

Regular Session, 2012

HOUSE BILL NO. 974

BY REPRESENTATIVES CARTER AND KLECKLEY AND SENATORS ALARIO AND APPEL

TEACHERS: Provides relative to teacher tenure, pay-for-performance, and evaluations

1 AN ACT

2 To amend and reenact R.S. 17:54(B)(1)(b)(i) and (iii), 81(A), and (P)(1), 81.4, 229, and

3 414.1, 441, 442, 443, 444(B)(1), to enact R.S. 17:418 and 532(C), and to repeal R.S.

4 17:44, 45, 81(I), 154.2, 235.1(E), 346.1, 419, 419.1, 420, 421, 421.1, 421.2, 421.3,

5 421.5, 422, 422.1, 422.2, 422.3, 422.4, 422.5, 431, 444(A) and (B)(2) and (3), 446,

6 461 through 464, and 1207, relative to elementary and secondary education; to

7 provide with respect to teachers and other school employees; to provide with respect

8 to local school superintendents, their employment, and their duties and

9 responsibilities; to provide relative to local school boards and their functions and

10 powers; to provide relative to school personnel decisions; to provide relative to

11 school board reduction in force policies; to provide with respect to the salaries and

12 compensation of teachers and other school employees; to provide relative to tenure

13 for school employees and the removal of tenured and non-tenured teachers; to

14 provide for effectiveness; and to provide for related matters.

15 Be it enacted by the Legislature of Louisiana:

16 Section 1. R.S. 17:54(B)(1)(b)(i) and (iii), 81(A), and (P)(1), 81.4, 229, and 414.1  
17 are hereby amended and reenacted to read as follows:

18 §54. Officers of boards, election; superintendents, qualifications, appointment and  
19 removal

20 \* \* \*

1 B.(1)

2 \* \* \*

3 (b)(i)(aa) The superintendent of schools shall be employed by a city, parish,  
4 or other local public school board pursuant to a written contract. Such contract shall  
5 contain but need not be limited to specific performance objectives. However, for the  
6 board of a local public school system that received any variation of a school  
7 performance letter grade of "C", "D", or "F", such contract shall establish  
8 performance targets at the school and district level as follows: (1) student  
9 achievement; (2) student achievement for schools that have received any variation  
10 of a school performance letter grade designation of "C", "D", or "F"; (3) graduation  
11 rates; (4) graduation rates for schools that have received any variation of a school  
12 performance letter grade designation of "C", "D", or "F"; and (5) the percentage of  
13 teachers with an "effective" or "highly effective" performance rating. Not less than  
14 ~~ninety~~ thirty days prior to the termination of such a contract, the school board shall  
15 notify the superintendent of termination of employment under such contract, or in  
16 lieu thereof the board and the superintendent may negotiate and enter into a contract  
17 for subsequent employment.

18 (bb) Each local public school board shall submit a copy of its current  
19 employment contract with the superintendent of schools to the state superintendent  
20 of education.

21 (cc) A local public school board shall notify the state superintendent of  
22 education any time it terminates or fails to renew its employment contract with the  
23 local school superintendent, along with the reasons therefor.

24 (dd) Any employment contract between a local school board and a  
25 superintendent that does not meet the requirements established in this Subsection  
26 shall not be considered valid.

27 \* \* \*

28 (iii) The superintendent shall be retained during the term of a contract;  
29 however, if the superintendent is found incompetent, unworthy, or inefficient or is

CODING: Words in ~~struck through~~ type are deletions from existing law; words underscored are additions.

1 found to have failed to fulfill the terms and performance objectives of his contract  
2 or to comply with school board policy, then the superintendent ~~may~~ shall be removed  
3 from office as provided by Subsection C of this Section. Before the superintendent  
4 can be removed during the contract period, he shall have the right to written charges  
5 and a fair hearing before the board after reasonable written notice.

