

# SENATE BILL No. 1581

November 9, 2010, Introduced by Senator KUIPERS and referred to the Committee on Education.

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 sections 1, 2, 3, and 3a of article II, sections 1, 2, and 3 of article III, and section 1 of article IV (MCL 38.81, 38.82, 38.83, 38.83a, 38.91, 38.92, 38.93, and 38.101), sections 1 and 2 of article II and section 2 of article III as amended and section 3a of article II and section 3 of article III as added by 1993 PA 59, section 1 of article III as amended by 1996 PA 282, and section 1 of article IV as amended by 2005 PA 136, and by adding section 1a to article III.

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



1 the ensuing year unless notified in writing at least 60 days before  
2 the close of the school year that his services will be  
3 discontinued.

4 (2) SUBSECTION (1) DOES NOT APPLY TO A TEACHER WHO IS IN THE  
5 FINAL YEAR OF HIS OR HER PROBATIONARY PERIOD. FOR A TEACHER  
6 DESCRIBED IN THIS SUBSECTION, ALL OF THE FOLLOWING APPLY:

7 (A) THE TEACHER SHALL NOT BE CONSIDERED TO HAVE SUCCESSFULLY  
8 COMPLETED THE PROBATIONARY PERIOD UNLESS THE TEACHER IS RATED AS  
9 EFFECTIVE, BASED ON THE PERFORMANCE EVALUATION UNDER SECTION 1249  
10 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1249.

11 (B) FAILURE OF THE CONTROLLING BOARD TO SUBMIT THE WRITTEN  
12 STATEMENT UNDER SUBSECTION (1) IS NOT CONSIDERED AS CONCLUSIVE  
13 EVIDENCE THAT THE TEACHER'S WORK IS SATISFACTORY. FAILURE OF THE  
14 CONTROLLING BOARD TO PROVIDE THE TEACHER WITH A PERFORMANCE  
15 EVALUATION UNDER SECTION 1249 OF THE REVISED SCHOOL CODE, 1976 PA  
16 451, MCL 380.1249, IN A PARTICULAR SCHOOL YEAR IS NOT CONSIDERED TO  
17 BE CONCLUSIVE EVIDENCE THAT THE TEACHER'S PERFORMANCE FOR THAT  
18 SCHOOL YEAR WAS SATISFACTORY, AND THE TEACHER SHALL NOT BE  
19 CONSIDERED TO BE RATED AS EFFECTIVE SOLELY BECAUSE OF THE FAILURE  
20 OF THE CONTROLLING BOARD TO PROVIDE THE PERFORMANCE EVALUATION.

21 (C) REGARDLESS OF WHETHER OR NOT THE TEACHER IS NOTIFIED IN  
22 WRITING AT LEAST 60 DAYS BEFORE THE CLOSE OF THE SCHOOL YEAR THAT  
23 HIS OR HER SERVICES WILL BE DISCONTINUED, THE TEACHER SHALL NOT BE  
24 EMPLOYED FOR THE ENSUING YEAR UNLESS THE TEACHER IS RATED AS  
25 EFFECTIVE, BASED ON THE PERFORMANCE EVALUATION UNDER SECTION 1249  
26 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1249.

27 Sec. 3a. ~~(1)~~—If a probationary teacher is employed by a school

1 district for at least 1 full school year, the controlling board of  
2 the probationary teacher's employing school district shall ensure  
3 that the teacher is provided with an individualized development  
4 plan developed by appropriate administrative personnel in  
5 consultation with the individual teacher and that the teacher is  
6 provided with at least an annual year-end performance evaluation  
7 each year during the teacher's probationary period. The annual  
8 year-end performance evaluation shall be based on, but is not  
9 limited to, at least 2 classroom observations held at least 60 days  
10 apart, unless a shorter interval between the 2 classroom  
11 observations is mutually agreed upon by the teacher and the  
12 administration, ~~and~~ shall include at least an assessment of the  
13 teacher's progress in meeting the goals of his or her  
14 individualized development plan, **AND SHALL MEET THE REQUIREMENTS OF**  
15 **SECTION 1249 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1249.**  
16 This subsection does not prevent a collective bargaining agreement  
17 between the controlling board and the teacher's bargaining  
18 representative under ~~Act No. 336 of the Public Acts of 1947, being~~  
19 ~~sections 423.201 to 423.216 of the Michigan Compiled Laws 1947 PA~~  
20 **336, MCL 423.201 TO 423.217**, from providing for more performance  
21 evaluations or classroom observations in addition to those required  
22 under this subsection. Except as specifically stated in this  
23 subsection, this section does not require a particular method for  
24 conducting a performance evaluation or classroom observation or for  
25 providing an individualized development plan.

