

SENATE BILL 1838

By Akbari

AN ACT to amend Tennessee Code Annotated, Title 49,
relative to licensed personnel.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-1-302(d), is amended by deleting the subsection and substituting instead:

(d)

(1) The state board shall, in consultation with the LEAs, establish general criteria for LEA teacher performance evaluation systems that provide LEAs flexibility in designing teacher evaluation systems to improve classroom instruction. Teacher effect data must not be a component of the state board's general criteria for an LEA teacher performance evaluation system or a component of any LEA teacher performance evaluation system.

(2) The state board shall, in consultation with the LEAs, establish general criteria for LEA performance evaluation systems that provide LEAs flexibility in evaluation systems for licensed personnel other than teachers to improve school performance. Student growth data must not be a component of the state board's general criteria for an LEA performance evaluation system for licensed personnel other than teachers or a component of an LEA performance evaluation system for licensed personnel other than teachers.

(3) If an LEA determines that it is necessary to assign an individual to teach in an area for which the individual is not endorsed, then any evaluation conducted for the class outside the area of endorsement must relate only to the improvement of teaching skills and strategies and not a determination of

competency. The state board shall include as a part of the board's general criteria for LEA teacher performance evaluation systems a specific reference to this use of the general criteria.

SECTION 2. Tennessee Code Annotated, Section 49-1-606(a), is amended by deleting the second sentence.

SECTION 3. Tennessee Code Annotated, Section 49-2-203(a), is amended by adding the following as new subdivisions:

() Establish LEA teacher performance evaluation systems as required under § 49-1-302 and submit the systems to the commissioner of education for approval. The approved LEA teacher performance evaluation systems serve as a basis for improvement of instruction, enhancement of curriculum program implementation, measurement of both individual teacher performance and professional growth and development, and measurement of the performance level of all teachers within the LEA. The performance evaluation systems must document unsatisfactory performance that may lead to dismissal or suspension under § 49-5-511.

() Establish LEA performance evaluation systems for licensed personnel other than teachers as required under § 49-1-302 and submit the systems to the commissioner of education for approval. An LEA performance evaluation system for licensed personnel other than teachers serves as a basis for improvement of instruction, enhancement of curriculum program implementation, measurement of both the performance and professional growth and development of the licensed personnel evaluated, and measurement of system or school improvement, as appropriate.

() Require the performance of each continuing contract teacher to be evaluated against the LEA's standards for performance in the LEA's approved teacher performance evaluation system one (1) time each year until the LEA determines the teacher has met the applicable performance standards for two (2) consecutive years. When a teacher has met the applicable performance standards for two (2) consecutive

years, evaluations must occur at a minimum of once every three (3) years. The LEA shall give the teacher a written copy of the evaluation of the teacher's performance.

() Require the performance of each initial contract teacher to be evaluated once a year against the LEA's standards for performance in the LEA's approved teacher performance evaluation system. The LEA shall provide an opportunity for feedback to improve performance. The LEA shall give the teacher a written copy of the evaluation of the teacher's performance.

SECTION 4. Tennessee Code Annotated, Section 49-2-303(a)(1), is amended by deleting the third sentence and substituting instead:

The contract must specify duties other than those prescribed by statute and must contain performance standards, including the requirement that the principal's annual evaluation be in accordance with the general criteria adopted by the state board under § 49-1-302.

SECTION 5. Tennessee Code Annotated, Section 49-5-103, is amended by deleting the section and substituting instead:

Beginning with the 2020-2021 school year, the state board of education shall award a teacher five (5) additional professional development points if the teacher's overall performance evaluation demonstrates that the teacher's performance exceeds performance standards. This section only applies to teachers employed at a school that is on the priority list or the focus list pursuant to § 49-1-602.

SECTION 6. Tennessee Code Annotated, Section 49-5-108(c)(5), is amended by deleting the subdivision.

SECTION 7. Tennessee Code Annotated, Section 49-5-108(c)(6)(C), is amended by deleting the subdivision and substituting instead:

(C) The LEA judged the supervisor's, principal's, or teacher's performance as outstanding according to the LEA's standard for performance in the applicable LEA's approved performance system for licensed personnel other than teachers in each of the first two (2) years immediately following the issuance of the individual's initial license as a supervisor, principal, or teacher.

SECTION 8. Tennessee Code Annotated, Section 49-5-409(a), is amended by designating the existing language as subdivision (a)(1) and adding the following language as subdivision (a)(2):

(2) An LEA shall employ a continuing contact teacher on a continuing basis from year-to-year without annual contract renewal. The local board of education shall grant salary increases to continuing contract teachers as determined by the local board pursuant to § 49-3-306.

SECTION 9. Tennessee Code Annotated, Section 49-5-501(6), is amended by deleting the subdivision and substituting instead:

(6) "Inefficiency" means being below the standards of efficiency maintained by others currently employed by the board for similar work, or habitually tardy, inaccurate, or wanting in effective performance of duties. The definition of inefficiency includes, but is not limited to, having performance evaluations demonstrating an overall performance that is below standards as provided in the LEA's approved performance evaluation system adopted according to the general criteria of the state board of education under § 49-1-302;

SECTION 10. Tennessee Code Annotated, Section 49-5-501(11), is amended by deleting the subdivision and substituting instead:

() "Tenure" or "continuing contract status" is the employment status of a continuing contract teacher;

SECTION 11. Tennessee Code Annotated, Section 49-5-501, is amended by adding the following language as new subdivisions:

() "Continuing contract teacher" means:

(A) Any initial contract teacher:

(i) Who has been employed by the same LEA for a period of three

(3) consecutive school years; and

(ii) Whose contract has been renewed by the LEA for a fourth consecutive year; or

(B) A teacher:

(i) Who has achieved continuing contract status in an LEA; and

(ii) Who, without lapse of time, has taught two (2) consecutive school years in another LEA and whose contract has been renewed for a third consecutive school year by that LEA.

