



Rep. Michael K. Smith

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LRB096 07618 NHT 24722 a

1 AMENDMENT TO HOUSE BILL 738

2 AMENDMENT NO. _____. Amend House Bill 738, AS AMENDED, by
3 replacing everything after the enacting clause with the
4 following:

5 "Section 5. The School Code is amended by changing Sections
6 10-23.5 and 24-12 as follows:

7 (105 ILCS 5/10-23.5) (from Ch. 122, par. 10-23.5)

8 Sec. 10-23.5. Educational support personnel employees.

9 (a) To employ such educational support personnel employees
10 as it deems advisable and to define their employment duties;
11 provided that residency within any school district shall not be
12 considered in determining the employment or the compensation of
13 any such employee, or whether to retain, promote, assign or
14 transfer such employee. If an educational support personnel
15 employee is removed or dismissed or the hours he or she works
16 are reduced as a result of a decision of the school board (i)

1 to decrease the number of educational support personnel
2 employees employed by the board or (ii) to discontinue some
3 particular type of educational support service, written notice
4 shall be mailed to the employee and also given to the employee
5 either by certified mail, return receipt requested, or personal
6 delivery with receipt, at least 30 days before the employee is
7 removed or dismissed or the hours he or she works are reduced,
8 together with a statement of honorable dismissal or reduction
9 in hours and the reason therefor ~~if applicable~~. However, if a
10 reduction in hours is due to an unforeseen reduction in the
11 student population, then the written notice must be mailed and
12 given to the employee at least 5 days before the hours are
13 reduced. The employee with the shorter length of continuing
14 service with the district, within the respective category of
15 position, shall be dismissed or have his or her hours of work
16 reduced first unless an alternative method of determining the
17 sequence of dismissal or reduction in hours is established in a
18 collective bargaining agreement or contract between the board
19 and any exclusive bargaining agent and except that this
20 provision shall not impair the operation of any affirmative
21 action program in the district, regardless of whether it exists
22 by operation of law or is conducted on a voluntary basis by the
23 board. If the board has any vacancies that arise after the date
24 of written notice of honorable dismissal or reduction in hours
25 ~~for the following school term~~ or within one calendar year from
26 the beginning of the ~~following~~ school term following the

1 written notice, the first position ~~positions~~ thereby becoming
2 available within a specific category of position shall be
3 tendered to the employees so removed or dismissed or whose
4 hours have been reduced from that category or any other
5 category of position, so far as they are qualified to hold such
6 positions. Each board shall, in consultation with any exclusive
7 employee representative or bargaining agent, each year
8 establish a list, categorized by positions, showing the length
9 of continuing service of each full time educational support
10 personnel employee who is qualified to hold any such positions,
11 unless an alternative method of determining a sequence of
12 dismissal or reduction in hours is established as provided for
13 in this Section, in which case a list shall be made in
14 accordance with the alternative method. Copies of the list
15 shall be distributed to the exclusive employee representative
16 or bargaining agent on or before February 1 of each year. Where
17 an educational support personnel employee is dismissed by the
18 board as a result of a decrease in the number of employees or
19 the discontinuance of the employee's job, the employee shall be
20 paid all earned compensation on or before the third business
21 day following his or her last day of employment.

22 The provisions of this amendatory Act of 1986 relating to
23 residency within any school district shall not apply to cities
24 having a population exceeding 500,000 inhabitants. The changes
25 to this subsection (a) made by this amendatory Act of the 96th
26 General Assembly are declaratory of existing law.