26 ~~—— (2) Failure of a school district to comply with subsection (1)~~  
27 ~~with respect to an individual teacher in a particular school year~~

1 ~~is conclusive evidence that the teacher's performance for that~~  
2 ~~school year was satisfactory.~~

3 ARTICLE III

4 Sec. 1. (1) After the satisfactory completion of the  
5 probationary period **AND BEING RATED AS EFFECTIVE, AS DESCRIBED IN**  
6 **SECTION 3(2) OF ARTICLE II**, a teacher **IS CONSIDERED TO BE ON**  
7 **CONTINUING TENURE UNDER THIS ACT. SUBJECT TO SECTION 1A OF THIS**  
8 **ARTICLE, A TEACHER ON CONTINUING TENURE** shall be employed  
9 continuously by the controlling board under which the probationary  
10 period has been completed, and shall not be dismissed or demoted  
11 except as specified in this act.

12 (2) If a teacher employed in a program operated by a  
13 consortium of school districts was previously on continuing tenure  
14 in a school district that participates in the consortium, the  
15 teacher shall be considered to be on continuing tenure only in that  
16 school district.

17 (3) If a teacher employed in a program operated by a  
18 consortium of school districts was not previously on continuing  
19 tenure in a school district that participates in the consortium and  
20 satisfactorily completes the probationary period, the teacher shall  
21 be considered to be on continuing tenure only in the school  
22 district that is the fiscal agent for the consortium. However, if  
23 there is a written agreement between the teacher and another  
24 participating school district that provides that the teacher will  
25 have continuing tenure in that school district, the teacher shall  
26 be considered to be on continuing tenure only in that school  
27 district and shall not be considered to be on continuing tenure in

1 the school district that is the fiscal agent for the consortium.

2 (4) If a teacher employed in a public school academy  
3 established under the revised school code, ~~Act No. 451 of the~~  
4 ~~Public Acts of 1976, being sections 380.1 to 380.1852 of the~~  
5 ~~Michigan Compiled Laws 1976 PA 451, MCL 380.1 TO 380.1852~~, is on  
6 leave of absence from a school district and was on continuing  
7 tenure in the school district at the time he or she began the leave  
8 of absence, the teacher retains continuing tenure in that school  
9 district during the period he or she is employed in the public  
10 school academy.

11 (5) If a teacher satisfactorily completes the probationary  
12 period as an adult education teacher, the teacher shall be  
13 considered to be on continuing tenure in the school district only  
14 for adult education and shall not by virtue of completing the  
15 probationary period as an adult education teacher be considered to  
16 be on continuing tenure in the school district for elementary and  
17 secondary education.

18 (6) If a teacher satisfactorily completes the probationary  
19 period as an elementary or secondary education teacher, the teacher  
20 shall be considered to be on continuing tenure in the school  
21 district only for elementary and secondary education and shall not  
22 by virtue of completing the probationary period as an elementary or  
23 secondary education teacher be considered to be on continuing  
24 tenure in the school district for adult education.

25 (7) If the controlling board provides in a contract of  
26 employment of a teacher employed other than as a classroom teacher,  
27 including but not limited to, a superintendent, assistant

1 superintendent, principal, department head or director of  
2 curriculum, made with the teacher after the completion of the  
3 probationary period, that the teacher shall not be considered to be  
4 granted continuing tenure in that other capacity by virtue of the  
5 contract of employment, then the teacher shall not be granted  
6 tenure in that other capacity, but shall be considered to have been  
7 granted continuing tenure as an active classroom teacher in the  
8 school district. Upon the termination of such a contract of  
9 employment, if the controlling board does not reemploy the teacher  
10 under contract in the capacity covered by the contract, the teacher  
11 shall be continuously employed by the controlling board as an  
12 active classroom teacher. Failure of a controlling board to  
13 reemploy a teacher in any such capacity upon the termination of any  
14 such contract of employment described in this subsection shall not  
15 be considered to be a demotion under this act. The salary in the  
16 position to which the teacher is assigned shall be the same as if  
17 the teacher had been continuously employed in the newly assigned  
18 position. Failure of a controlling board to so provide in any such  
19 contract of employment of a teacher in a capacity other than a  
20 classroom teacher shall be considered to constitute the employment  
21 of the teacher on continuing contract in the other capacity and  
22 subject to this act.

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

25 **SEC. 1A. (1) IF A TEACHER WHO IS ON CONTINUING TENURE IS RATED**  
26 **AS INEFFECTIVE FOR 2 CONSECUTIVE SCHOOL YEARS ON THE PERFORMANCE**  
27 **EVALUATION UNDER SECTION 1249 OF THE REVISED SCHOOL CODE, 1976 PA**

1 451, MCL 380.1249, THEN THE CONTROLLING BOARD MAY REQUIRE THE  
2 TEACHER TO SERVE ANOTHER 4-YEAR PROBATIONARY PERIOD UNDER ARTICLE  
3 II.

