

SB0260S02 compared with SB0260S01

~~{deleted text}~~ shows text that was in SB0260S01 but was deleted in SB0260S02.

inserted text shows text that was not in SB0260S01 but was inserted into SB0260S02.

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Senator ~~{Howard A. Stephenson}~~Aaron Osmond proposes the following substitute bill:

PUBLIC EDUCATION HUMAN RESOURCE MANAGEMENT ACT MODIFICATIONS

2015 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Howard A. Stephenson

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions in the Public Education Human Resource Management Act.

Highlighted Provisions:

This bill:

- ~~{~~ → extends the time that a provisional employee must work for a school district to obtain career employee status;
- ‡ ▶ requires the State Board of Education to ~~{establish orderly termination procedures;~~
- provides that perform audits and monitor a local school ~~{board may not establish procedures for dismissal of an employee.}~~

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- ~~— that conflict with State Board of Education procedures for dismissal; or~~
- ~~— in addition to State Board of Education procedures for dismissal;~~
- ~~— reduces the time period for implementing a plan of assistance for a career employee under certain circumstances;}~~ board's implementation of the Public Education Human Resource Management Act; and
- ▶ prohibits a school district from imposing a fine on an educator because the educator resigns before the expiration of the educator's contract term or fails to provide adequate notice of resignation, if the educator is not paid wages or salary for the period between the last date of employment and the end of the contract term.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

~~{ 53A-8a-201, as renumbered and amended by Laws of Utah 2012, Chapter 425~~

~~‡ 53A-8a-501, as renumbered and amended by Laws of Utah 2012, Chapter 425~~

ENACTS:

~~{53A-8a-503}~~ 53A-8a-103, ~~{ as enacted by Laws of } Utah {2012, Chapter 425~~

ENACTS:} Code Annotated 1953

53A-8a-901, Utah Code Annotated 1953

53A-8a-902, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section ~~{53A-8a-201}~~ 53A-8a-103 is ~~{amended}~~ enacted to read:

~~{53A-8a-201}~~ 53A-8a-103. ~~{ Career employee status for provisional employees == Career status in the event of change of position == Continuation of probationary status when position changes == Temporary status for extra duty assignments == Employees not eligible for career status.~~

~~— (1) [(a)] A provisional employee must work for a school district on at least a half-time basis for [three] five consecutive years to obtain career employee status.~~

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~~_____ (b) A school district may extend the provisional status of an employee up to an additional two consecutive years; State Board of Education oversight.~~

The State Board of Education shall:

(1) perform audits and monitor a local school board's actions under this part to ensure that the local school board complies with the requirements of this part; and

(2) enact rules in accordance with {a written policy adopted by the district's school board that specifies the circumstances under which an employee's provisional status may be extended.}

~~_____ (2) Policies of an employing school district shall determine the status of a career employee in the event of the following:~~

~~_____ (a) the employee accepts a position which is substantially different from the position in which career status was achieved; or~~

~~_____ (b) the employee accepts employment in another school district.~~

~~_____ (3) If an employee who is under an order of probation or remediation in one assignment in a school district is transferred or given a new assignment in the district, the order shall stand until its provisions are satisfied.~~

~~_____ (4) An employee who is given extra duty assignments in addition to a primary assignment, such as a teacher who also serves as a coach or activity advisor, is a temporary employee in those extra duty assignments and may not acquire career status beyond the primary assignment.~~

~~_____ (5) A person is an at-will employee and is not eligible for career employee status if the person:~~

~~_____ (a) is a teacher who holds a competency-based license pursuant to Section 53A-6-104.5 and does not hold a level 1, 2, or 3 license as defined in Section 53A-6-103; or~~

~~_____ (b) holds an administrative/supervisory letter of authorization pursuant to Section 53A-6-110.}~~ Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to implement the requirements of Subsection (1).

Section 2. Section **53A-8a-501** is amended to read:

53A-8a-501. ~~{State Board of Education to establish dismissal procedures for school districts --}~~ **Local school board to establish dismissal** ~~{procedures consistent with State Board of Education}~~ **procedures.**

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(1) ~~{~~A local school board shall, by contract with its employees or their associations, or by resolution of the board, ~~{~~The State Board of Education shall~~}~~ establish procedures that are consistent with the requirements of this part for dismissal of employees in an orderly manner without discrimination.

