
- 22 Section 39.102 ~~[or 39.103]~~ may receive an exemption or waiver under
- 23 this section from any law or rule other than:
- 24 (1) a prohibition on conduct that constitutes a
- 25 criminal offense;
- 26 (2) a requirement imposed by federal law or rule;
- 27 (3) a requirement, restriction, or prohibition

1 imposed by state law or rule relating to:

2 (A) public school accountability as provided by
3 Subchapters B, C, D, E, F, and J, Chapter 39; or

4 (B) educator rights and benefits under
5 Subchapters A, C, [~~D~~] E, F, G, and I, Chapter 21, or under
6 Subchapter A, Chapter 22; or

7 (4) selection of instructional materials under
8 Chapter 31.

9 SECTION 1.02. Sections 21.002(a) and (b), Education Code,
10 are amended to read as follows:

11 (a) A school district shall employ each classroom teacher,
12 principal, librarian, nurse, or school counselor under:

13 (1) a probationary contract, as provided by Subchapter
14 C;

15 [~~(2) a continuing contract, as provided by Subchapter~~
16 ~~D~~] or

17 (2) [~~(3)~~] a term contract, as provided by Subchapter
18 E.

19 (b) A district is not required to employ a person other than
20 an employee listed in Subsection (a) under a probationary[~~7~~
21 ~~continuing~~] or term contract.

22 SECTION 1.03. Section 21.0031(a), Education Code, is
23 amended to read as follows:

24 (a) An employee's probationary[~~7~~ ~~continuing~~] or term
25 contract under this chapter is void if the employee:

26 (1) does not hold a valid certificate or permit issued
27 by the State Board for Educator Certification;

1 (2) fails to fulfill the requirements necessary to
2 renew or extend the employee's temporary, probationary, or
3 emergency certificate or any other certificate or permit issued
4 under Subchapter B; or

5 (3) fails to comply with any requirement under
6 Subchapter C, Chapter 22, if the failure results in suspension or
7 revocation of the employee's certificate under Section
8 22.0831(f)(2).

9 SECTION 1.04. Subchapter A, Chapter 21, Education Code, is
10 amended by adding Section 21.008 to read as follows:

11 Sec. 21.008. APPLICATION OF FORMER LAW. A person employed
12 under a continuing contract under former Subchapter D, as that
13 subchapter existed on January 1, 2017, continues to be subject to
14 the rights and duties provided by this chapter as it existed on
15 January 1, 2017, as long as the person is employed by the same
16 school district.

17 SECTION 1.05. Sections 21.058(c), (c-1), and (c-2),
18 Education Code, are amended to read as follows:

19 (c) A school district or open-enrollment charter school
20 that receives notice under Subsection (b) of the revocation of a
21 certificate issued under this subchapter shall:

22 (1) immediately remove the person whose certificate
23 has been revoked from campus or from an administrative office, as
24 applicable, to prevent the person from having any contact with a
25 student; and

26 (2) if the person is employed under a probationary[~~7~~
27 ~~continuing~~] or term contract under this chapter:

- 1 (A) suspend the person without pay;
- 2 (B) provide the person with written notice that
- 3 the person's contract is void as provided by Subsection (c-2); and
- 4 (C) terminate the employment of the person as
- 5 soon as practicable.

6 (c-1) If a school district or open-enrollment charter

7 school becomes aware that a person employed by the district or

8 school under a probationary~~[, continuing,]~~ or term contract under

9 this chapter has been convicted of or received deferred

10 adjudication for a felony offense, and the person is not subject to

11 Subsection (c), the district or school may:

- 12 (1) suspend the person without pay;
- 13 (2) provide the person with written notice that the
- 14 person's contract is void as provided by Subsection (c-2); and
- 15 (3) terminate the employment of the person as soon as
- 16 practicable.

17 (c-2) A person's probationary~~[, continuing,]~~ or term

18 contract is void if the school district or open-enrollment charter

19 school takes action under Subsection (c)(2)(B) or (c-1)(2).