6 \* \* \*

7 §81. General powers of ~~city, parish, and other~~ local public school boards

8 A.(1) Each local public school board shall serve in a policy making capacity  
9 that is the best interests of all students enrolled in schools under the board's  
10 jurisdiction. When establishing board policies, each board shall prioritize student  
11 achievement, financial efficiency, and workforce development on a local, regional,  
12 and statewide basis. When choosing a local superintendent of schools, each board  
13 shall select a leader who shall prioritize student achievement and act in the best  
14 interests of all students enrolled in school's under the board's jurisdiction.

15 (2) Each ~~city and parish~~ local public school board shall determine the number  
16 of schools to be opened, the location of school houses, and the number of teachers  
17 and other school personnel to be employed; ~~and select teachers and all other certified~~  
18 personnel from recommendations made by the ~~city or parish~~ superintendent as  
19 required by this Subsection. The boards local school superintendent shall have  
20 authority to employ teachers by the month or by the year, and to fix their salaries;  
21 provided that there shall be no discrimination as to sex in the fixing thereof and  
22 provided further, that it is not the purpose of this Section to require or direct the  
23 reduction of any salary, or salary schedule, presently in force. The ~~boards~~ local  
24 school superintendent shall see that the provisions of the state school law are  
25 complied with.

26 (2) (3) Each ~~city and parish~~ local public school board shall ~~select teachers and~~  
27 ~~all other certified personnel from recommendations made by the city or parish~~  
28 superintendent regarding delegate authority for the hiring and placement of all school  
29 personnel, including those for which state certification is required to the local school

1 superintendent. It shall be the responsibility of the superintendent to ensure that all  
2 persons recommended have proper certification, as applicable, and are qualified for  
3 the position. ~~Nothing shall prevent a school board from rejecting the~~  
4 ~~recommendations made by the superintendent and requiring the superintendent to~~  
5 ~~submit additional recommendations.~~

6 ~~(3)~~ (4) Each ~~city and parish~~ local public school board shall adopt policies for  
7 and establish procedures which require a ~~city or parish~~ local school superintendent  
8 to:

9 (a) ~~Consult with Delegate to the principal regarding any recommendations~~  
10 ~~made by the superintendent for all decisions regarding the hiring or placement of any~~  
11 ~~teacher or other certified personnel at the school in which the principal is employed,~~  
12 subject to the approval of the local school superintendent. Any recommendations  
13 made by the principal shall not be binding upon the superintendent but shall be  
14 considered by the superintendent ~~in when~~ making ~~his recommendations to the board~~  
15 employment decisions.

16 (b) Consult with teachers ~~regarding any recommendations made by the~~  
17 ~~superintendent for prior to making any decisions regarding the hiring or placement~~  
18 of a principal at the school in which such teachers are employed. Any  
19 recommendations made by teachers shall not be binding upon the superintendent but  
20 shall be considered by the superintendent ~~in when~~ making ~~his recommendations to~~  
21 ~~the board~~ employment decisions.

22 ~~(4)~~ (5) Any policies and procedures adopted by a ~~city or parish~~ local public  
23 school board pursuant to the provisions of this Subsection shall be in accordance  
24 with all laws, all state rules, regulations, and policies relative to certification of  
25 teachers and other personnel, and any court order or restrictions relative to  
26 desegregation.

27 (6) The superintendent and the school principal shall make all employment  
28 related decisions based upon performance, effectiveness, and qualifications as  
29 applicable to each specific position. Effectiveness, as determined pursuant to R.S.



1        ~~secretary, teacher's aide, school clerk, or custodian at any time a reduction in force~~  
2        ~~is instituted by that school board. These rules and policies shall be made available~~  
3        ~~for inspection, by any full-time secretary, teacher's aide, school clerk, or custodian,~~  
4        ~~and the general public within ten days after their final adoption.~~

5                ~~C. Not later than January 1, 1987, each city and parish school board shall~~  
6        ~~develop and adopt rules and policies which it shall use in dismissing school~~  
7        ~~employees other than those for which provision is made in Subsections (A) and (B),~~  
8        ~~at any time a reduction in force is instituted by the school board. Such rules and~~  
9        ~~policies shall be made available for inspection by any such school employee and the~~  
10       ~~general public within ten days after their final adoption.~~

11                B. All reduction in force policies adopted for use in dismissing teachers and  
12        administrators shall be based solely upon demand, performance, and effectiveness,  
13        as determined by the performance evaluation program as provided in R.S. 17:3881  
14        through 3905. Any reduction in force by a local school board shall be instituted by  
15        dismissing the least effective teacher within each targeted subject area or area of  
16        certification first, and then proceeding by effectiveness rating until the reduction in  
17        force has been accomplished.