() "Initial contract teacher" means any teacher who has not achieved continuing contract status in the LEA that employs the teacher. An initial contract teacher is on probation;

SECTION 12. Tennessee Code Annotated, Section 49-5-502(a), is amended by deleting the subsection and substituting instead:

(a) Any public school teacher employed by an LEA on July 1, 2020, who:

(1) Is tenured in the LEA, receives continuing contract status under this act on July 1, 2020;

(2) Is seeking to attain tenure in the LEA under the state tenure system in existence between June 30, 2011, and July 1, 2020, receives continuing contract status under this act on July 1, 2020, if the teacher meets the requirements of §

49-5-503(a) on July 1, 2020, or met the requirements of § 49-5-503(a) at any time before July 1, 2020; and

(3) Is seeking to attain tenure under the state tenure system in existence between June 30, 2011, and July 1, 2020, but who does not qualify for continuing contract status under subdivision (a)(2), is granted continuing contract status at the time the teacher meets the requirements of § 49-5-503(a).

SECTION 13. Tennessee Code Annotated, Section 49-5-503, is amended by deleting the section and substituting instead:

(a) A teacher who meets all of the following requirements receives continuing contract status:

(1) Has a degree from an approved four-year college or if a career and technical teacher has the equivalent amount of training established by the state board of education;

(2) Holds a valid teacher license issued by the state board of education, based on the teacher's training in the subjects or grades taught;

(3) Has taught in an LEA for three (3) consecutive years; and

(4) Is reemployed by the LEA for a fourth consecutive year.

(b) A teacher, including a teacher who is employed as an administrator or supervisor, who has acquired continuing contract status is not entitled to any specific position. A member of the administrative and supervisory staff who meets the criteria of subsection (a) has continuing contract status as a teacher, but not necessarily continuing contract status in the specific type of position in which the staff member is employed.

SECTION 14. Tennessee Code Annotated, Section 49-5-504, is amended by deleting the section and substituting instead:

(a) The director of schools shall recommend a teacher who is eligible for continuing contract status at the completion of three (3) consecutive years of probation for continuing contract status or for nonrenewal. If the local board of education does not grant continuing contract status by reemployment of the teacher for a fourth year, then the teacher shall not continue in employment with the LEA.

(b) A teacher who has attained continuing contract status in an LEA and later resigns from the LEA must serve a one-year probationary period upon reemployment by the LEA, unless the local board of education upon request of the director of schools waives the probationary period. Upon completion of the one-year probationary period, the teacher is eligible for continuing contract status. The director of schools shall recommend the teacher for continuing contract status or for nonrenewal. If the local board of education does not grant continuing contract status by reemployment of the teacher, then the teacher shall not continue in employment with the LEA.

SECTION 15. Tennessee Code Annotated, Section 49-5-508(b), is amended by deleting the first sentence of the subsection and substituting instead:

A teacher who breaks a contract with a board of education without a justifiable reason as listed in subsection (c) shall not be given continuing contract status in any other LEA, until the teacher has met all of the requirements in the other LEA for attaining continuing contract status; provided, that the local board of education with which the teacher broke a contract informs the commissioner of education of the breach of contract and requests the commissioner to notify all local boards of education.

SECTION 16. Tennessee Code Annotated, Section 49-5-509, is amended by deleting subsections (b), (c), and (d).

SECTION 17. Tennessee Code Annotated, Section 49-5-511, is amended by deleting subsection (b) and substituting instead:

(b)

(1) When it becomes necessary to reduce the number of teaching positions or nonlicensed positions in the system because of a decrease in enrollment or for other good reasons, the board is empowered to dismiss teachers or nonlicensed employees as may be necessary.

(2) The board shall give the teacher or nonlicensed employee written notice of dismissal explaining fully the circumstances or conditions making the dismissal necessary.

(3) A continuing contract teacher who has been dismissed because of abolition of a position must be placed on a preferred list for reemployment in the first vacancy the teacher is qualified by training and experience to fill. This subsection (b) shall not be construed to deprive the director of schools of the power to determine the fitness of the teacher for reemployment in the vacancy on the basis of the director's evaluation of the teacher's competence, compatibility, and suitability to properly discharge the duties required for the vacant position considered in the light of the best interest of the students in the school where the vacancy exists. A principal may refuse to accept the placement or transfer of a teacher by the director of schools to the principal's school. The teacher's most recent evaluations must be a factor in the determination.

(4) The right to remain on the preferred list for employment remains in effect until:

(A) The teacher accepts a bona fide offer of reemployment for a comparable position within the LEA; or

(B) The teacher rejects four (4) bona fide offers of reemployment for comparable positions within the LEA.

SECTION 18. Tennessee Code Annotated, Section 49-5-607(b), is amended by deleting the language "tenure status" and substituting instead the language "continuing contract status"; by deleting the language "attained tenure" and substituting instead the language "attained continuing contract status"; by deleting the language "five-year period" and substituting instead the language "three-year period"; and by deleting the language "tenured teacher" and substituting instead the language "continuing contract teacher".

SECTION 19. Tennessee Code Annotated, Section 49-6-105(e), is amended by deleting the subsection and substituting instead:

(e) An LEA that receives pre-kindergarten program approval under §§ 49-6-103–49-6-110 shall use the pre-k/kindergarten evaluation system adopted by the LEA pursuant to § 49-2-203 in accordance with § 49-1-302.

SECTION 20. Tennessee Code Annotated, Section 49-6-105, is amended by deleting subsections (f) and (g).

SECTION 21. This act shall take effect July 1, 2020, the public welfare requiring it.