

EHB 2756

THE STATE SENATE
Thursday, April 6, 2006

ENGROSSED
House Bill No. 2756
As Amended

ENGROSSED HOUSE BILL NO. 2756 - By: BLACKWELL and DANK of the House and LAUGHLIN of the Senate.

[schools - Teacher Due Process Act of 1990 - abandonment of contract - effective date - emergency]

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 70 O.S. 2001, Section 6-101.22, is amended to read as follows:

Section 6-101.22 A. Subject to the provisions of the Teacher Due Process Act of 1990, a career teacher may be dismissed or not reemployed for:

- 1. Willful neglect of duty;
- 2. Repeated negligence in performance of duty;
- 3. Mental or physical abuse to a child;
- 4. Incompetency;
- 5. Instructional ineffectiveness;
- 6. Unsatisfactory teaching performance; ~~or~~
- 7. ~~Any reason involving~~ Commission of an act of moral
turpitude; or
- 8. Abandonment of contract.

1 B. Subject to the provisions of the Teacher Due Process Act of
2 1990, a probationary teacher may be dismissed or not reemployed for
3 cause.

4 C. A teacher shall be dismissed or not reemployed, unless a
5 presidential or gubernatorial pardon has been issued, if during the
6 term of employment ~~such~~ the teacher is convicted in this state, the
7 United States or another state of:

8 1. Any sex offense subject to the Sex Offenders Registration
9 Act in this state or subject to another state's or the federal sex
10 offender registration provisions; or

11 2. Any felony offense.

12 D. A teacher may be dismissed, refused employment or not
13 reemployed after a finding that such person has engaged in criminal
14 sexual activity or sexual misconduct that has impeded the
15 effectiveness of the individual's performance of school duties. As
16 used in this subsection:

17 1. "Criminal sexual activity" means the commission of an act as
18 defined in Section 886 of Title 21 of the Oklahoma Statutes, which
19 is the act of sodomy; and

20 2. "Sexual misconduct" means the soliciting or imposing of
21 criminal sexual activity.

22 E. As used in this section, "abandonment of contract" means the
23 failure of a teacher to report at the beginning of the contract term

1 or otherwise perform the duties of a contract of employment when the
2 teacher has accepted other employment or is performing work for
3 another employer that prevents the teacher from fulfilling the
4 obligations of the contract of employment.

5 SECTION 2. AMENDATORY 70 O.S. 2001, Section 6-101.26, as
6 amended by Section 9, Chapter 434, O.S.L. 2003 (70 O.S. Supp. 2003,
7 Section 6-101.26), is amended to read as follows:

8 Section 6-101.26 A. Whenever a board of education receives a
9 ~~superintendent's~~ recommendation from the superintendent for the
10 dismissal or nonreemployment of a teacher, the board or individual
11 designated by the board shall mail a copy of the recommendation to
12 the teacher by certified mail, restricted delivery, return receipt
13 requested, by personal delivery to the teacher with a signed
14 acknowledgement of receipt, or by ~~substitute process as provided by~~
15 ~~law~~ delivery by a process server. By the same means, the board
16 shall notify the teacher of ~~such teacher's~~ the right to a hearing
17 before the board and the date, time and place set by the board for
18 the hearing, which shall be held within the school district not
19 sooner than twenty (20) days or later than sixty (60) days after ~~the~~
20 ~~teacher's~~ receipt of notice by the teacher, the date on the personal
21 receipt by hand-delivery to the teacher, or the date of delivery by
22 a process server. The notice shall specify the statutory grounds
23 upon which the recommendation is based upon for a career teacher or

1 shall specify the cause upon which the recommendation is based upon
2 for a probationary teacher. The notice shall also specify the
3 underlying facts supporting the recommendation. At the hearing, the
4 teacher shall be entitled to all rights guaranteed under the
5 circumstances by the United States Constitution and the Constitution
6 of Oklahoma.

7 B. The career teacher pretermination hearing shall be conducted
8 by the ~~local~~ district board as follows:

9 1. The superintendent or designee shall, in person or in
10 writing, specify the statutory ground upon which the recommendation
11 is based. The superintendent or designee shall also specify the
12 underlying facts and provide an explanation of the evidence
13 supporting the recommendation for the dismissal or nonreemployment
14 of the career teacher; and

15 2. The career teacher or designee shall have the opportunity to
16 present reasons, either in person or in writing, why the proposed
17 action should not be taken.

18 C. Only after the career teacher has a meaningful opportunity
19 to respond to the recommendation for dismissal or nonreemployment at
20 the pretermination hearing shall the ~~local~~ board decide whether to
21 accept or reject the recommendation of the superintendent. The vote
22 made by the board shall be made in an open meeting. The board shall
23 also notify the career teacher of its decision, including the basis

1 for the decision, by certified mail, restricted delivery, return
2 receipt requested or substitute process as provided by law. If the
3 decision is to accept the recommendation of the superintendent, the
4 board shall include notification of the right of the career teacher
5 to petition for a trial de novo in the district court within ten
6 (10) days of receipt of notice of the decision. At the
7 pretermination hearing the burden of proof shall be upon the
8 superintendent or designee and the standard of proof shall be by the
9 preponderance of the evidence. The career teacher shall receive any
10 compensation or benefits to which such teacher is otherwise entitled
11 until such time as the teacher's case is adjudicated at a trial de
12 novo if the career teacher petitions for the trial de novo. Such
13 compensation and benefits shall not be provided during any further
14 appeal process.

15 D. The probationary teacher hearing shall be conducted by the
16 ~~local~~ district board according to procedures established by the
17 State Board of Education.

18 E. Only after due consideration of the evidence and testimony
19 presented at the hearing shall the ~~local~~ district board decide
20 whether to dismiss or nonreemploy the probationary teacher. The
21 vote of the board shall be made in an open meeting. The board shall
22 also notify the probationary teacher of the decision, including the
23 basis for the decision, by certified mail, restricted delivery,

1 return receipt requested, or substitute process as provided by law.
2 The decision of the board regarding a probationary teacher shall be
3 final and nonappealable. At the hearing the burden of proof shall
4 be upon the superintendent or designee, and the standard of proof
5 shall be by the preponderance of the evidence. The probationary
6 teacher shall receive any compensation or benefits to which the
7 teacher is otherwise entitled until such time as the decision of the
8 board becomes final. If the hearing for a probationary teacher is
9 for nonreemployment, such compensation and benefits may be continued
10 only until the end of the current contract of the teacher.

11 SECTION 3. This act shall become effective July 1, 2006.

12 SECTION 4. It being immediately necessary for the preservation
13 of the public peace, health and safety, an emergency is hereby
14 declared to exist, by reason whereof this act shall take effect and
15 be in full force from and after its passage and approval.

16 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION, dated 4-3-06 - DO PASS,
17 As Amended.