18                C. All reduction in force policies adopted by a local school board for use by  
19        the superintendent in dismissing school employees who are not evaluated pursuant  
20        to R.S. 17:3881 through 3905, shall be based upon the following criteria:

- 21                (1) Performance and effectiveness as determined by school board policy.
- 22                (2) Certification or academic preparation, if applicable.

23                ~~D. Not later than January 1, 1996, all All reduction in force policies of the~~  
24        ~~city and parish local public school boards and special schools as provided in this~~  
25        ~~Section shall include but not be limited to the following minimum standards:~~

- 26                ~~(1) Certification, if applicable.~~
- 27                ~~(2) Seniority in the system.~~
- 28                ~~(3) Tenure of employees.~~
- 29                ~~(4) Academic preparation, if applicable, within the employee's field.~~



1 he is employed, he shall have administrative responsibility for the direction and  
2 supervision of the personnel and activities and the administration of the affairs of  
3 that school.

4 \* \* \*

5 Section 2. R.S. 17:418 is hereby enacted to read as follows:

6 §418. Salaries; teachers and other school employees

7 A.(1) The governing authority of each local public elementary and secondary  
8 school, the state special schools, and the schools and programs administered through  
9 the special school district shall establish salary schedules by which to determine the  
10 salaries to be paid to teachers and all other school employees. The salaries as  
11 provided therein shall be considered as full compensation for all work required and  
12 performed within each employee's prescribed scope of duties and responsibilities.

13 (2) Such salary schedules shall be established and published not later than  
14 January 1, 2013, and shall become effective for all employees not later than the  
15 beginning of the 2013-2014 school year.

16 B.(1) Salary schedules established for teachers, administrators, and other  
17 certified school personnel shall be based upon the following criteria, with no one  
18 criterion accounting for more than fifty percent of the formula used to compute such  
19 employees' salaries:

20 (a) Effectiveness, as determined by the performance evaluation program as  
21 provided in R.S. 17:3881 through 3905.

22 (b) Demand by subject area or area of certification.

23 (c) Experience.

24 (2) No teacher or administrator who is rated "ineffective" pursuant to the  
25 performance evaluation program as provided in R.S. 17:3881 through 3905 shall  
26 receive a salary higher than that received in the previous school year.

27 C.(1) The amount of the annual salary paid to a teacher or other school  
28 employee in any school year shall not be reduced below the amount of such salary



1 paid during the previous school year, nor shall the amount of the annual salary paid  
2 to such school personnel be reduced at any time during an academic year.

3 (2) The limitations on the reduction in the amount of the annual salary paid  
4 to teachers and other school employees shall not be applicable to:

5 (a) The correction of any accounting errors or to a reduction necessitated by  
6 the elimination of a state program or state funding.

7 (b) The reduction of any local salary supplement funded, in whole or in part,  
8 from a revenue source requiring voter approval when such voter approval has not  
9 been obtained.

10 (c) When a teacher has been promoted to a position of higher salary is  
11 demoted in accordance with applicable law and local board policy to a lower  
12 position. In such case the teacher shall return to the salary previously received in the  
13 lower position from which he was promoted.

