

Adopted	Rejected
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COMMITTEE REPORT

YES:	8
NO:	5

MR. SPEAKER:

*Your Committee on Labor and Employment, to which was referred House Bill 1278, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 20-6.1-4-11 IS AMENDED TO READ AS
- 4 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 11. (a) An indefinite
- 5 contract with a permanent or semi-permanent teacher may be canceled
- 6 only in the following manner:
- 7 (1) the teacher shall be notified in writing of the date, time, and
- 8 place for the consideration by the school corporation of the
- 9 cancellation of the contract; this notification must occur not
- 10 more than forty (40) days nor less than thirty (30) days before the
- 11 consideration;
- 12 (2) the teacher shall be furnished, within five (5) days after a
- 13 written request, a written statement of the reasons for the

- 1 consideration;
- 2 (3) the teacher may file a written request for a hearing within
- 3 fifteen (15) days after receipt of the notice of this consideration;
- 4 (4) when the request for a hearing is filed, the teacher shall be
- 5 given a hearing before the governing body on a day no earlier
- 6 than five (5) days after filing;
- 7 (5) the teacher shall be given not less than five (5) days' notice
- 8 of the time and place of the hearing;
- 9 (6) at the hearing, the teacher is entitled:
- 10 (A) to a full statement of the reasons for the proposed
- 11 cancellation of the contract; and
- 12 (B) to be heard, to present the testimony of witnesses and
- 13 other evidence bearing on the reasons for the proposed
- 14 cancellation of the contract;
- 15 (7) a contract may not be canceled until:
- 16 (A) the date set for consideration of the cancellation of the
- 17 contract;
- 18 (B) after a hearing is held, if a hearing is requested by the
- 19 teacher; and
- 20 (C) the superintendent has given his recommendations on
- 21 the contract; on five (5) days written notice to him by the
- 22 school corporation, the superintendent shall present his
- 23 recommendation on each contract, except on a
- 24 superintendent's contract;
- 25 (8) pending a decision on the cancellation of a teacher's contract,
- 26 the teacher may be suspended from duty; and
- 27 (9) after complying with section 10 of this chapter in the case of
- 28 permanent teachers, or section 10.5 of this chapter in the case of
- 29 semi-permanent teachers, and this section, the governing body
- 30 of the school corporation may cancel an indefinite contract with
- 31 a teacher by a majority vote evidenced by a signed statement in
- 32 the minutes of the board; the decision of the governing board is
- 33 final.
- 34 The vote to cancel a contract described in subdivision (9) must be
- 35 taken by the governing body on the date and at the time and place
- 36 specified in subdivision (1).
- 37 (b) If a permanent or semi-permanent teacher is suspended under
- 38 subsection (a)(8), and except as provided in IC 20-6.1-5-11, the

1 governing body may not (while the teacher is suspended) withhold
 2 from the teacher salary payments or other employment related benefits
 3 that before the suspension the teacher was entitled to receive.

4 (c) The governing body may appoint an agent (who is not an
 5 employee of the school corporation, but who may be a member of the
 6 governing body or an attorney retained to administer the hearing
 7 proceedings under this section) for the purpose of issuing subpoenas
 8 for the attendance of witnesses for either party at the hearing. A
 9 subpoena issued under this section shall be:

10 (1) served by the party who seeks to compel the attendance of a
 11 witness; and

12 (2) upon application to the court by the party, enforced in the
 13 manner provided by law for the service and enforcement of
 14 subpoenas in a civil action.

15 **(d) Instead of the cancellation procedure provided in**
 16 **subsection (a), a permanent teacher's contract may be canceled as**
 17 **provided in section 11.1 of this chapter.**

18 SECTION 2. IC 20-6.1-4-11.1 IS ADDED TO THE INDIANA
 19 CODE AS A NEW SECTION TO READ AS FOLLOWS
 20 [EFFECTIVE JULY 1, 1998]: **Sec. 11.1. (a) Instead of the**
 21 **cancellation procedure provided in section 11(a) of this chapter, a**
 22 **permanent teacher's contract may be canceled as provided in this**
 23 **section.**

24 **(b) A teacher must be notified in writing of the date, time, and**
 25 **place for consideration by a school corporation of the cancellation**
 26 **of the teacher's contract. The notification must be delivered not**
 27 **more than forty (40) days and at least thirty (30) days before the**
 28 **consideration.**

29 **(c) The teacher must be furnished, within five (5) days after**
 30 **the teacher's written request, a statement of the reasons for the**
 31 **consideration.**

32 **(d) The teacher may file a written request for binding**
 33 **arbitration on the matter of contract cancellation within fifteen**
 34 **(15) days after receipt of the notification required by subsection**
 35 **(b).**

36 **(e) If the teacher requests binding arbitration, the matter shall**
 37 **be submitted to the American Arbitration Association. The**
 38 **American Arbitration Association shall, not more than ten (10)**

1 days following the date of receipt of the request, furnish from a
 2 listing of the membership of the National Academy of Arbitrators
 3 the names of three (3) members of the National Academy. The
 4 teacher and the governing body shall each strike an arbitrator
 5 from the list. The remaining arbitrator shall conduct the
 6 arbitration.

7 (f) An arbitration under this section must be conducted in
 8 accordance with the rules and procedures of the American
 9 Arbitration Association.

