

HOUSE BILL NO. HB0212

Teacher tenure-3.

Sponsored by: Representative(s) Teeters

A BILL

for

1 AN ACT relating to education; removing continuing contract
2 status from the Wyoming teacher employment law; modifying
3 and repealing provisions accordingly; modifying hearing
4 requirements; modifying and expanding reasons for
5 suspension, dismissal and termination; specifying
6 applicability; specifying legislative intent; and providing
7 for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 21-3-110(a)(xviii), 21-6-225,
12 21-7-102(a)(intro), (iii), (vi), (viii), (ix) and by
13 creating (x), 21-17-104(a), 21-7-105, 21-7-106, 21-7-109,
14 21-7-110(a), (c) through (g), by creating new subsections
15 (h) through (m), by renumbering (h) as (n) and by creating
16 new subsections (o) and (p) and 21-7-112 through 21-7-114
17 are amended to read:

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21-3-110. Duties of boards of trustees.

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(a) The board of trustees in each school district shall:

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(xviii) Establish a teacher performance evaluation system and require the performance of each ~~continuing contract~~ nonprobationary teacher to be evaluated in writing at least once each year. The teacher shall receive a copy of each evaluation of his performance;

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21-6-225. Contract rights and benefits of employees and teachers.

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No contract right, fringe benefit, benefit granted under school policies, ~~or continuing contract status of any employee,~~ or any rights under the Wyoming Teachers' Employment Act shall be denied or reduced as a result of school district reorganization, except as provided by W.S. 21-7-111(a)(iv). The new school district shall have the right to establish a uniform salary and benefit schedule for employees of the previous school districts and shall

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1 have the right to establish the length of the contract
2 year.

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4 **21-7-102. Definitions.**

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6 (a) As used in the article: ~~the following definitions~~
7 ~~shall apply:~~

8

9 (iii) "Dismissal" ~~;~~ means ~~the~~ cancellation
10 termination of any teacher's contract of employment by the
11 board of trustees prior to the end of a school year while
12 ~~such~~ the contract is in effect; ~~;~~ ~~In the case of a~~
13 ~~continuing contract teacher, dismissal shall mean~~
14 ~~cancellation of his contract at any time other than at the~~
15 ~~end of a school year where proper notice has been given;~~

16

17 (vi) "Suspension with pay" means the removal of
18 a teacher from the classroom during the school year without
19 termination of salary; ~~pending the outcome of a hearing in~~
20 ~~accordance with W.S. 21-7-110;~~

21

22 (viii) "Termination" ~~;~~ means ~~the~~ failure of the
23 board of trustees of a school district in Wyoming to
24 ~~reemploy a teacher at the end of a~~ offer a teacher employed

1 by the district a contract for the ensuing school year;~~in~~
2 ~~any given year;~~

3

4 (ix) "Suspension without pay" means the removal
5 of a teacher from the classroom during the school year with
6 the termination of salary; ~~for a period not to exceed one~~
7 ~~(1) calendar year commencing upon completion of a hearing~~
8 ~~held under W.S. 21-7-110.~~

9

10 (x) "Probationary teacher" means a teacher who
11 has been employed by the same school district within the
12 state for less than three (3) consecutive school years and
13 has not had his contract renewed for a fourth consecutive
14 school year.

15

16 **21-7-104. Teacher salary increases; service credit.**

17

18 (a) A ~~continuing contract~~ teacher ~~shall be~~ employed
19 by ~~each~~ a school district on ~~a continuing basis from year~~
20 ~~to year without~~ an annual ~~contract renewal at~~ basis shall
21 be paid a salary determined by the board of trustees of
22 each district, said salary subject to increases from time
23 to time as provided for in the salary provisions adopted by
24 the board.

1

2 **21-7-105. Employment of teachers on annual basis;**
3 **termination of probationary teacher; notice.**

4

5 ~~An initial contract~~ A teacher who has taught in the system
6 continuously for a period of at least ninety (90) days
7 shall be hired on an annual contract basis. ~~and~~ A
8 probationary teacher shall be notified in writing of the
9 reasons for termination, if such is the case, no later than
10 April 15 of each year. ~~An initial contract~~ A probationary
11 teacher's employment may be terminated for any reason not
12 specifically prohibited by law, ~~and a board is not limited~~
13 ~~to the reasons set forth in W.S. 21-7-110(a).~~ The notice of
14 termination shall not be disseminated to the public or to
15 prospective employers absent the teacher's consent.
16 Nothing contained in this section shall limit the use of
17 the notice in any hearing.

