

## HB0182S02 compared with HB0182

~~text~~ shows text that was in HB0182 but was deleted in HB0182S02.

text shows text that was not in HB0182 but was inserted into HB0182S02.

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Representative Craig Hall proposes the following substitute bill:

### EDUCATOR HEARINGS AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Craig Hall**

Senate Sponsor: \_\_\_\_\_

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#### LONG TITLE

##### General Description:

This bill amends requirements related to hearings held before a local school board or the State Board of Education.

##### Highlighted Provisions:

This bill:

- ▶ provides that a final order or decree from a hearing regarding the dismissal of a school district employee may be appealed to the Court of Appeals for review;
- ▶ provides that a notice of an appeal from a hearing regarding the dismissal of a school district employee be filed in accordance with the Utah Rules of Appellate Procedure;
- ▶ provides that review by the Court of Appeals is limited to the record of the local school board or the State Board of Education;

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- ▶ provides that a review by the Court of Appeal is to determine whether the local school board, or the State Board of Education, exceeded the board's discretion or exceeded the board's authority;
- ▶ amends the jurisdiction of the Court of Appeals; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

None

### Utah Code Sections Affected:

AMENDS:

**53G-11-515**, as renumbered and amended by Laws of Utah 2018, Chapter 3

**78A-4-103**, as last amended by Laws of Utah 2015, Chapter 441

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

Section 1. Section **53G-11-515** is amended to read:

**53G-11-515. Hearings before district board or hearing officers -- Rights of the board and the employee -- Subpoenas -- Appeals.**

(1) (a) Hearings are held under this part before the school board or before hearing officers selected by the school board to conduct the hearings and make recommendations concerning findings.

(b) The school board shall establish procedures to appoint hearing officers.

(c) The school board may delegate [its] the school board's authority to a hearing officer to make decisions relating to the employment of an employee [~~which~~] that are binding upon both the employee and the school board.

~~[(d) This Subsection (1) does not limit the right of the board or the employee to appeal to an appropriate court of law.]~~

(2) At the hearings, an employee has the right to counsel, to produce witnesses, to hear testimony against the employee, to cross-examine witnesses, and to examine documentary evidence.

(3) Subpoenas may be issued and oaths administered as provided under Section

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53E-6-606.

(4) (a) Any final action or order of the school board may be appealed to the Court of Appeals for review.

(b) A notice of appeal shall be filed in accordance with the Utah Rules of Appellate Procedure, Rule 4.

(c) A review by the Court of Appeals:

(i) is limited to the record of the school board; and

(ii) shall be for the purpose of determining whether the school board exceeded the school board's discretion, or the school board exceeded the school board's authority.

Section 2. Section **78A-4-103** is amended to read:

### **78A-4-103. Court of Appeals jurisdiction.**

(1) The Court of Appeals has jurisdiction to issue all extraordinary writs and to issue all writs and process necessary:

(a) to carry into effect its judgments, orders, and decrees; or

(b) in aid of its jurisdiction.

(2) The Court of Appeals has appellate jurisdiction, including jurisdiction of interlocutory appeals, over:

(a) (i) a final order or decree resulting from:

(A) a formal adjudicative proceeding of a state agency; ~~[or]~~

(B) a special adjudicative proceeding, as described in Section 19-1-301.5; or

(C) a hearing before a local school board or the State Board of Education as described in Section 53G-11-515; or

(ii) an appeal from the district court review of an informal adjudicative proceeding of an agency other than the following:

(A) the Public Service Commission;

(B) the State Tax Commission;

(C) the School and Institutional Trust Lands Board of Trustees;

(D) the Division of Forestry, Fire, and State Lands, for an action reviewed by the executive director of the Department of Natural Resources;

(E) the Board of Oil, Gas, and Mining; or

(F) the state engineer;

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(b) appeals from the district court review of:

(i) adjudicative proceedings of agencies of political subdivisions of the state or other local agencies; and

(ii) a challenge to agency action under Section 63G-3-602;

(c) appeals from the juvenile courts;

(d) interlocutory appeals from any court of record in criminal cases, except those involving a charge of a first degree or capital felony;

(e) appeals from a court of record in criminal cases, except those involving a conviction or charge of a first degree felony or capital felony;

(f) appeals from orders on petitions for extraordinary writs sought by persons who are incarcerated or serving any other criminal sentence, except petitions constituting a challenge to a conviction of or the sentence for a first degree or capital felony;

(g) appeals from the orders on petitions for extraordinary writs challenging the decisions of the Board of Pardons and Parole except in cases involving a first degree or capital felony;

(h) appeals from district court involving domestic relations cases, including, but not limited to, divorce, annulment, property division, child custody, support, parent-time, visitation, adoption, and paternity;

(i) appeals from the Utah Military Court; and

(j) cases transferred to the Court of Appeals from the Supreme Court.

(3) The Court of Appeals upon its own motion only and by the vote of four judges of the court may certify to the Supreme Court for original appellate review and determination any matter over which the Court of Appeals has original appellate jurisdiction.

(4) The Court of Appeals shall comply with the requirements of Title 63G, Chapter 4, Administrative Procedures Act, in its review of agency adjudicative proceedings.