

Act No. 337  
Public Acts of 1993  
Approved by the Governor  
December 31, 1993  
Filed with the Secretary of State  
December 31, 1993

**STATE OF MICHIGAN  
87TH LEGISLATURE  
REGULAR SESSION OF 1993**

**Introduced by Reps. Horton, Dalman, Cropsey, Randall, Bullard, Bandstra, Dobb, Llewellyn, Munsell, Stille and Walberg  
Reps. Gagliardi, Gernaat, Keith, Kukuk, Middleton, Varga, Voorhees and Joe Young, Jr. named co-sponsors**

# **ENROLLED HOUSE BILL No. 5125**

AN ACT to amend sections 1 and 3 of article I and section 1 of article III 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," section 1 of article I and section 1 of article III as amended by Act No. 59 of the Public Acts of 1993, being sections 38.71, 38.73, and 38.91 of the Michigan Compiled Laws.

*The People of the State of Michigan enact:*

Section 1. Sections 1 and 3 of article I and section 1 of article III of Act No. 4 of the Public Acts of the Extra Session of 1937, section 1 of article I and section 1 of article III as amended by Act No. 59 of the Public Acts of 1993, being sections 38.71, 38.73, and 38.91 of the Michigan Compiled Laws, are amended to read as follows:

## **ARTICLE I**

Sec. 1. (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.

(2) 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.

(3) An individual employed as a teacher in a public school academy established under part 6a of Act No. 451 of the Public Acts of 1976, being sections 380.501 to 380.510 of the Michigan Compiled Laws, is not considered a teacher during

that employment for the purpose of continuing tenure under article III. However, an individual described in section 1(4) of article III is a teacher for the purpose of retaining continuing tenure as described in that section.

(4) Teacher does not include an individual whose teaching certificate has expired or has been suspended or revoked.

Sec. 3. As used in this act, "controlling board" means all boards having the care, management, or control over public school districts and public educational institutions other than a public school academy established under part 6a of the school code of 1976, Act No. 451 of the Public Acts of 1976, being sections 380.501 to 380.510 of the Michigan Compiled Laws.

### 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 employed in a public school academy established under part 6a of the school code of 1976, Act No. 451 of the Public Acts of 1976, being sections 380.501 to 380.510 of the Michigan Compiled Laws, is on leave of absence from a school district and was on continuing tenure in the school district at the time he or she began the leave of absence, the teacher retains continuing tenure in that school district during the period he or she is employed in the public school academy.

(5) 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.

(6) 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.

(7) 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.

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

This act is ordered to take immediate effect.

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Co-Clerk of the House of Representatives.

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Secretary of the Senate.

Approved -----

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Governor.