14 D. The provisions of this Section shall not apply to any employee who is in  
15 the classified service of the state.

16 Section 3. R.S. 17:441, 442, 443, and 444(B)(1) are hereby amended and reenacted  
17 and R.S. 17:532(C) is hereby enacted to read as follows:

18 §441. Definitions

19 As used in this Subpart, the word "teacher" means:

20 (1) Any employee of ~~any parish or city~~ a local public school board, state  
21 special school, or a school or program administered by the special school district  
22 who holds a teacher's certificate and whose legal employment requires such teacher's  
23 certificate;

24 (2) Any school lunch supervisor employed by a ~~parish or city~~ local public  
25 school board who holds a special parish school lunch supervisor's certificate issued  
26 by the department of education of the state of Louisiana and whose employment  
27 requires such certificate. No employee as defined in this Paragraph hired on or after  
28 July 1, 2012 shall be eligible to acquire tenure.

29 §442. ~~Probation and tenure of parish or city school teachers~~ Tenure

1           ~~Each teacher shall serve a probationary term of three years to be reckoned~~  
2           ~~from the date of his first appointment in the parish or city in which the teacher is~~  
3           ~~-serving his probation. During the probationary term the parish or city school board,~~  
4           ~~as the case may be, may dismiss or discharge any probationary teacher upon the~~  
5           ~~written recommendation of the parish or city superintendent of schools, as the case~~  
6           ~~may be, accompanied by valid reasons therefor.~~

7           ~~Any teacher found unsatisfactory by the parish or city school board, as the~~  
8           ~~case may be, at the expiration of the said probationary term, shall be notified in~~  
9           ~~writing by the board that he has been discharged or dismissed; in the absence of such~~  
10          ~~notification, such probationary teacher shall automatically become a regular and~~  
11          ~~permanent teacher in the employ of the school board of the parish or city, as the case~~  
12          ~~may be, in which he has successfully served his three year probationary term; all~~  
13          ~~teachers in the employ of any parish or city school board as of July 31, 1946 who~~  
14          ~~hold proper certificates and who have served satisfactorily as teachers in that parish~~  
15          ~~or city for more than three consecutive years, are declared to be regular and~~  
16          ~~permanent teachers in the employ of the school board of that parish or city.~~

17           A.(1) Effective July 1, 2012, in order to be deemed eligible to acquire tenure,  
18           a teacher must be rated "highly effective" for five consecutive years pursuant to the  
19           performance evaluation program as provided in R.S. 17:3881 through 3905.

20           (2) A teacher paid with federal funds shall be not eligible to acquire tenure,  
21           nor shall time spent in employment paid with federal funds be counted toward the  
22           time required for acquisition of tenure.

23           B. The school superintendent shall notify a teacher, in writing, when tenure  
24           has been awarded and the teacher is deemed to have acquired tenure on the date  
25           specified therein. A teacher who is not awarded tenure remains an at-will employee  
26           of the public school board but may acquire tenure upon meeting the criteria  
27           established in Subsection A of this Section.

1           C.(1) Any teacher who receives a performance rating of "ineffective"  
2           pursuant to the performance evaluation program as provided in R.S. 17:3881 through  
3           3905 shall immediately lose his tenure and all rights related thereto.

4           (2) Such teacher may reacquire tenure through one of the following:

5           (a) The teacher's "ineffective" performance rating is reversed pursuant to the  
6           grievance procedure established pursuant to R.S. 17:3883(5). In such case, the  
7           teacher's tenure shall be immediately reinstated.

8           (b) The teacher receives a performance rating of "highly effective" for five  
9           consecutive years subsequent to receiving an "ineffective" rating as provided in  
10           Subsection A of this Section.

11           §443. Removal of teachers; procedure; right to appeal

12           A. The school superintendent may terminate the employment of any non-  
13           tenured teacher after providing such teacher with the written reasons therefor and  
14           providing the teacher the opportunity to respond.

