

1

S.162

2

Introduced by Senator Perchlik

3

Referred to Committee on

4

Date:

5

Subject: Education; teachers; collective bargaining rights

6

Statement of purpose of bill as introduced: This bill proposes to prevent

7

interference with a teacher's right to seek employment while under contract,

8

make the suspension and termination provisions that apply to teachers under

9

State law subject to the teacher's collective bargaining agreement, and protect

10

a teacher from discipline by the teacher's employer for testifying before the

11

General Assembly or a committee of the General Assembly or before the State

12

Board of Education.

13

An act relating to the collective bargaining rights of teachers

14

It is hereby enacted by the General Assembly of the State of Vermont:

15

Sec. 1. 16 V.S.A. § 1752 is amended to read:

16

§ 1752. GROUNDS AND PROCEDURES FOR SUSPENSION AND

17

DISMISSAL

18

(a) A teacher under contract to teach in a public school who fails, without

19

just cause, to complete the term for which the teacher contracted to teach, shall

1 be disqualified to teach in any public school for the remainder of the school
2 year.

3 (b)The provisions of subsections (c) – (e) shall not apply to a teacher who is
4 employed under the terms of a collective bargaining agreement under 6 chapter 57
5 of this title that provides the teacher just cause rights or the teacher is a
6 probationary teacher as defined under the terms of the collective bargaining
7 agreement. The decision to nonrenew, suspend, or dismiss a teacher shall be made
8 by the school board.

9 (c) Unless otherwise negotiated in a collective bargaining agreement under
10 chapter 57 of this title that provides the teacher just cause rights, a teacher
11 under contract to teach in a public school whose contract is not to be renewed
12 for the ensuing year shall be notified in writing, setting forth the grounds
13 therefor, ~~no~~ not later than April 15. If the teacher so notified desires a hearing,
14 the teacher shall so request in writing to the clerk of the school board. The
15 teacher shall have the right to a hearing before the school directors within
16 15 days, may present witnesses and written evidence, and may be represented
17 by counsel. A hearing shall be in executive session unless the teacher making
18 the appeal requests or agrees in writing that it be open to the public. The
19 school board shall affirm, modify, or reverse the nonrenewal and shall issue its
20 decision in writing within five days. In the case of a probationary teacher who
21 has received two written performance evaluations per year of probationary

1 service, a decision of the board shall be final. The standard for nonrenewal of
2 a contract shall be:

3 (1) In the case of a nonprobationary teacher, just and sufficient cause.

4 (2) In the case of a probationary teacher, any reason other than those
5 prohibited by law. However, the standard for nonrenewal for a probationary
6 teacher's contract shall be just and sufficient cause if the teacher has not
7 received at least two written performance evaluations per year of probationary
8 service. A probationary teacher is a person who has been employed as a
9 teacher in Vermont public schools for less than two school years.

10 (d) Unless otherwise negotiated in a collective bargaining agreement
11 under chapter 57 of this title that provides the teacher just cause rights, the
12 following provisions shall apply:

13 (1) A superintendent may suspend a teacher under contract on the
14 grounds of incompetence, conduct unbecoming a teacher, failure to attend to
15 duties, or failure to carry out reasonable orders and directions of the
16 superintendent and school board.

17 ~~(2)~~ The suspension shall be in writing and shall set forth the grounds
18 therefor. Copies shall be delivered to the teacher, ~~and~~ to the chair, and to the
19 clerk of the board of school directors. Thereafter, performance under the
20 teacher's contract shall be suspended, but ~~he or she~~ the teacher shall be paid
21 pro rata to the time of ~~his or her~~ dismissal by the board.

1 ~~⊖~~(3) The teacher so suspended shall have the right to appeal to the board
2 of school directors of the district for review of the decision. Filing a written
3 notice of appeal with the clerk of the school board within seven days ~~of~~ after
4 the effective date of the suspension shall initiate the appeal. The clerk of the
5 board shall forthwith forward a copy of the notice of appeal to the
6 superintendent and send to the teacher an acknowledgment of receipt of the
7 appeal.

8 ~~⊖~~(4) The school board to which the appeal is directed shall hear the appeal
9 within 10 days ~~of~~ after receipt of notification. The teacher and the
10 superintendent shall be advised by the clerk of the board of the time and place
11 of hearing by written notice at least three days before the date of hearing.

12 ~~⊖~~(5) All parties shall be entitled to counsel at every stage of the
13 proceedings established by this section. Hearings shall be in executive session,
14 unless the teacher making an appeal requests or agrees in writing that they be
15 open to the public. A teacher making an appeal may waive in writing ~~his or~~
16 ~~her~~ the right to a hearing.

17 ~~⊖~~(6) Upon hearing, or if no appeal is taken, the school board shall affirm
18 or reverse the suspension or take such other action, including dismissal, as may
19 appear just. If the suspension~~;~~ or the dismissal~~;~~ is reversed, the teacher shall
20 not suffer any loss of pay, retirement benefits, or any other benefits to which
21 ~~he or she~~ the teacher would otherwise have been entitled.

1 ~~⊖~~(7) The decision of the school board shall be in writing and filed with the
2 clerk of the school board not later than five days after the hearing or after the
3 time for taking an appeal has expired. The clerk shall within three days notify
4 the superintendent and the teacher in writing of the decision.

5 ~~⊖~~(d) No court action shall lie on the part of a teacher against any school
6 district for breach of contract by reason of suspension or dismissal unless the
7 procedures herein described have been followed by ~~said~~ the teacher.

8 ~~⊖~~(e) Every teacher's contract shall be deemed to contain the provisions
9 of this section, and any provision in the contract inconsistent with this section
10 shall be considered of no force or effect.

11 Sec. 2. 16 VSA § ????? is added to read:

12 (a) No school employeeshall be subject to discipline by the employee's
13 employer for testifying before the General Assembly or a committee of the
14 General Assembly or before the State Board of Education; provided, however,
15 that an employee may not divulge confidential information, and an employee
16 shall make clear that they are not speaking on behalf of their employing school
17 district unless the employee is speaking for the school district.

18 Sec. 3. 16 V.S.A. § 1698 is amended to read:

19 § 1698. CAUSES FOR LICENSING ACTION

1 Any one of the following, or any combination of the following, constitutes
2 potential cause for licensing action whether occurring within or outside the
3 State:

4 (1) Unprofessional conduct, which means:

5 * * *

6 (F) falsification, misrepresentation, or misstatement of material
7 information provided in connection with the application for or renewal or
8 reinstatement of a license or endorsement; ~~and~~

9 (G) with respect to a superintendent, the failure to maintain the
10 confidentiality and privileged status of information provided pursuant to
11 subsection 1700(c) and subdivision 1708(f)(3) of this title; and

12 (H) with respect to a superintendent, prohibiting or directing
13 someone else to prohibit a teacher from exercising the teacher's right to
14 interview for, be offered, and accept a new teaching position under subsection
15 1752(a) of this title.

16 * * *

17 Sec. 4. EFFECTIVE DATE

18 This act shall take effect on passage.