

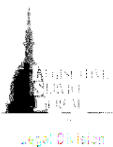
HOUSE BILL NO. 4906

September 03, 2019, Introduced by Reps. Gay-Dagnogo, Elder, Camilleri, Clemente, Sneller, Cherry, Sabo, Lasinski, Pohutsky, Kennedy, Brenda Carter, Garza, Sowerby, LaGrand, Hood, Rabhi, Stone, Tate, Shannon, Hope, Witwer, Brixie, Koleszar, Wittenberg, Chirkun, Ellison, Warren, Anthony, Manoogian, Whitsett, Kuppa, Bolden, Guerra, Pagan, Haadsma, Hammoud, Hoadley, Yancey, Cynthia Johnson, Greig, Hertel and Garrett and referred to the Committee on Education.

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 1248 (MCL 380.1248), as added by 2011 PA 102.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1248. (1) For teachers, as defined in section 1 of
2 article I of 1937 (Ex Sess) PA 4, MCL 38.71, ~~all~~**both** of the
3 following apply to policies regarding personnel decisions when
4 conducting a staffing or program reduction or any other personnel



1 determination resulting in the elimination of a position, when
 2 conducting a recall from a staffing or program reduction or any
 3 other personnel determination resulting in the elimination of a
 4 position, or in hiring after a staffing or program reduction or any
 5 other personnel determination resulting in the elimination of a
 6 position by a school district or intermediate school district:

7 ~~(a) Subject to subdivision (c), the board of a school district~~
 8 ~~or intermediate school district shall not adopt, implement,~~
 9 ~~maintain, or comply with a policy that provides that length of~~
 10 ~~service or tenure status is the primary or determining factor in~~
 11 ~~personnel decisions when conducting a staffing or program reduction~~
 12 ~~or any other personnel determination resulting in the elimination~~
 13 ~~of a position, when conducting a recall from a staffing or program~~
 14 ~~reduction or any other personnel determination resulting in the~~
 15 ~~elimination of a position, or in hiring after a staffing or program~~
 16 ~~reduction or any other personnel determination resulting in the~~
 17 ~~elimination of a position.~~

18 ~~(a)~~ ~~(b)~~ Subject to subdivision ~~(c)~~, ~~(b)~~, the board of a school
 19 district or intermediate school district shall ensure that the
 20 school district or intermediate school district adopts, implements,
 21 maintains, and complies with a policy that provides that all
 22 personnel decisions when conducting a staffing or program reduction
 23 or any other personnel determination resulting in the elimination
 24 of a position, when conducting a recall from a staffing or program
 25 reduction or any other personnel determination resulting in the
 26 elimination of a position, or in hiring after a staffing or program
 27 reduction or any other personnel determination resulting in the
 28 elimination of a position, are based on retaining effective
 29 teachers. The policy ~~shall~~ **must** ensure that a teacher who has been



1 rated as ~~ineffective~~ **needing support** under the performance
 2 evaluation system under section 1249 is not given any preference
 3 that would result in that teacher being retained over a teacher who
 4 is evaluated as ~~minimally effective, effective, or highly~~
 5 ~~effective~~ under the performance evaluation system under section
 6 1249. Effectiveness ~~shall~~ **must** be measured by the performance
 7 evaluation system under section 1249, and the personnel decisions
 8 ~~shall~~ **must** be made based on the following factors:

9 (i) Individual performance ~~shall~~ **must** be the majority factor in
 10 making the decision, and ~~shall~~ **must** consist of but is not limited
 11 to all of the following:

12 (A) Evidence of student growth, which ~~shall~~ **must** be the
 13 predominant factor in assessing an employee's individual
 14 performance.

15 (B) The teacher's demonstrated pedagogical skills, including
 16 at least a special determination concerning the teacher's knowledge
 17 of his or her subject area and the ability to impart that knowledge
 18 through planning, delivering rigorous content, checking for and
 19 building higher-level understanding, differentiating, and managing
 20 a classroom; and consistent preparation to maximize instructional
 21 time.

22 (C) The teacher's management of the classroom, manner and
 23 efficacy of disciplining pupils, rapport with parents and other
 24 teachers, ~~and~~ ability to withstand the strain of teaching, **and**
 25 **disciplinary record, if any.**

26 (D) The teacher's ~~attendance and disciplinary record, if~~
 27 ~~any~~ **length of service.**

28 (ii) Significant, relevant accomplishments and contributions.
 29 This factor ~~shall~~ **must** be based on whether the individual



1 contributes to the overall performance of the school by making
 2 clear, significant, relevant contributions above the normal
 3 expectations for an individual in his or her peer group and having
 4 demonstrated a record of exceptional performance.

5 (iii) Relevant special training. This factor ~~shall~~**must** be based
 6 on completion of relevant training other than the professional
 7 development or continuing education that is required by the
 8 employer or by state law, and integration of that training into
 9 instruction in a meaningful way.

10 (b) ~~(c) Except as otherwise provided in this subdivision,~~
 11 ~~length of service or tenure status shall not be a factor in a~~
 12 ~~personnel decision described in subdivision (a) or (b). However, if~~
 13 ~~that~~**If a** personnel decision involves 2 or more employees and all
 14 other factors distinguishing those employees from each other are
 15 equal, then length of service ~~or tenure status may be~~**must be**
 16 considered as a tiebreaker.

17 ~~(2) If a collective bargaining agreement is in effect for~~
 18 ~~employees of a school district or intermediate school district as~~
 19 ~~of the effective date of this section and if that collective~~
 20 ~~bargaining agreement prevents compliance with subsection (1), then~~
 21 ~~subsection (1) does not apply to that school district or~~
 22 ~~intermediate school district until after the expiration of that~~
 23 ~~collective bargaining agreement.~~

24 (2) ~~(3)~~**If a** teacher brings an action against a school
 25 district or intermediate school district based on this section, the
 26 teacher's sole and exclusive remedy ~~shall be~~**is** an order of **back**
 27 **pay and** reinstatement commencing 30 days after a decision by a
 28 court of competent jurisdiction. ~~The remedy in an action brought by~~
 29 ~~a teacher based on this section shall not include lost wages, lost~~



1 ~~benefits, or any other economic damages.~~

2 Enacting section 1. This amendatory act does not take effect
3 unless Senate Bill No.____ or House Bill No. 4904 (Prequest no.
4 03686'19) of the 100th Legislature is enacted into law.