20 SECTION 1.06. Section [21.101](#), Education Code, is amended to

21 read as follows:

22 Sec. 21.101. DEFINITION. In this subchapter, "teacher"

23 means a principal, supervisor, classroom teacher, school

24 counselor, or other full-time professional employee who is required

25 to hold a certificate issued under Subchapter B or a nurse. The

26 term does not include a superintendent or a person who is not

27 entitled to a probationary~~[, continuing,]~~ or term contract under

1 Section 21.002, an existing contract, or district policy.

2 SECTION 1.07. Section 21.102(c), Education Code, is amended
3 to read as follows:

4 (c) An employment contract may not extend the probationary
5 contract period beyond the end of the third consecutive school year
6 of the teacher's employment by the school district unless, during
7 the third year of a teacher's probationary contract, the board of
8 trustees determines that it is doubtful whether the teacher should
9 be given [~~a continuing contract or~~] a term contract. If the board
10 makes that determination, the district may make a probationary
11 contract with the teacher for a term ending with the fourth
12 consecutive school year of the teacher's employment with the
13 district, at which time the district shall:

14 (1) terminate the employment of the teacher; or

15 (2) employ the teacher under [~~a continuing contract~~
16 ~~or~~] a term contract as provided by Subchapter [~~D or~~] E [~~, according~~
17 ~~to district policy~~].

18 SECTION 1.08. Section 21.103(b), Education Code, is amended
19 to read as follows:

20 (b) If the board of trustees fails to give the notice of its
21 decision to terminate the teacher's employment within the time
22 prescribed by Subsection (a), the board must employ the
23 probationary teacher in the same capacity under:

24 (1) a probationary contract for the following school
25 year, if the teacher has been employed by the district under a
26 probationary contract for less than three consecutive school years;
27 or

1 (2) a ~~[continuing or]~~ term contract, ~~[according to~~
2 ~~district policy,~~] if the teacher has been employed by the district
3 under a probationary contract for three consecutive school years.

4 SECTION 1.09. Sections 21.106(a), (b), and (d), Education
5 Code, are amended to read as follows:

6 (a) In lieu of ~~[discharging a teacher employed under a~~
7 ~~continuing contract,~~] terminating a teacher employed under a term
8 contract~~[,~~] or not renewing a teacher's term contract, a school
9 district may, with the written consent of the teacher, return the
10 teacher to probationary contract status.

11 (b) Except as provided by Subsection (d), a teacher may
12 agree to be returned to probationary contract status only after
13 receiving written notice that the board of trustees of the school
14 district has proposed ~~[discharge,~~] termination~~[,~~] or nonrenewal.

15 (d) A teacher may agree to be returned to probationary
16 contract status after receiving written notice of the
17 superintendent's intent to recommend ~~[discharge,~~] termination~~[,~~
18 or nonrenewal. Notice under this subsection must inform the
19 teacher of the school district's offer to return the teacher to
20 probationary contract status, the period during which the teacher
21 may consider the offer, and the teacher's right to seek counsel.
22 The district must provide the teacher at least three business days
23 after the date the teacher receives notice under this subsection to
24 agree to be returned to probationary contract status. This
25 subsection does not require a superintendent to provide notice of
26 an intent to recommend ~~[discharge,~~] termination~~[,~~] or nonrenewal.

27 SECTION 1.10. Section 21.201(1), Education Code, is amended

1 to read as follows:

2 (1) "Teacher" means a superintendent, principal,
3 supervisor, classroom teacher, school counselor, or other
4 full-time professional employee who is required to hold a
5 certificate issued under Subchapter B or a nurse. The term does not
6 include a person who is not entitled to a probationary[~~7~~
7 ~~continuing,~~] or term contract under Section 21.002, an existing
8 contract, or district policy.

9 SECTION 1.11. Section 21.213, Education Code, is amended to
10 read as follows:

11 Sec. 21.213. NONAPPLICABILITY OF SUBCHAPTER. Except as
12 provided by Section 21.202, this subchapter does not apply to a
13 teacher employed under a probationary contract in accordance with
14 Subchapter C [~~or a continuing contract in accordance with~~
15 ~~Subchapter D~~].