15           ~~A.~~(B)(1) A permanent teacher with tenure shall not be removed from office  
16           except upon written and signed charges of poor performance, willful neglect of duty,  
17           ~~or~~incompetency, dishonesty, or immorality, or of being a member of or contributing  
18           to any group, organization, movement, or corporation that is by law or injunction  
19           prohibited from operating in the state of Louisiana, and then only if found guilty  
20           after furnished with a copy of such written charges and given the opportunity to  
21           respond, at which time the superintendent may terminate the teacher's employment.  
22           Upon dismissal, a teacher shall be granted a hearing by the school board of the parish  
23           ~~or city, as the case may be~~a panel composed of the superintendent, the principal of  
24           the school where the teacher is employed, and a teacher selected by the teacher  
25           subject to removal, unless such teacher waives his right to a hearing. , which **Such**  
26           hearing may be private or public, at the option of the teacher. At least twenty days  
27           in advance of the date of the hearing, the superintendent with approval of the school  
28           ~~board~~shall furnish the teacher with a copy of the written charges. Such statement of  
29           ~~charges shall include a complete and detailed list of the specific reasons for such~~

1 ~~charges and shall include but not be limited to the following: date and place of~~  
2 ~~alleged offense or offenses, names of individuals involved in or witnessing such~~  
3 ~~offense or offenses, names of witnesses called or to be called to testify against the~~  
4 ~~teacher at said hearing, and whether or not any such charges previously have been~~  
5 ~~brought against the teacher.~~ The teacher shall have the right to appear before the  
6 board tenure hearing panel with witnesses in his behalf and with counsel of his  
7 selection, all of whom shall be heard by the board panel at said hearing. ~~For the~~  
8 ~~purpose of conducting hearings hereunder, the board shall have the power to issue~~  
9 ~~subpoenas to compel the attendance of all witnesses on behalf of the teacher.~~  
10 Nothing herein contained shall impair the right of appeal to a court of competent  
11 jurisdiction.

12 B. (2) ~~If a permanent teacher is found guilty by a school board, after due and~~  
13 ~~legal hearing as provided herein, on charges of willful neglect of duty, or of~~  
14 ~~incompetency, dishonesty, or immorality, or of being a member of or contributing~~  
15 ~~to any group, organization, movement, or corporation that is by law or injunction~~  
16 ~~prohibited from operating in the state of Louisiana, and ordered removed from office,~~  
17 ~~or disciplined by the board, the superintendent with approval of the board shall~~  
18 ~~furnish to the teacher a written statement of recommendation of removal or~~  
19 ~~discipline, which shall include but not be limited to the exact reason(s), offense(s),~~  
20 ~~or instance(s) upon which the recommendation is based. If a tenure hearing panel~~  
21 affirms or disapproves the superintendent's action in terminating a teacher's  
22 employment, Such such teacher may, not more than one year sixty days from the  
23 date of the said finding, petition a court of competent jurisdiction for a full hearing  
24 to review the action of the school board superintendent, and the court shall have  
25 jurisdiction to affirm or reverse the action of the school board superintendent in the  
26 matter. If the finding of the school board superintendent is reversed by the court and  
27 the teacher is ordered reinstated and restored to duty, the teacher shall be entitled to  
28 full pay for any loss of time or salary he or she may have sustained by reason of the  
29 action of the said school board superintendent.

1 C. For the purposes of this Section, immorality shall mean any conviction of  
2 a felony offense affecting the public morals enumerated in Part V of Chapter 1 of  
3 Title 14 of the Louisiana Revised Statutes of 1950.

4 D. For purposes of this Section, the results of a teacher's evaluation  
5 performed pursuant R.S. 17:3881 through 3905 and wherein he was rated  
6 "ineffective" shall constitute sufficient proof of poor performance, incompetence, or  
7 willful neglect of duty and no additional documentation shall be required to  
8 substantiate such charges.

9 §444. Promotions to and employment into positions of higher salary and  
10 tenure

11 \* \* \*

12 B.(1) Whenever a teacher who has acquired ~~permanent status~~ tenure, as set  
13 forth in R.S. 17:442, in a ~~parish or city~~ local public school system is promoted by the  
14 ~~employing school board~~ superintendent by moving such teacher from a position of  
15 lower salary to one of higher salary, such teacher shall not ~~gain permanent status~~ be  
16 eligible to earn tenure in the position to which he is promoted, but shall retain  
17 ~~permanent~~ any tenure status acquired as a teacher, pursuant to R.S. 17:442.