1 (b) In the case of a new school district or districts
2 formed in accordance with Article 11E of this Code, a school
3 district or districts that annex all of the territory of one or
4 more entire other school districts in accordance with Article 7
5 of this Code, or a school district receiving students from a
6 deactivated school facility in accordance with Section
7 10-22.22b of this Code, the employment of educational support
8 personnel in the new, annexing, or receiving school district
9 immediately following the reorganization shall be governed by
10 this subsection (b). Lists of the educational support personnel
11 employed in the individual districts for the school year
12 immediately prior to the effective date of the new district or
13 districts, annexation, or deactivation shall be combined for
14 the districts forming the new district or districts, for the
15 annexed and annexing districts, or for the deactivating and
16 receiving districts, as the case may be. The combined list
17 shall be categorized by positions, showing the length of
18 continuing service of each full-time educational support
19 personnel employee who is qualified to hold any such position.
20 If there are more full-time educational support personnel
21 employees on the combined list than there are available
22 positions in the new, annexing, or receiving school district,
23 then the employing school board shall first remove or dismiss
24 those educational support personnel employees with the shorter
25 length of continuing service within the respective category of
26 position, following the procedures outlined in subsection (a)

1 of this Section. The employment and position of each
2 educational support personnel employee on the combined list not
3 so removed or dismissed shall be transferred to the new,
4 annexing, or receiving school board, and the new, annexing, or
5 receiving school board is subject to this Code with respect to
6 any educational support personnel employee so transferred as if
7 the educational support personnel employee had been the new,
8 annexing, or receiving board's employee during the time the
9 educational support personnel employee was actually employed
10 by the school board of the district from which the employment
11 and position were transferred.

12 The changes made by Public Act 95-148 shall not apply to
13 the formation of a new district or districts in accordance with
14 Article 11E of this Code, the annexation of one or more entire
15 districts in accordance with Article 7 of this Code, or the
16 deactivation of a school facility in accordance with Section
17 10-22.22b of this Code effective on or before July 1, 2007.

18 (Source: P.A. 95-148, eff. 8-14-07; 95-396, eff. 8-23-07;
19 95-876, eff. 8-21-08.)

20 (105 ILCS 5/24-12) (from Ch. 122, par. 24-12)

21 Sec. 24-12. Removal or dismissal of teachers in contractual
22 continued service. If a teacher in contractual continued
23 service is removed or dismissed as a result of a decision of
24 the board to decrease the number of teachers employed by the
25 board or to discontinue some particular type of teaching

1 service, written notice shall be mailed to the teacher and also
2 given the teacher either by certified mail, return receipt
3 requested or personal delivery with receipt at least 60 days
4 before the end of the school term, together with a statement of
5 honorable dismissal and the reason therefor, and in all such
6 cases the board shall first remove or dismiss all teachers who
7 have not entered upon contractual continued service before
8 removing or dismissing any teacher who has entered upon
9 contractual continued service and who is legally qualified to
10 hold a position currently held by a teacher who has not entered
11 upon contractual continued service. As between teachers who
12 have entered upon contractual continued service, the teacher or
13 teachers with the shorter length of continuing service with the
14 district shall be dismissed first unless an alternative method
15 of determining the sequence of dismissal is established in a
16 collective bargaining agreement or contract between the board
17 and a professional faculty members' organization and except
18 that this provision shall not impair the operation of any
19 affirmative action program in the district, regardless of
20 whether it exists by operation of law or is conducted on a
21 voluntary basis by the board. Any teacher dismissed as a result
22 of such decrease or discontinuance shall be paid all earned
23 compensation on or before the third business day following the
24 last day of pupil attendance in the regular school term. If the
25 board has any vacancies that arise after the date of written
26 notice of honorable dismissal ~~for the following school term~~ or