4 (2) A TEACHER WHO IS PLACED IN A PROBATIONARY PERIOD UNDER  
5 SUBSECTION (1) IS A PROBATIONARY TEACHER DURING THAT TIME FOR ALL  
6 PURPOSES UNDER THIS ACT AND SHALL NOT BE CONSIDERED TO BE ON  
7 CONTINUING TENURE DURING THAT PROBATIONARY PERIOD FOR ANY PURPOSE  
8 UNDER THIS ACT.

9 Sec. 2. ~~If~~ EXCEPT IF THE TEACHER IS PLACED IN A PROBATIONARY  
10 PERIOD UNDER SECTION 1A OF THIS ARTICLE, IF a teacher on continuing  
11 tenure is employed by another controlling board, the teacher is not  
12 subject to another probationary period of more than 2 years  
13 beginning with the date of employment, and may at the option of the  
14 controlling board be placed immediately on continuing tenure. A  
15 notice provided under section 3 of article 2-II shall be given not  
16 later than 60 days before the completion of the probationary  
17 period. If a teacher on continuing tenure becomes an employee of  
18 another controlling board as a result of school district  
19 annexation, consolidation or other form of school district  
20 reorganization, the teacher shall be placed on continuing tenure  
21 within 30 days unless the controlling board, by a 2/3 vote on an  
22 individual basis, places the teacher on not more than 2 years'  
23 probation. However, if such a teacher is under contract but not on  
24 continuing tenure with the employing board as of ~~the effective date~~  
25 ~~of the amendatory act that added this sentence~~ JUNE 11, 1993, the  
26 teacher is not subject to another probationary period of more than  
27 1 year beginning with the date of employment.

1           Sec. 3. ~~(1)~~The controlling board of the school district  
2 employing a teacher on continuing tenure shall ensure that the  
3 teacher is provided with a performance evaluation at least ~~once~~  
4 ~~every 3 years~~ **ANNUALLY**, and, if the teacher has received a less  
5 than satisfactory performance evaluation, the school district shall  
6 provide the teacher with an individualized development plan  
7 developed by appropriate administrative personnel in consultation  
8 with the individual teacher. The performance evaluation shall be  
9 based on, but is not limited to, at least 2 classroom observations  
10 conducted during the period covered by the evaluation, ~~and, if the~~  
11 ~~teacher has an individualized development plan,~~ shall include at  
12 least an assessment of the teacher's progress in meeting the goals  
13 of his or her individualized development plan **IF THE TEACHER HAS AN**  
14 **INDIVIDUALIZED DEVELOPMENT PLAN, AND SHALL MEET THE REQUIREMENTS OF**  
15 **SECTION 1249 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1249.**  
16 This section does not prevent a collective bargaining agreement  
17 between the controlling board and the teacher's bargaining  
18 representative under ~~Act No. 336 of the Public Acts of 1947, being~~  
19 ~~sections 423.201 to 423.216 of the Michigan Compiled Laws 1947 PA~~  
20 **336, MCL 423.201 TO 423.217**, from providing for more performance  
21 evaluations or classroom observations in addition to those required  
22 under this section. Except as specifically stated in this  
23 subsection, this section does not require a particular method for  
24 conducting a performance evaluation or classroom observation or for  
25 providing an individualized development plan.  
26 ~~—— (2) Failure of a school district to comply with subsection (1)~~  
27 ~~with respect to an individual teacher in a particular 3-year period~~

1 ~~is conclusive evidence that the teacher's performance for that~~  
2 ~~period was satisfactory.~~

3 ARTICLE IV

4 Sec. 1. Except as otherwise provided in **SECTION 1A OF ARTICLE**  
5 **III AND** section 1a of this article, discharge or demotion of a  
6 teacher on continuing tenure may be made only for reasonable and  
7 just cause and only as provided in this act. This act does not  
8 prevent any controlling board from establishing a reasonable policy  
9 for retirement to apply equally to all teachers who are eligible  
10 for retirement under the public school employees retirement act of  
11 1979, 1980 PA 300, MCL 38.1301 to ~~38.1408~~**38.1437**, or, having  
12 established a reasonable retirement age policy, from temporarily  
13 continuing on a year-to-year basis on criteria equally applied to  
14 all teachers the contract of any teacher whom the controlling board  
15 might wish to retain beyond the established retirement age for the  
16 benefit of the school system.

17 Enacting section 1. This amendatory act does not take effect  
18 unless Senate Bill No. 1582

19 of the 95th Legislature is enacted into law.