16 SECTION 1.12. Section 21.251, Education Code, is amended to
17 read as follows:

18 Sec. 21.251. APPLICABILITY. (a) This subchapter applies
19 if a teacher requests a hearing after receiving notice of the
20 proposed decision to:

21 (1) [~~terminate the teacher's continuing contract at~~
22 ~~any time, except as provided by Subsection (b)(3),~~

23 [~~(2)~~] terminate the teacher's probationary or term
24 contract before the end of the contract period, except as provided
25 by Subsection (b)(3); or

26 (2) [~~(3)~~] suspend the teacher without pay.

27 (b) This subchapter does not apply to:

1 (1) a decision to terminate a teacher's employment at
2 the end of a probationary contract;

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

7 (3) a decision, on the basis of a financial exigency
8 declared under Section 44.011 that requires a reduction in
9 personnel, to terminate a probationary or term contract before the
10 end of the contract period [~~or to terminate a continuing contract at~~
11 ~~any time~~], unless the board of trustees has decided to use the
12 process prescribed by this subchapter for that purpose.

13 SECTION 1.13. Section 21.257(a-1), Education Code, is
14 amended to read as follows:

15 (a-1) A determination by the hearing examiner regarding
16 good cause for the suspension of a teacher without pay or the
17 termination of a probationary[~~, continuing,~~] or term contract is a
18 conclusion of law and may be adopted, rejected, or changed by the
19 board of trustees or board subcommittee as provided by Section
20 21.259(b).

21 SECTION 1.14. Section 21.303(b), Education Code, is amended
22 to read as follows:

23 (b) If the board of trustees terminated a teacher's
24 probationary[~~, continuing,~~] or term contract during the contract
25 term or suspended a teacher without pay, the commissioner may not
26 substitute the commissioner's judgment for that of the board
27 unless:

1 (1) if the board accepted the hearing examiner's
2 findings of fact without modification, the decision is arbitrary,
3 capricious, or unlawful or is not supported by substantial
4 evidence; or

5 (2) if the board modified the hearing examiner's
6 findings of fact, the decision is arbitrary, capricious, or
7 unlawful or the hearing examiner's original findings of fact are
8 not supported by substantial evidence.

9 SECTION 1.15. Section 21.4021(g), Education Code, is
10 amended to read as follows:

11 (g) If a board of trustees adopts a furlough program after
12 the date by which a teacher must give notice of resignation under
13 Section 21.105 [~~21.160~~] or 21.210, as applicable, a teacher who
14 subsequently resigns is not subject to sanctions imposed by the
15 State Board for Educator Certification as otherwise authorized by
16 those sections.

17 SECTION 1.16. Section 26.008(b), Education Code, is amended
18 to read as follows:

19 (b) An attempt by any school district employee to encourage
20 or coerce a child to withhold information from the child's parent is
21 grounds for discipline under Section 21.104 [~~21.156~~] or 21.211,
22 as applicable.

23 SECTION 1.17. (a) On or after the effective date of this
24 Act, a school district may not enter into a continuing contract
25 under Chapter 21, Education Code, as that chapter existed before
26 amendment by this Act.

27 (b) The amendment by this Act of Chapter 21, Education Code,

1 does not affect the rights of a person employed under a continuing
2 contract entered into before the effective date of this Act, and the
3 provisions of Chapter 21, Education Code, as they existed on
4 January 1, 2017, are continued in effect for that purpose.

5 ARTICLE 2. REPEALER; EFFECTIVE DATE

6 SECTION 2.01. (a) Section 21.002(c), Education Code, is
7 repealed.

8 (b) Subchapter D, Chapter 21, Education Code, is repealed.

9 SECTION 2.02. This Act takes effect immediately if it
10 receives a vote of two-thirds of all the members elected to each
11 house, as provided by Section 39, Article III, Texas Constitution.
12 If this Act does not receive the vote necessary for immediate
13 effect, this Act takes effect September 1, 2017.