18

19 **21-7-106. Notice of recommendation of termination to**
20 **nonprobationary teacher; when termination effective.**

21

22 (a) A ~~continuing contract~~ nonprobationary teacher
23 shall be notified of a recommendation of termination by the
24 superintendent or any member of the board designated by the

1 superintendent or designated by the board pursuant to a
2 majority vote of the board by giving the teacher written
3 notice together with written reasons for termination on or
4 before April 15 of any year. A nonprobationary teacher may
5 be terminated for any reason not specifically prohibited by
6 law. Upon receipt of notice, the teacher may request a
7 hearing on the recommendation ~~before an independent hearing~~
8 ~~officer~~ as provided under W.S. 21-7-110.

9
10 (b) If ordered by the board under W.S. ~~21-7-110(g)~~
11 21-7-110(m), termination under recommendation shall be
12 effective at the end of the school year in the year in
13 which notice of termination is given.

14
15 **21-7-109. When contract offered to and accepted by**
16 **teacher.**

17
18 Upon determination to offer a contract for the ensuing
19 year, the board ~~must~~ shall offer ~~a~~ the contract ~~for the~~
20 ~~ensuing year~~ to ~~each initial contract~~ the teacher ~~if such~~
21 ~~is to be offered~~ by April 15., ~~and it must~~ The contract
22 shall be accepted by the teacher by May 15 of each year
23 offered or the position ~~will~~ shall be declared open.

24

1 **21-7-110. Suspension, termination or dismissal of**
2 **teachers; notice; hearing; judicial review.**

3
4 (a) The board may suspend, ~~or dismiss any teacher~~ or
5 terminate any ~~continuing contract~~ teacher for incompetency,
6 neglect of duty, immorality, insubordination,
7 unsatisfactory performance or any other ~~good or just cause~~
8 reason not specifically prohibited by law.

9
10 (c) Any ~~continuing contract~~ teacher ~~receiving notice~~
11 ~~of a recommendation of termination under W.S. 21-7-106(a)~~
12 ~~or~~ against whom dismissal or suspension without pay
13 proceedings are instituted under subsection (b) of this
14 section is entitled to a hearing before an independent
15 hearing officer on ~~the recommendation or~~ the reasons for
16 dismissal or suspension without pay, upon submission of a
17 written request to the superintendent. The request for
18 hearing shall be given within seven (7) days after receipt
19 of notice under ~~W.S. 21-7-106(a) or~~ subsection (b) of this
20 section. The independent hearing officer shall insofar as
21 possible, be impartial, experienced in education, labor and
22 employment matters and in the conduct of hearings. Within
23 five (5) days following receipt of the hearing request, the
24 superintendent and the teacher shall jointly select a

1 hearing officer. If they fail to agree upon selection, the
2 district judge of the judicial district in which the school
3 district is located shall upon request select a hearing
4 officer. Expenses of the hearing officer shall be paid
5 equally by the school district and the teacher.

6

7 (d) Within five (5) days after selection, the hearing
8 officer shall set the date for hearing and notify the
9 teacher and superintendent of the hearing date, time and
10 location. In no event shall the hearing commence on a date
11 later than forty-five (45) days after notice under ~~W.S.~~
12 ~~21-7-106(a) or~~ subsection (b) of this section, ~~as~~
13 ~~applicable.~~ The hearing shall be conducted as a contested
14 case proceeding in accordance with the Wyoming
15 Administrative Procedure Act and the hearing officer may
16 accordingly receive or reject evidence and testimony,
17 administer oaths and if necessary, subpoena witnesses. All
18 school district records pertaining to the teacher shall be
19 made available to the hearing officer.

20

21 (e) At the hearing, the teacher has the right to
22 appear in person with or without counsel, to be heard, to
23 present testimony or witnesses and all evidence bearing
24 upon proposed ~~termination,~~ dismissal or suspension without

1 pay and to cross-examine witnesses. The superintendent
2 shall have the burden of proving ~~that the recommendation~~
3 ~~for termination is based upon reasons provided in the~~
4 ~~notice of termination submitted pursuant to W.S.~~
5 ~~21-7-106(a) or~~ that suspension without pay or dismissal is
6 based upon reasons specified in the notice given under
7 subsection (b) of this section. ~~, as applicable.~~

8

9 (f) The hearing officer shall review the evidence and
10 testimony, render written findings of fact and recommend if
11 the teacher should be ~~terminated,~~ suspended without pay or
12 dismissed. ~~, or that the teacher be retained.~~ The findings
13 and recommendations shall be forwarded to the teacher, the
14 superintendent and members of the board within twenty (20)
15 days following conclusion of the hearing.