(2) The procedures and standards described in Subsection (1) shall include:

(a) standards of due process;

(b) causes for dismissal; and

(c) procedures and standards related to developing and implementing a plan of assistance for a career employee whose performance is unsatisfactory.

(3) Procedures and standards for a plan of assistance adopted under Subsection (2)(c) shall require a plan of assistance to identify:

(a) specific, measurable, and actionable deficiencies;

(b) the available resources provided for improvement; and

(c) a course of action to improve employee performance.

~~{~~ ~~(4) A local school board may not establish procedures for dismissal of an employee:~~

~~(a) in addition to the procedures established by the State Board of Education as described in Subsection (1); and~~

~~(b) that conflict with the procedures established by the State Board of Education as described in Subsection (1).~~

~~Section 3. Section 53A-8a-503 is amended to read:~~

~~53A-8a-503. Nonrenewal or termination of a career employee's contract for unsatisfactory performance:~~

~~(1) If a district intends to not renew a career employee's contract for unsatisfactory performance or terminate a career employee's contract during the contract term for unsatisfactory performance, the district shall:~~

~~(a) provide and discuss with the career employee written documentation clearly identifying the deficiencies in performance;~~

~~(b) provide written notice that the career employee's contract is subject to nonrenewal or termination if, upon a reevaluation of the career employee's performance, the career employee's performance is determined to be unsatisfactory;~~

~~(c) develop and implement a plan of assistance, in accordance with procedures and~~

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~~standards established by the [local school board] State Board of Education under Section 53A-8a-501, to allow the career employee an opportunity to improve performance;~~

~~—— (d) reevaluate the career employee's performance; and~~

~~—— (e) if the career employee's performance remains unsatisfactory, give notice of intent to not renew or terminate the career employee's contract in accordance with Subsection 53A-8a-502(5).~~

~~—— (2) [(a)] The period of time for implementing a plan of assistance:~~

~~—— [(i)] [(a)] may not exceed [120] 60 school days[, except as provided under Subsection (2)(b)];~~

~~—— [(ii)] [(b)] may continue into the next school year;~~

~~—— [(iii)] [(c)] should be sufficient to successfully complete the plan of assistance; and~~

~~—— [(iv)] [(d)] shall begin when the career employee receives the written notice provided under Subsection (1)(b) and end when the determination is made that the career employee has successfully remediated the deficiency or notice of intent to not renew or terminate the career employee's contract is given in accordance with Subsection 53A-8a-502(5).~~

~~—— [(b) In accordance with local school board policy, the period of time for implementing a plan of assistance may extend beyond 120 school days if:]~~

~~—— [(i) a career employee is on leave from work during the time period the plan of assistance is scheduled to be implemented; and]~~

~~—— [(ii) (A) the leave was approved and scheduled before the written notice was provided under Subsection (1)(b); or]~~

~~—— [(B) the leave is specifically approved by the local school board.]~~

~~—— (3) (a) If upon a reevaluation of the career employee's performance, the district determines the career employee's performance is satisfactory, and within a three-year period after the initial documentation of unsatisfactory performance for the same deficiency pursuant to Subsection (1)(a), the career employee's performance is determined to be unsatisfactory, the district may elect to not renew or terminate the career employee's contract.~~

~~—— (b) If a district intends to not renew or terminate a career employee's contract as provided in Subsection (3)(a), the district shall:~~

~~—— (i) provide written documentation of the career employee's deficiencies in performance; and~~

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~~(ii) give notice of intent to not renew or terminate the career employee's contract in accordance with Subsection 53A-8a-502(5).~~

† Section ~~{4}~~3. Section **53A-8a-901** is enacted to read:

53A-8a-901. Definitions.

(1) "Adequate notice of resignation" means the date by which an educator must provide notice of resignation pursuant to school district rule or policy.

(2) "Contract term" means the same as that term is defined in Section 53A-8a-102.

(3) "Educator" means the same as that term is defined in Section 53A-6-103.

(4) "Fine" includes an assessment, charge, fee, or other monetary penalty.

Section ~~{5}~~4. Section **53A-8a-902** is enacted to read:

53A-8a-902. Resignation before expiration of contract term -- Certain fines prohibited.

A school district may not impose a fine on an educator because the educator resigns and leaves employment with the school district before the end of the educator's contract term or fails to provide adequate notice of resignation, if the educator is not paid wages or salary for the period between the last date of employment and the end of the contract term.

Section ~~{6}~~5. **Effective date.**

This bill takes effect on July 1, 2015.