

SENATE FILE NO. SF0052

Teacher tenure.

Sponsored by: Senator(s) Coe, Anderson, Jennings and Von
Flatern and Representative(s) Buchanan,
Childers, Lubnau, McOmie, Quarberg and
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

1 a new subsection (o) and 21-7-112 through 21-7-114 are
2 amended to read:

3

4 **21-3-110. Duties of boards of trustees.**

5

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

8

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

14

15 **21-6-225. Contract rights and benefits of employees**
16 **and teachers.**

17

18 No contract right, fringe benefit, benefit granted under
19 school policies, ~~or continuing contract status of any~~
20 ~~employee,~~ or any rights under the Wyoming Teachers'
21 Employment Act shall be denied or reduced as a result of
22 school district reorganization, except as provided by W.S.
23 21-7-111(a)(iv). The new school district shall have the
24 right to establish a uniform salary and benefit schedule

1 for employees of the previous school districts and shall
2 have the right to establish the length of the contract
3 year.

4

5 **21-7-102. Definitions.**

6

7 (a) As used in the article ~~the following definitions~~
8 ~~shall apply.~~

9

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

17

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

22

23 (viii) "Termination" ~~means~~ the failure of the
24 board of trustees of a school district in Wyoming to

1 ~~reemploy a teacher at the end of a~~ offer a teacher employed
2 by the district a contract for the ensuing school year; ~~in~~
3 ~~any given year;~~

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

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

16
17 **21-7-104. Teacher salary increases; service credit.**

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

1 to time as provided for in the salary provisions adopted by
2 the board.

3
4 **21-7-105. Employment of teachers on annual basis;
5 termination of probationary teacher; notice.**

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

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

1 (a) A ~~continuing contract~~ nonprobationary teacher
2 shall be notified of a recommendation of termination by the
3 superintendent or any member of the board designated by the
4 superintendent or designated by the board pursuant to a
5 majority vote of the board by giving the teacher written
6 notice together with written reasons for termination on or
7 before April 15 of any year. Upon receipt of notice, the
8 teacher may request a hearing on the recommendation before
9 ~~an independent hearing officer~~ as provided under W.S.
10 21-7-110.

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

16
17 **21-7-109. When contract offered to and accepted by**
18 **teacher.**

19
20 Upon determination to offer a contract for the ensuing
21 year, the board ~~must~~ shall offer ~~a~~ the contract ~~for the~~
22 ~~ensuing year~~ to ~~each initial contract~~ the teacher ~~if such~~
23 ~~is to be offered~~ by April 15. ~~and it must~~ The contract

1 shall be accepted by the teacher by May 15 of each year
2 offered or the position ~~will~~ shall be declared open.

3

4 **21-7-110. Suspension, termination or dismissal of**
5 **teachers; notice; hearing; judicial review.**

6

7 (a) The board may suspend, ~~or~~ dismiss ~~any teacher~~ or
8 terminate any ~~continuing contract~~ teacher for incompetency,
9 neglect of duty, immorality, insubordination,
10 unsatisfactory performance or any other good or just cause.

11

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

1 five (5) days following receipt of the hearing request, the
2 superintendent and the teacher shall jointly select a
3 hearing officer. If they fail to agree upon selection, the
4 district judge of the judicial district in which the school
5 district is located shall upon request select a hearing
6 officer. Expenses of the hearing officer shall be paid
7 equally by the school district and the teacher.

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

22
23 (e) At the hearing, the teacher has the right to
24 appear in person with or without counsel, to be heard, to

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

10

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

18

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

1 employment over a recommendation by the hearing officer,
2 ~~for retention,~~ the written order of the board shall include
3 a conclusion together with reasons supported by the record.
4 A copy of the order shall be provided to the teacher and a
5 copy shall be entered into the school district records
6 pertaining to the teacher. Any action by the board
7 pursuant to this subsection shall be approved by a majority
8 of the duly elected members of the board.

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

16
17 (j) Within five (5) days after receipt of the written
18 request for a hearing under subsection (h) of this section,
19 the board shall set the date for hearing and notify the
20 teacher and superintendent of the hearing date, time and
21 location. In no event shall the hearing commence on a date
22 later than forty-five (45) days after notice under W.S.
23 21-7-105.

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

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

1 ~~(h)~~(n) Appeals may be taken from the order of the
2 board under subsections (g) and (m) of this section to the
3 district court as provided by the Wyoming Administrative
4 Procedure Act. An electronic recording of hearing
5 proceedings may serve as the official transcript but upon
6 appeal, the district court may request a written transcript
7 of the proceedings or any portion of the proceedings. The
8 cost of transcribing the record shall be borne equally by
9 the teacher and the school district.

10
11 (o) Nothing in this section prohibits the board from
12 providing a probationary teacher a hearing.

13
14 (p) A teacher suspended with pay is not entitled to a
15 hearing.

16
17 **21-7-112. Effect on existing contracts.**

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

1 **21-7-113. Application to teachers presently employed.**

2

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

11

12 **21-7-114. Designation by schools of nonprobationary**
13 **teachers.**

14

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

18

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

21

22 **Section 3.** It is the intent of the legislature that
23 the provision of a limited hearing to a teacher receiving
24 notice of termination does not create any property right.

1 The legislature finds, determines and declares that this
2 act is necessary for the immediate preservation of the
3 public peace, health and safety.

4

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

6

7 (END)