1 within one calendar year from the beginning of the ~~following~~
2 school term following the written notice, the first position
3 ~~positions~~ thereby becoming available shall be tendered to the
4 teachers so removed or dismissed so far as they are legally
5 qualified to hold such positions; provided, however, that if
6 the number of honorable dismissal notices based on economic
7 necessity exceeds 15% of the number of full time equivalent
8 positions filled by certified employees (excluding principals
9 and administrative personnel) during the preceding school
10 year, then if the board has any vacancies for the following
11 school term or within 2 calendar years from the beginning of
12 the following school term, the positions so becoming available
13 shall be tendered to the teachers who were so notified and
14 removed or dismissed whenever they are legally qualified to
15 hold such positions. Each board shall, in consultation with any
16 exclusive employee representatives, each year establish a
17 list, categorized by positions, showing the length of
18 continuing service of each teacher who is qualified to hold any
19 such positions, unless an alternative method of determining a
20 sequence of dismissal is established as provided for in this
21 Section, in which case a list shall be made in accordance with
22 the alternative method. Copies of the list shall be distributed
23 to the exclusive employee representative on or before February
24 1 of each year. Whenever the number of honorable dismissal
25 notices based upon economic necessity exceeds 5, or 150% of the
26 average number of teachers honorably dismissed in the preceding

1 3 years, whichever is more, then the board also shall hold a
2 public hearing on the question of the dismissals. Following the
3 hearing and board review the action to approve any such
4 reduction shall require a majority vote of the board members.

5 If a dismissal or removal is sought for any other reason or
6 cause, including those under Section 10-22.4, the board must
7 first approve a motion containing specific charges by a
8 majority vote of all its members. Written notice of such
9 charges shall be served upon the teacher within 5 days of the
10 adoption of the motion. Such notice shall contain a bill of
11 particulars. No hearing upon the charges is required unless the
12 teacher within 10 days after receiving notice requests in
13 writing of the board that a hearing be scheduled, in which case
14 the board shall schedule a hearing on those charges before a
15 disinterested hearing officer on a date no less than 15 nor
16 more than 30 days after the enactment of the motion. The
17 secretary of the school board shall forward a copy of the
18 notice to the State Board of Education. Within 5 days after
19 receiving this notice of hearing, the State Board of Education
20 shall provide a list of 5 prospective, impartial hearing
21 officers. Each person on the list must be accredited by a
22 national arbitration organization and have had a minimum of 5
23 years of experience directly related to labor and employment
24 relations matters between educational employers and
25 educational employees or their exclusive bargaining
26 representatives. No one on the list may be a resident of the

1 school district. The Board and the teacher or their legal
2 representatives within 3 days shall alternately strike one name
3 from the list until only one name remains. Unless waived by the
4 teacher, the teacher shall have the right to proceed first with
5 the striking. Within 3 days of receipt of the first list
6 provided by the State Board of Education, the board and the
7 teacher or their legal representatives shall each have the
8 right to reject all prospective hearing officers named on the
9 first list and to require the State Board of Education to
10 provide a second list of 5 prospective, impartial hearing
11 officers, none of whom were named on the first list. Within 5
12 days after receiving this request for a second list, the State
13 Board of Education shall provide the second list of 5
14 prospective, impartial hearing officers. The procedure for
15 selecting a hearing officer from the second list shall be the
16 same as the procedure for the first list. In the alternative to
17 selecting a hearing officer from the first or second list
18 received from the State Board of Education, the board and the
19 teacher or their legal representatives may mutually agree to
20 select an impartial hearing officer who is not on a list
21 received from the State Board of Education either by direct
22 appointment by the parties or by using procedures for the
23 appointment of an arbitrator established by the Federal
24 Mediation and Conciliation Service or the American Arbitration
25 Association. The parties shall notify the State Board of
26 Education of their intent to select a hearing officer using an

1 alternative procedure within 3 days of receipt of a list of
2 prospective hearing officers provided by the State Board of
3 Education. Any person selected by the parties under this
4 alternative procedure for the selection of a hearing officer
5 shall not be a resident of the school district and shall have
6 the same qualifications and authority as a hearing officer
7 selected from a list provided by the State Board of Education.
8 The State Board of Education shall promulgate uniform standards
9 and rules of procedure for such hearings. As to prehearing
10 discovery, such rules and regulations shall, at a minimum,
11 allow for: (1) discovery of names and addresses of persons who
12 may be called as expert witnesses at the hearing, the omission
13 of any such name to result in a preclusion of the testimony of
14 such witness in the absence of a showing of good cause and the
15 express permission of the hearing officer; (2) bills of
16 particulars; (3) written interrogatories; and (4) production
17 of relevant documents. The per diem allowance for the hearing
18 officer shall be determined and paid by the State Board of
19 Education. The hearing officer shall hold a hearing and render
20 a final decision. The teacher has the privilege of being
21 present at the hearing with counsel and of cross-examining
22 witnesses and may offer evidence and witnesses and present
23 defenses to the charges. The hearing officer may issue
24 subpoenas and subpoenas duces tecum requiring the attendance of
25 witnesses and, at the request of the teacher against whom a
26 charge is made or the board, shall issue such subpoenas, but

