

Act No. 100  
Public Acts of 2011  
Approved by the Governor  
July 19, 2011  
Filed with the Secretary of State  
July 19, 2011  
EFFECTIVE DATE: July 19, 2011

**STATE OF MICHIGAN  
96TH LEGISLATURE  
REGULAR SESSION OF 2011**

Introduced by Rep. Scott

## **ENROLLED HOUSE BILL No. 4626**

AN ACT 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 section 4 of article I, sections 1 and 3 of article IV, and section 2 of article V (MCL 38.74, 38.101, 38.103, and 38.112), section 4 of article I and section 3 of article IV as amended by 2005 PA 124 and section 1 of article IV as amended by 2005 PA 136.

*The People of the State of Michigan enact:*

### **ARTICLE I**

Sec. 4. The word "demote" means to suspend without pay for 15 or more consecutive days or reduce compensation for a particular school year by more than an amount equivalent to 30 days' compensation or to transfer to a position carrying a lower salary. However, demote does not include discontinuance of salary pursuant to section 3 of article IV, the discontinuance or reduction of performance-based compensation paid pursuant to section 1250 of the revised school code, 1976 PA 451, MCL 380.1250, or a reduction in personnel, including, but not limited to, a reduction in workweeks or workdays.

## ARTICLE IV

Sec. 1. (1) Except as otherwise provided in section 1a of this article, discharge or demotion of a teacher on continuing tenure may be made only for a reason that is not arbitrary or capricious and only as provided in this act.

(2) This act does not prevent any controlling board from establishing a reasonable policy for retirement to apply equally to all teachers who are eligible for retirement under the public school employees retirement act of 1979, 1980 PA 300, MCL 38.1301 to 38.1437, or, having established a reasonable retirement age policy, from temporarily continuing on a year-to-year basis on criteria equally applied to all teachers the contract of any teacher whom the controlling board might wish to retain beyond the established retirement age for the benefit of the school system.

Sec. 3. (1) On the filing of charges in accordance with this article, the controlling board may suspend the accused teacher from active performance of duty until 1 of the following occurs:

(a) The teacher fails to contest the decision to proceed upon the charges within the time period specified in section 4(1) of this article.

(b) A preliminary decision and order discharging or demoting the teacher is issued by the administrative law judge under section 4(5)(i) of this article.

(c) If the preliminary decision and order is to reinstate the teacher, a final decision and order is rendered by the tenure commission under section 4(5)(m) of this article.

(2) Except as otherwise provided in subsections (3) and (4), if a teacher is suspended under subsection (1), the teacher's salary shall continue during the suspension.

(3) If criminal charges have been filed against a teacher, a controlling board may place the teacher's salary in an escrow account during a suspension under subsection (1). Before placing the teacher's salary in an escrow account as described in this subsection, the controlling board shall provide to the teacher notice of the charges, an explanation of the employer's evidence, and an opportunity for the teacher to respond, either in writing or in person. Health or life insurance benefits, or both, may be continued during the suspension at the option of the controlling board. If the administrative law judge issues a preliminary decision and order under section 4(5)(i) of this article to reinstate the teacher or for payment for salary lost by the teacher during the suspension, the controlling board shall release the money in the escrow account to the teacher to the extent necessary to effectuate the order. If the teacher fails to timely contest the decision to proceed upon the charges or if the administrative law judge issues a preliminary decision and order under section 4(5)(i) of this article discharging or demoting the teacher, the controlling board is entitled to the money in the escrow account.

(4) If a teacher who is suspended under subsection (1) is convicted of a felony that is not a listed offense or of a misdemeanor that is a listed offense, the controlling board may discontinue the teacher's salary effective upon the date of the conviction. If the teacher is convicted of a felony that is a listed offense, the controlling board shall discontinue the teacher's salary effective upon the date of conviction. As used in this subsection, "listed offense" means that term as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

(5) If a preliminary decision and order discharging a teacher is issued by the administrative law judge and the tenure commission subsequently reverses the preliminary decision and order of the administrative law judge, the tenure commission may order back pay.

## ARTICLE V

Sec. 2. (1) Any controlling board upon written request of a teacher may grant leave of absence for a period not to exceed 1 year, subject to renewal at the will of the board. Additionally, a controlling board may grant a leave of absence because of physical or mental disability without receiving a written request from a teacher for a period not to exceed 1 year, subject to renewal at the will of the controlling board. A teacher who is placed on an unrequested leave of absence has the right to a hearing on the unrequested leave of absence in accordance with the provisions for a hearing in section 4 of article IV. A leave of absence does not serve to terminate continuing tenure previously acquired under this act.

(2) As a condition to reinstating the teacher at the expiration of the leave of absence, a controlling board may require a teacher who is on an unrequested leave of absence due to physical or mental disability to furnish verification acceptable to the controlling board of the teacher's ability to perform his or her essential job functions.

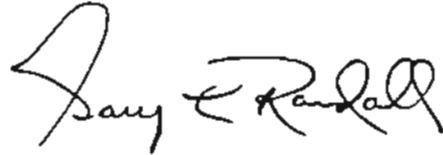
Enacting section 1. This amendatory act does not take effect unless all of the following bills of the 96th Legislature are enacted into law:

(a) House Bill No. 4625.

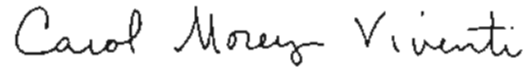
(b) House Bill No. 4627.

(c) House Bill No. 4628.

This act is ordered to take immediate effect.



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Clerk of the House of Representatives



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Secretary of the Senate

Approved.....

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Governor