

# 1st Sub. S.B. 73

## PUBLIC SCHOOL TEACHER TENURE MODIFICATIONS

SENATE FLOOR AMENDMENTS

AMENDMENT 3

MARCH 2, 2011 10:09 AM

Senator **Karen W. Morgan** proposes the following amendments:

1. *Page 1, Lines 8 through 14:*

8 General Description:

9 This bill amends provisions in the Utah Orderly School Termination Procedures Act ~~{to~~  
10 ~~school district from using certain~~ } related to termination policies.

11 Highlighted Provisions:

12 This bill:

13 ▶ ~~{prohibits}~~ provides that a school district ~~{from utilizing a last-hired, first-fired~~  
~~layoff policy}~~ may consider the seniority of an employee, but may not use it as a primary  
factor when

14 reducing staff;

2. *Page 1, Line 25 through Page 2, Line 27:*

25 AMENDS:

26 ~~{ 53A-8-102, as last amended by Laws of Utah 2007, Chapter 348 }~~

27 53A-8-107, as last amended by Laws of Utah 1999, Chapter 324

3. *Page 2, Line 32 through Page 3, Line 73:*

32 ~~{ Section 1. Section 53A-8-102 is amended to read:~~

33 ~~53A-8-102. Definitions:~~

34 ~~As used in this chapter:~~

35 ~~(1) "Career employee" means an employee of a school district who has obtained a~~  
36 ~~reasonable expectation of continued employment based upon Section 53A-8-106 and an~~  
37 ~~agreement with the employee or the employee's association, district practice, or policy.~~

38 ~~(2) "Contract term" or "term of employment" means the period of time during which an~~  
39 ~~employee is engaged by the school district under a contract of employment, whether oral or~~  
40 ~~written.~~

41 ~~(3) "Dismissal" or "termination" means:~~

42 ~~(a) termination of the status of employment of an employee;~~

43 ~~(b) failure to renew or continue the employment contract of a career employee beyond~~  
44 ~~the then-current school year;~~

45 ~~(c) reduction in salary of an employee not generally applied to all employees of the~~

46 same category employed by the school district during the employee's contract term; or  
47 ——— (d) change of assignment of an employee with an accompanying reduction in pay;  
48 unless the assignment change and salary reduction are agreed to in writing.  
49 ——— (4) "Employee" means a career or provisional employee of a school district, but does  
50 not include:  
51 ——— (a) the district superintendent, or the equivalent at the Schools for the Deaf and the  
52 Blind;  
53 ——— (b) the district business administrator or the equivalent at the Schools for the Deaf and  
54 the Blind; or  
55 ——— (c) a temporary employee.  
56 ——— (5) "Last-hired, first-fired layoff policy" means a staff reduction policy that mandates  
57 the termination of an employee who started to work for the district most recently before  
58 terminating a more senior employee.  
59 ——— [(5)] (6) "Provisional employee" means an individual, other than a career employee or  
60 a temporary employee, who is employed by a school district.  
61 ——— [(6)] (7) "School board" or "board" means a district school board or its equivalent at  
62 the Schools for the Deaf and the Blind.  
63 ——— [(7)] (8) "School district" or "district" means:  
64 ——— (a) a public school district; or  
65 ——— (b) the Schools for the Deaf and the Blind.  
66 ——— [(8)] (9) "Temporary employee" means an individual who is employed on a temporary  
67 basis as defined by policies adopted by the local board of education. If the class of employees  
68 in question is represented by an employee organization recognized by the local board, the board  
69 shall adopt its policies based upon an agreement with that organization. Temporary employees  
70 serve at will and have no expectation of continued employment. }  
71 Section {2} 1 . Section 53A-8-107 is amended to read:  
72 53A-8-107. Necessary staff reduction not precluded -- {Last-hired, first-fired  
73 layoffs prohibited} Factors a school district may consider when terminating an employee -- Seniority  
may not be a primary factor .

4. Page 3, Lines 79 through 86:

79 [(4)] (d) school consolidation.  
80 {(2) A school district may not utilize a last-hired, first-fired layoff policy when  
81 terminating school district employees.}  
82 {(3)} (2) A school district may consider the following factors when terminating a school  
83 district employee:  
84 (a) the results of an employee's performance evaluation; {and}  
85 (b) a school's personnel needs { } ; and  
(c) subject to the requirements of Subsection (3), the seniority of an employee.

**(3) Seniority of an employee may not be the primary factor used when terminating an employee.**

86 Section ~~{3}~~ 2 . Education Interim Committee study on performance based evaluations.