1 the hearing officer may limit the number of witnesses to be
2 subpoenaed in behalf of the teacher or the board to not more
3 than 10. All testimony at the hearing shall be taken under oath
4 administered by the hearing officer. The hearing officer shall
5 cause a record of the proceedings to be kept and shall employ a
6 competent reporter to take stenographic or stenotype notes of
7 all the testimony. The costs of the reporter's attendance and
8 services at the hearing shall be paid by the State Board of
9 Education. Either party desiring a transcript of the hearing
10 shall pay for the cost thereof. If in the opinion of the board
11 the interests of the school require it, the board may suspend
12 the teacher pending the hearing, but if acquitted the teacher
13 shall not suffer the loss of any salary by reason of the
14 suspension.

15 Before setting a hearing on charges stemming from causes
16 that are considered remediable, a board must give the teacher
17 reasonable warning in writing, stating specifically the causes
18 which, if not removed, may result in charges; however, no such
19 written warning shall be required if the causes have been the
20 subject of a remediation plan pursuant to Article 24A. The
21 hearing officer shall consider and give weight to all of the
22 teacher's evaluations written pursuant to Article 24A. The
23 hearing officer shall, within 30 days from the conclusion of
24 the hearing or closure of the record, whichever is later, make
25 a decision as to whether or not the teacher shall be dismissed
26 and shall give a copy of the decision to both the teacher and

1 the school board. If the hearing officer fails to render a
2 decision within 30 days, the State Board of Education shall
3 communicate with the hearing officer to determine the date that
4 the parties can reasonably expect to receive the decision. The
5 State Board of Education shall provide copies of all such
6 communications to the parties. In the event the hearing officer
7 fails without good cause to make a decision within the 30 day
8 period, the name of such hearing officer shall be struck for a
9 period of not more than 24 months from the master list of
10 hearing officers maintained by the State Board of Education. If
11 a hearing officer fails without good cause to render a decision
12 within 3 months after the hearing is concluded or the record is
13 closed, whichever is later, the State Board of Education shall
14 provide the parties with a new list of prospective, impartial
15 hearing officers, with the same qualifications provided
16 herein, one of whom shall be selected, as provided in this
17 Section, to review the record and render a decision. The
18 parties may mutually agree to select a hearing officer pursuant
19 to the alternative procedure, as provided in this Section, to
20 rehear the charges heard by the hearing officer who failed to
21 render a decision. If the hearing officer fails without good
22 cause to render a decision within 3 months after the hearing is
23 concluded or the record is closed, whichever is later, the
24 hearing officer shall be removed from the master list of
25 hearing officers maintained by the State Board of Education.
26 The board shall not lose jurisdiction to discharge a teacher if

1 the hearing officer fails to render a decision within the time
2 specified in this Section. The decision of the hearing officer
3 is final unless reviewed as provided in Section 24-16 of this
4 Act. In the event such review is instituted, any costs of
5 preparing and filing the record of proceedings shall be paid by
6 the board.

7 If a decision of the hearing officer is adjudicated upon
8 review or appeal in favor of the teacher, then the trial court
9 shall order reinstatement and shall determine the amount for
10 which the board is liable including but not limited to loss of
11 income and costs incurred therein.

12 Any teacher who is reinstated by any hearing or
13 adjudication brought under this Section shall be assigned by
14 the board to a position substantially similar to the one which
15 that teacher held prior to that teacher's suspension or
16 dismissal.