18 \* \* \*

19 §532. Probationary term and tenure

20 \* \* \*

21 C. No employee, as defined in R.S. 17:531, hired on or after July 1, 2012,  
22 shall be eligible to acquire permanent status.

23 Section 4. R.S. 17:44, 45, 81(I), 154.2, 235.1(E), 346.1, 419, 419.1, 420, 421, 421.1,  
24 421.2, 421.3, 421.5, 422, 422.1, 422.2, 422.3, 422.4, 422.5, 431, 444(A) and (B)(2) and (3),  
25 446, 461 through 464, and 1207 are hereby repealed.

26 Section 5. This Act shall become effective on July 1, 2012.

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**DIGEST**

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Carter

HB No. 974

**Abstract:** Provides relative to teacher tenure, pay-for-performance, and evaluations.

Proposed law:

- (1) Requires local school boards to include specified performance targets in employment contracts with the local school superintendent and submit a copy of such contract to the state supt. of education.
- (2) Requires local school boards to delegate authority for personnel decisions to the school supt.
- (3) Requires the local supt. to delegate the hiring and placement of teachers and other school personnel to the school principal.
- (4) Requires that all school personnel employment decisions be based upon performance, effectiveness, and qualifications and prohibits the use of seniority when making any personnel decisions.
- (5) Provides that all reduction in force policies for teachers and certified school personnel be based solely upon demand, performance, and effectiveness as determined by the teacher and administrator evaluation program. Reduction in force policies for non-certified school personnel must be based on performance and effectiveness as determined by local school board policy.
- (6) Requires the governing authority of each public school, state special schools, and SSD schools and programs to establish salary schedules based upon effectiveness, demand by subject area or area of certification, and experience by which to determine the salaries to be paid to teachers and other school employees. The salaries provided therein shall be considered as full compensation for all work required within each employee's prescribed scope of duties and responsibilities. No teacher or administrator rated as "ineffective" shall receive a higher salary than that receive the previous year.
- (7) Eliminates the probationary period for the acquisition of tenure and provides that a teacher must receive a rating of "highly effective" for five consecutive years to be eligible for tenure. Requires the superintendent to notify a teacher in writing when teacher has been awarded and such tenure is effective on the date specified in the notification. A teacher who is not awarded tenure remains an at-will employee of the employing school board.
- (8) A superintendent may terminate the employment of a non-tenured teacher upon providing the teacher with written charges therefor and providing the teacher the opportunity to respond.
- (9) A superintendent may terminate the employment of a tenured teacher upon providing the teacher with written charges of poor performance, willful neglect of duty, incompetency, dishonesty, immorality, or of being a member of an entity prohibited from operating in the state and providing the teacher an opportunity to respond. A teacher so terminated may request a hearing from a panel composed of the school

superintendent, the school principal, and a teacher of the terminated teacher's choosing. The dismissed teacher may petition a court of competent jurisdiction to review the hearing panel's finding and the superintendent's action in terminating the teacher's employment within 60 days after the tenure hearing panel issues its finding. If the court reverses the superintendent's action, the teacher shall be reinstated and restored to duty and is entitled to full pay for any loss of time or salary. Provides that a teacher's performance evaluation results constitute proof of poor performance, incompetence, or willful neglect of duty.

Proposed law consolidates the tenure provisions for all certified school employees and repeals provisions in present law providing for separate provisions for teachers in Orleans Parish and the special school district.

Proposed law repeals present law provisions relative to minimum salary schedule requirements and extra compensation and salary requirements.

Effective July 1, 2012.

(Amends R.S. 17:54(B)(1)(b)(i) and (iii), 81, and (P)(1), 81.4, 229, 414.1, 441, 442, 443, and 444(B)(1); adds R.S. 17:418 and 532(C); repeals R.S. 17:44, 45, 81(I), 154.2, 235.1(E), 346.1, 419, 419.1, 420, 421, 421.1, 421.2, 421.3, 421.5, 422, 422.1, 422.2, 422.3, 422.4, 422.5, 431, 444(A) and (B)(2) and (3), 446, 461 through 464, and 1207)