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H.805

Introduced by Representatives Donovan of Burlington, Anthony of Barre City,
Hooper of Burlington, Howard of Rutland City, Lanpher of
Vergennes, Masland of Thetford, O’Sullivan of Burlington,
Sullivan of Burlington, Troiano of Stannard, Walz of Barre
City, and Yacovone of Morristown

Referred to Committee on

Date:

Subject: Education; teachers; collective bargaining rights

Statement of purpose of bill as introduced: This bill proposes to prevent
interference with a teacher’s right to seek employment while under contract,
make the suspension and termination provisions that apply to teachers under
State law subject to the teacher’s collective bargaining agreement, and protect
a teacher from discipline by the teacher’s employer for testifying before the
General Assembly or a committee of the General Assembly or before the State
Board of Education.

An act relating to the collective bargaining rights of teachers

1 It is hereby enacted by the General Assembly of the State of Vermont:

2 Sec. 1. 16 V.S.A. § 1752 is amended to read:

3 § 1752. GROUNDS AND PROCEDURES FOR SUSPENSION AND
4 DISMISSAL

5 (a) A teacher under contract to teach in a public school who fails, without
6 just cause, to complete the term for which the teacher contracted to teach, shall
7 be disqualified to teach in any public school for the remainder of the school
8 year. While under contract, a teacher shall have the right to interview for, be
9 offered, and accept a new teaching position for the next school year, and
10 interference with this right shall be cause for a licensing action under section
11 1698 of this title.

12 (b) Unless otherwise negotiated in a collective bargaining agreement under
13 chapter 57 of this title that provides the teacher just cause rights, a teacher
14 under contract to teach in a public school whose contract is not to be renewed
15 for the ensuing year shall be notified in writing, setting forth the grounds
16 therefor, ~~no~~ not later than April 15. If the teacher so notified desires a hearing,
17 the teacher shall so request in writing to the clerk of the school board. The
18 teacher shall have the right to a hearing before the school directors within 15
19 days, may present witnesses and written evidence, and may be represented by
20 counsel. A hearing shall be in executive session unless the teacher making the
21 appeal requests or agrees in writing that it be open to the public. The school

1 board shall affirm, modify, or reverse the nonrenewal and shall issue its
2 decision in writing within five days. In the case of a probationary teacher who
3 has received two written performance evaluations per year of probationary
4 service, a decision of the board shall be final. The standard for nonrenewal of
5 a contract shall be:

6 (1) In the case of a nonprobationary teacher, just and sufficient cause.

7 (2) In the case of a probationary teacher, any reason other than those
8 prohibited by law. However, the standard for nonrenewal for a probationary
9 teacher's contract shall be just and sufficient cause if the teacher has not
10 received at least two written performance evaluations per year of probationary
11 service. A probationary teacher is a person who has been employed as a
12 teacher in Vermont public schools for less than two school years.

13 (c) Unless otherwise negotiated in a collective bargaining agreement under
14 chapter 57 of this title that provides the teacher just cause rights, the following
15 provisions shall apply:

16 (1) A superintendent may suspend a teacher under contract on the
17 grounds of incompetence, conduct unbecoming a teacher, failure to attend to
18 duties, or failure to carry out reasonable orders and directions of the
19 superintendent and school board.

20 ~~(c)~~(2) The suspension shall be in writing and shall set forth the grounds
21 therefor. Copies shall be delivered to the teacher, and to the chair and to the

1 clerk of the board of school directors. Thereafter, performance under the
2 teacher's contract shall be suspended, but he or she shall be paid pro rata to the
3 time of his or her dismissal by the board.

4 ~~(e)~~(3) The teacher so suspended shall have the right to appeal to the board
5 of school directors of the district for review of the decision. Filing a written
6 notice of appeal with the clerk of the school board within seven days of the
7 effective date of the suspension shall initiate the appeal. The clerk of the board
8 shall forthwith forward a copy of the notice of appeal to the superintendent and
9 send to the teacher an acknowledgment of receipt of the appeal.

10 ~~(f)~~(4) The school board to which the appeal is directed shall hear the appeal
11 within 10 days of receipt of notification. The teacher and the superintendent
12 shall be advised by the clerk of the board of the time and place of hearing by
13 written notice at least three days before the date of hearing.

14 ~~(g)~~(5) All parties shall be entitled to counsel at every stage of the
15 proceedings established by this section. Hearings shall be in executive session,
16 unless the teacher making an appeal requests or agrees in writing that they be
17 open to the public. A teacher making an appeal may waive in writing his or
18 her right to a hearing.

19 ~~(h)~~(6) Upon hearing, or if no appeal is taken, the school board shall affirm
20 or reverse the suspension or take such other action, including dismissal, as may
21 appear just. If the suspension, or the dismissal, is reversed, the teacher shall

1 not suffer any loss of pay, retirement benefits, or any other benefits to which
2 he or she would otherwise have been entitled.

3 ~~(i)~~(7) The decision of the school board shall be in writing and filed with the
4 clerk of the school board not later than five days after the hearing or after the
5 time for taking an appeal has expired. The clerk shall within three days notify
6 the superintendent and the teacher in writing of the decision.

7 ~~(j)~~(d) No court action shall lie on the part of a teacher against any school
8 district for breach of contract by reason of suspension or dismissal unless the
9 procedures herein described have been followed by ~~said~~ the teacher.

10 ~~(k)~~(e) Every teacher's contract shall be deemed to contain the provisions of
11 this section and any provision in the contract inconsistent with this section
12 shall be considered of no force or effect.

13 (f) A teacher shall be immune from discipline by the teacher's employer for
14 testifying before the General Assembly or a committee of the General
15 Assembly or before the State Board of Education.

16 Sec. 2. 16 V.S.A. § 1698 is amended to read:

17 § 1698. CAUSES FOR LICENSING ACTION

18 Any one of the following, or any combination of the following, constitutes
19 potential cause for licensing action whether occurring within or outside the
20 State:

21 (1) Unprofessional conduct, which means:

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(F) falsification, misrepresentation, or misstatement of material
information provided in connection with the application for or renewal or
reinstatement of a license or endorsement; ~~and~~

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(G) with respect to a superintendent, the failure to maintain the
confidentiality and privileged status of information provided pursuant to
subsection 1700(c) and subdivision 1708(f)(3) of this title; and

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(H) interfering or directing someone else to interfere with the right of
a teacher to interview for, be offered, and accept a new teaching position.

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Sec. 3. EFFECTIVE DATE

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This act shall take effect on passage.