10 (g) The decision of an arbitrator is final and binding upon the
 11 parties. The arbitrator may order the teacher's reinstatement with
 12 or without back pay. The school corporation and the teacher shall
 13 each pay one-half (1/2) of the arbitrator's compensation and
 14 expenses of arbitration under this section. Pending a decision on
 15 the cancellation of a permanent teacher's contract, the teacher may
 16 be suspended from duty.

17 SECTION 3. IC 20-6.1-4-14, AS AMENDED BY P.L.155-1996,
 18 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 1998]: Sec. 14. (a) Each contract entered into by a
 20 nonpermanent teacher and a school corporation continues in force on
 21 the same terms and for the same wages, unless increased by
 22 IC 20-6.1-5-1, for the next school term following the date of
 23 termination set in the contract. However, the contract does not continue
 24 if any of the following occur:

25 (1) ~~On or before May 1, the school corporation notifies the~~
 26 ~~teacher that the contract will not continue for the next school~~
 27 ~~term. This notification must be:~~

28 (A) ~~written; and~~

29 (B) ~~delivered in person or mailed by registered or certified~~
 30 ~~mail to the teacher at the teacher's last known address.~~

31 **The school corporation refuses continuation of the contract**
 32 **in accordance with subsections (b) through (h).**

33 (2) The teacher delivers or mails by registered or certified mail
 34 to the school corporation the teacher's written resignation.

35 (3) The contract is replaced by another contract agreed to by the
 36 parties.

37 (b) Before a teacher is refused continuation of the contract under
 38 subsection (a), the teacher has the following rights, which shall be

1 strictly construed:

2 (1) Upon the request of the teacher, and within fifteen (15) days
 3 of the receipt of the notice of contract nonrenewal, the governing
 4 body or the superintendent of the school corporation shall
 5 provide the teacher with a written statement which may be
 6 developed in an executive session and which is not a public
 7 document, giving the reasons for the noncontinuation of the
 8 teacher's contract.

9 (2) (1) The principal of the school at which the teacher teaches
 10 shall provide the teacher with an annual written evaluation of the
 11 teacher's performance before January 1 of each year. Upon the
 12 request of a nonpermanent teacher, delivered in writing to the
 13 principal within thirty (30) days after the teacher receives the
 14 evaluation required by this section, the principal shall provide
 15 the teacher with an additional written evaluation.

16 **(2) On or before May 1, the school corporation shall notify**
 17 **the teacher that the governing body will consider nonrenewal**
 18 **of the teacher's contract for the next school term. The**
 19 **notification must be:**

20 (A) written; and

21 (B) delivered:

22 (i) in person;

23 (ii) by registered mail; or

24 (iii) by certified mail;

25 to the teacher at the teacher's last known address.

26 (3) Upon the request of the teacher, and within fifteen (15)
 27 days after the teacher's receipt of the notice of the school
 28 corporation's consideration of contract nonrenewal, the
 29 governing body or the superintendent of the school
 30 corporation shall provide the teacher with a written
 31 statement of the reasons for considering the proposed
 32 nonrenewal of the teacher's contract. The statement:

33 (A) may be developed in an executive session; and

34 (B) is not a public document.

35 (c) A conference shall be held with the governing body, or at the
 36 direction of the governing body, with the superintendent or the
 37 superintendent's designee, not more than ten (10) days following the
 38 day the governing body receives the request **under subsection (b)**. If

1 the first conference is not with the governing body, **the teacher may**
 2 **request** a second conference ~~shall that must~~ be held with the
 3 governing body **at a time:**

4 (1) **mutually agreeable to both parties; and**
 5 (2) not more than twenty (20) days following the day the
 6 governing body receives the request for a second conference, or
 7 before the end of the school year, whichever is earlier.

8 (d) The governing body may, in addition to a conference, require
 9 that the superintendent or the superintendent's designee and the teacher
 10 summarize in writing the position of each party with respect to the
 11 continuation of the contract.

12 (e) At any conference:

13 (1) the governing body, the superintendent, or the
 14 superintendent's designee shall provide full and complete
 15 information supporting the reasons given for noncontinuance;
 16 and

17 (2) the teacher shall provide any information demonstrating that
 18 noncontinuance of the contract is improper.

19 (f) The conference with the governing body shall be in executive
 20 session unless the teacher requests a public conference. The teacher
 21 may have a representative at any conference.

22 (g) The time periods set out in subsection (c) shall be extended for
 23 a reasonable period:

24 (1) when a teacher or school official is ill or absent from the
 25 school corporation;

26 (2) when the teacher requests a public conference, but a public
 27 conference held within the time periods of subsection (c)
 28 violates IC 5-14-1.5-5; or

29 (3) for other reasonable cause,

30 (h) The governing body shall ~~affirm or reverse its position vote~~ on
 31 **the** continuation of the teacher's contract not more than ten (10) days
 32 after the conference.

33 (i) The governing body of a school corporation may decide not to
 34 continue a teacher's contract under this section:

35 (1) for any reason considered relevant to the school corporation's
 36 interest; or

37 (2) because of a teacher's inability to perform the teacher's
 38 teaching duties."

- 1 Renumber all SECTIONS consecutively.
(Reference is to HB 1278 as introduced.)

and when so amended that said bill do pass.

Representative Liggett