17 If, by reason of any change in the boundaries of school
18 districts, or by reason of the creation of a new school
19 district, the position held by any teacher having a contractual
20 continued service status is transferred from one board to the
21 control of a new or different board, the contractual continued
22 service status of such teacher is not thereby lost, and such
23 new or different board is subject to this Act with respect to
24 such teacher in the same manner as if such teacher were its
25 employee and had been its employee during the time such teacher
26 was actually employed by the board from whose control the

1 position was transferred.

2 The changes to this Section made by this amendatory Act of
3 the 96th General Assembly are declaratory of existing law.

4 (Source: P.A. 89-618, eff. 8-9-96; 90-224, eff. 7-25-97.)

5 Section 10. The Higher Education Student Assistance Act is
6 amended by adding Section 65.23 as follows:

7 (110 ILCS 947/65.23 new)

8 Sec. 65.23. STEM Teachers Loan Repayment Program.

9 (a) In order to encourage academically talented Illinois
10 students to enter and continue teaching in Illinois schools in
11 the fields of science, technology, engineering, and
12 mathematics, the Commission shall, each year, receive and
13 consider applications for loan repayment assistance under this
14 Section. This program shall be known as the STEM Teachers Loan
15 Repayment Program. The Commission shall administer the program
16 and shall make all necessary and proper rules not inconsistent
17 with this Section for the program's effective implementation.
18 The Commission may use up to 5% of the appropriation for this
19 program for administration and promotion of the program.

20 (b) Subject to a separate appropriation made for such
21 purposes, each year the Commission shall award a grant to each
22 qualified applicant in an amount equal to \$5,000 or the amount
23 of higher education loans he or she must repay that year,
24 whichever is less, for up to 4 years per grant recipient. The

1 Commission shall encourage the recipient of a grant under this
2 Section to use the grant amount awarded to pay off his or her
3 higher education loans.

4 (c) A person is a qualified applicant under this Section if
5 he or she meets all of the following qualifications:

6 (1) The person is a United States citizen or eligible
7 noncitizen.

8 (2) The person is a resident of this State.

9 (3) The person has higher education loans to repay.

10 (4) The person agrees to teach in a public secondary
11 school in this State in the field of science, technology,
12 engineering, or mathematics for a period of at least 5
13 years beginning with the first year of acceptance of a
14 grant. If the person is unable to fulfill this teaching
15 requirement, he or she may receive a deferment from the
16 obligation of repayment under subsection (e) of this
17 Section under guidelines established by the Commission.

18 (d) All applications for grant assistance under this
19 Section shall be made to the Commission. The form of
20 application and the information required to be set forth in the
21 application shall be determined by the Commission, and the
22 Commission shall require applicants to submit with their
23 applications such supporting documents as the Commission deems
24 necessary.

25 (e) A grant recipient who fails to fulfill the teaching
26 requirement under item (4) of subsection (c) of this Section

1 shall repay to the Commission the total amount in grants
2 received under this Section, together with interest at 5% per
3 year on that amount. However, this obligation to repay the
4 grant amount plus interest does not apply if the failure to
5 fulfill the teaching requirement results from the death or
6 adjudication as a person under legal disability of the person
7 holding the grant, and no claim for repayment may be filed
8 against the estate of such a decedent or person under legal
9 disability. Payments received by the Commission under this
10 subsection (e) shall be remitted to the State Treasurer for
11 deposit into the General Revenue Fund. Each person receiving a
12 grant under this Section must be provided with a description of
13 the provisions of this subsection (e) at the time he or she is
14 awarded the grant.

15 (f) The Commission, in consultation with the State Board of
16 Education, shall give preference to those grant applicants
17 under this Section who teach or shall agree to teach in areas
18 of this State in which a significant shortage of teachers in
19 the applicable disciplines of instruction exists.

20 Section 99. Effective date. This Act takes effect July 1,
21 2009.".