

**SUBSTITUTE FOR  
SENATE BILL NO. 638**

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 1 of article I, section 1 of article III, and section 1a of article IV (MCL 38.71, 38.91, and 38.101a), section 1 of article I and section 1 of article III as amended by 1996 PA 282 and section 1a of article IV as added by 2005 PA 124.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

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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

1 a full school year pursuant to section 1233b of the revised school  
2 code, ~~Act No. 451 of the Public Acts of 1976, being section~~  
3 ~~380.1233b of the Michigan Compiled Laws 1976 PA 451, MCL 380.1233B,~~  
4 or is employed pursuant to an annual vocational authorization or a  
5 temporary approval, as defined in state board rule, is considered  
6 to be a teacher for the purpose of serving the probationary period  
7 under article II, but such an individual is not considered a  
8 teacher for the purpose of continuing tenure under article III  
9 until he or she becomes certificated.

10 (3) An individual employed as a teacher in a public school  
11 academy established under ~~Act No. 451 of the Public Acts of 1976,~~  
12 ~~being sections 380.1 to 380.1852 of the Michigan Compiled Laws~~ **THE**  
13 **REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1 TO 380.1852,** is not  
14 considered a teacher during that employment for the purpose of  
15 continuing tenure under article III. However, an individual  
16 described in section 1(4) of article III is a teacher for the  
17 purpose of retaining continuing tenure as described in that  
18 section.

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

#### 21 ARTICLE III

22 Sec. 1. (1) After the satisfactory completion of the  
23 probationary period, a teacher shall be employed continuously by  
24 the controlling board under which the probationary period has been  
25 completed, and shall not be dismissed or demoted except as  
26 specified in this act.

27 (2) If a teacher employed in a program operated by a

1 consortium of school districts was previously on continuing tenure  
2 in a school district that participates in the consortium, the  
3 teacher shall be considered to be on continuing tenure only in that  
4 school district.

5 (3) If a teacher employed in a program operated by a  
6 consortium of school districts was not previously on continuing  
7 tenure in a school district that participates in the consortium and  
8 satisfactorily completes the probationary period, the teacher shall  
9 be considered to be on continuing tenure only in the school  
10 district that is the fiscal agent for the consortium. However, if  
11 there is a written agreement between the teacher and another  
12 participating school district that provides that the teacher will  
13 have continuing tenure in that school district, the teacher shall  
14 be considered to be on continuing tenure only in that school  
15 district and shall not be considered to be on continuing tenure in  
16 the school district that is the fiscal agent for the consortium.

17 (4) If **AN INDIVIDUAL EMPLOYED AS** a teacher ~~employed~~ in a  
18 public school academy established under the revised school code,  
19 ~~Act No. 451 of the Public Acts of 1976, being sections 380.1 to~~  
20 ~~380.1852 of the Michigan Compiled Laws 1976 PA 451, MCL 380.1 TO~~  
21 **380.1852**, is on leave of absence from a school district and was on  
22 continuing tenure in the school district at the time he or she  
23 began the leave of absence, the teacher retains continuing tenure  
24 in that school district during the period he or she is employed in  
25 the public school academy.

26 (5) If a teacher satisfactorily completes the probationary  
27 period as an adult education teacher, the teacher shall be

1 considered to be on continuing tenure in the school district only  
2 for adult education and shall not by virtue of completing the  
3 probationary period as an adult education teacher be considered to  
4 be on continuing tenure in the school district for elementary and  
5 secondary education.

6 (6) If a teacher satisfactorily completes the probationary  
7 period as an elementary or secondary education teacher, the teacher  
8 shall be considered to be on continuing tenure in the school  
9 district only for elementary and secondary education and shall not  
10 by virtue of completing the probationary period as an elementary or  
11 secondary education teacher be considered to be on continuing  
12 tenure in the school district for adult education.

13 (7) If the controlling board provides in a contract of  
14 employment of a teacher employed other than as a classroom teacher,  
15 including but not limited to, a superintendent, assistant  
16 superintendent, principal, department head or director of  
17 curriculum, made with the teacher after the completion of the  
18 probationary period, that the teacher shall not be considered to be  
19 granted continuing tenure in that other capacity by virtue of the  
20 contract of employment, then the teacher shall not be granted  
21 tenure in that other capacity, but shall be considered to have been  
22 granted continuing tenure as an active classroom teacher in the  
23 school district. Upon the termination of such a contract of  
24 employment, if the controlling board does not reemploy the teacher  
25 under contract in the capacity covered by the contract, the teacher  
26 shall be continuously employed by the controlling board as an  
27 active classroom teacher. Failure of a controlling board to

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1 reemploy a teacher in any such capacity upon the termination of any  
2 such contract of employment described in this subsection shall not  
3 be considered to be a demotion under this act. The salary in the  
4 position to which the teacher is assigned shall be the same as if  
5 the teacher had been continuously employed in the newly assigned  
6 position. Failure of a controlling board to so provide in any such  
7 contract of employment of a teacher in a capacity other than a  
8 classroom teacher shall be considered to constitute the employment  
9 of the teacher on continuing contract in the other capacity and  
10 subject to this act.

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

13 ARTICLE IV

14 Sec. 1a. (1) The rights of a teacher on continuing tenure  
15 under this article are subject to sections 1230d(4) and 1535a(4)  
16 and (5) of the revised school code, 1976 PA 451, MCL 380.1230d and  
17 380.1535a. For the purposes of this article, a conviction of a  
18 violation of section 1230d of the revised school code, 1976 PA 451,  
19 MCL 380.1230d, or a violation of 1 of the crimes listed in section  
20 1535a(1) of the revised school code, 1976 PA 451, MCL 380.1535a, is  
21 considered to be reasonably and adversely related to the ability of  
22 the person to serve in an elementary or secondary school and is  
23 sufficient grounds to support the discharge or demotion of a  
24 teacher on continuing tenure.

25 (2) FOR THE PURPOSES OF THIS ARTICLE, A DETERMINATION THAT A  
26 TEACHER ON CONTINUING TENURE IS CONSISTENTLY INEFFECTIVE IN  
27 TEACHING, <<ACCORDING TO THE STANDARDS DEVELOPED BY THE  
SUPERINTENDENT OF PUBLIC INSTRUCTION UNDER SUBSECTION (3) OR ACCORDING TO  
STANDARDS DEVELOPED BY THE CONTROLLING BOARD AND APPROVED BY THE  
SUPERINTENDENT OF PUBLIC INSTRUCTION,>> IS CONSIDERED TO BE

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1 REASONABLY AND ADVERSELY RELATED TO THE ABILITY OF THE PERSON TO  
2 SERVE IN AN ELEMENTARY OR SECONDARY SCHOOL AND IS SUFFICIENT  
3 GROUNDS TO SUPPORT THE DISCHARGE OR DEMOTION OF A TEACHER ON  
4 CONTINUING TENURE.

<<(3) NOT LATER THAN 180 DAYS AFTER THE EFFECTIVE DATE OF  
THE AMENDATORY ACT THAT ADDED THIS SUBSECTION, THE SUPERINTENDENT  
OF PUBLIC INSTRUCTION SHALL DEVELOP AND PUBLISH STANDARDS FOR A  
CONTROLLING BOARD TO USE TO DETERMINE WHETHER A TEACHER ON  
CONTINUING TENURE IS CONSISTENTLY INEFFECTIVE IN TEACHING. THESE  
STANDARDS OR STANDARDS DEVELOPED BY A CONTROLLING BOARD SHALL  
CONTAIN OBJECTIVE CRITERIA FOR MAKING THIS DETERMINATION.>>