16

17 (g) The board shall review the findings of fact and
18 recommendation submitted by the hearing officer and within
19 twenty (20) days after receipt, issue a written order to
20 ~~either terminate,~~ suspend without pay or dismiss the
21 teacher. ~~, or to retain the teacher.~~ If the board
22 ~~terminates,~~ suspends without pay or dismisses the teacher's
23 employment over a recommendation by the hearing officer,
24 ~~for retention,~~ the written order of the board shall include

1 a conclusion together with reasons supported by the record.
2 A copy of the order shall be provided to the teacher and a
3 copy shall be entered into the school district records
4 pertaining to the teacher. Any action by the board
5 pursuant to this subsection shall be approved by a majority
6 of the duly elected members of the board.

7
8 (h) With the exception of probationary teachers, any
9 teacher receiving notice of termination under W.S. 21-7-105
10 is entitled to a hearing before the board on the reasons
11 for termination upon submission of a written request to the
12 board. The request for hearing shall be given within seven
13 (7) days after receipt of notice under W.S. 21-7-105.

14
15 (j) Within five (5) days after receipt of the written
16 request for a hearing under subsection (h) of this section,
17 the board shall set the date for hearing and notify the
18 teacher and superintendent of the hearing date, time and
19 location. In no event shall the hearing commence on a date
20 later than forty-five (45) days after notice under W.S.
21 21-7-105.

22
23 (k) The hearing under subsection (h) of this section
24 shall be limited and shall not be a contested case

1 proceeding under the Wyoming Administrative Procedure Act.
2 The teacher shall be provided an opportunity to present
3 argument and may be represented by counsel. The teacher and
4 superintendent may submit written evidence in the form of
5 affidavits and supporting documents. Oral testimony shall
6 not be taken. The board shall determine if termination is
7 based upon reasons provided in the notice of termination
8 submitted pursuant to W.S. 21-7-105.

9
10 (m) Not more than twenty (20) days after the hearing
11 under subsection (h) of this section, the board shall issue
12 a written order to either terminate or to retain the
13 teacher. If the board elects to terminate the teacher, the
14 written order shall include a conclusion together with
15 reasons supporting the order. A copy of the order shall be
16 provided to the teacher and a copy shall be entered into
17 the school district records pertaining to the teacher. Any
18 action by the board pursuant to this subsection shall be
19 approved by a majority of the duly elected members of the
20 board.

21
22 ~~(h)~~(n) Appeals may be taken from the order of the
23 board under subsections (g) and (m) of this section to the
24 district court as provided by the Wyoming Administrative

1 Procedure Act. An electronic recording of hearing
2 proceedings may serve as the official transcript but upon
3 appeal, the district court may request a written transcript
4 of the proceedings or any portion of the proceedings. The
5 cost of transcribing the record shall be borne equally by
6 the teacher and the school district.

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8 (o) Nothing in this section prohibits the board from
9 providing a probationary teacher a hearing.

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11 (p) A teacher suspended with pay is not entitled to a
12 hearing.

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14 **21-7-112. Effect on existing contracts.**

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16 The contracts of all teachers in the state of Wyoming from
17 and after ~~the effective date of this act~~ July 1, 2011 shall
18 be subject to the policies, rules, and regulations of the
19 school district not in conflict with this law or the other
20 laws of the state of Wyoming.

21

22 **21-7-113. Application to teachers presently employed.**

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1 The provisions of this article shall apply to all teachers
2 who are teaching in Wyoming on ~~the effective date hereof;~~
3 ~~provided, however, the status of teachers covered under~~
4 ~~this act will be determined by their original date of~~
5 ~~employment as a teacher in the state of Wyoming~~ and after
6 July 1, 2011 and shall apply regardless of whether the
7 teacher was employed prior to July 1, 2011 as a teacher in
8 Wyoming.

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10 **21-7-114. Designation by schools of nonprobationary**
11 **teachers.**

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13 Any board may designate a probationary teacher as a
14 ~~continuing contract~~ nonprobationary teacher at any time
15 without regard to the other provisions of this article.

16
17 **Section 2.** W.S. 21-7-102(a)(ii) and (iv), 21-7-103
18 and 21-7-111(a)(iii) and (b) are repealed.

19
20 **Section 3.** It is the intent of the legislature that
21 the provision of a limited hearing to a teacher receiving
22 notice of termination does not create any property right.
23 The legislature finds, determines and declares that this

1 act is necessary for the immediate preservation of the
2 public peace, health and safety.

3

4 **Section 4.** This act is effective July 1, 2011.

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(END)