

(SENATE AUTHORS: HANN, Thompson and Rosen)

DATE	D-PG	OFFICIAL STATUS
03/10/2011	486	Introduction and first reading Referred to Education See HF934, Art. 2, Sec. 8, 10, 12-14 (vetoed)

1.1 A bill for an act
1.2 relating to education; modifying teacher termination and discharge procedures;
1.3 amending Minnesota Statutes 2010, section 122A.40, subdivisions 7, 9, 13,
1.4 15, 16.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2010, section 122A.40, subdivision 7, is amended to
1.7 read:

1.8 Subd. 7. **Termination of contract after probationary period.** (a) A teacher who
1.9 has completed a probationary period in any district, and who has not been discharged or
1.10 advised of a refusal to renew the teacher's contract under subdivision 5, shall ~~elect to have~~
1.11 a continuing contract with ~~such~~ the district where contract terms and conditions, including
1.12 salary and salary increases, are established based either on the length of the school calendar
1.13 or an extended school calendar under section 120A.415. Thereafter, the teacher's contract
1.14 must remain in full force and effect, except as modified by mutual consent of the board and
1.15 the teacher, until terminated by a majority roll call vote of the full membership of the board
1.16 prior to ~~April 1~~ July 1 upon one of the grounds specified in ~~subdivision 9 or July 1 upon~~
1.17 ~~one of the grounds specified in~~ subdivision 9, 10, or 11, or until the teacher is discharged
1.18 pursuant to subdivision 13, or by the written resignation of the teacher submitted prior to
1.19 April 1. If an agreement as to the terms and conditions of employment for the succeeding
1.20 school year has not been adopted ~~pursuant to the provisions of~~ under sections 179A.01
1.21 to 179A.25 prior to March 1, the teacher's right of resignation is extended to the 30th
1.22 calendar day following the adoption of ~~said contract~~ the agreement in compliance with
1.23 section 179A.20, subdivision 5. ~~Such~~ The written resignation by the teacher is effective as
1.24 of June 30 if submitted prior to that date and the teachers' right of resignation for the next

school year ~~then beginning~~ shall cease on July 15. Before a teacher's contract is terminated by the board, the board must notify the teacher in writing and state its ~~ground~~ grounds for the proposed termination in reasonable detail together with a statement that the teacher may make a written request for a hearing before the board within 14 calendar days after receipt of ~~such~~ the notification, and it shall be granted within ten calendar days with notice to the teacher of the date set for the hearing, before final action is taken.

If the grounds are those specified in subdivision ~~9 or~~ 13, the notice must also state a teacher may request arbitration under subdivision 15. Within 14 calendar days after receipt of ~~this~~ the notification, the teacher may make a written request for a hearing before the board or ~~an arbitrator~~ arbitration and it shall be ~~granted upon reasonable~~ granted within 14 calendar days with notice to the teacher of the date set for hearing or arbitration, before final action is taken. If no hearing or arbitration is requested within ~~such~~ the required time period, it shall be deemed acquiescence by the teacher to the board's action. ~~Such~~ Termination under subdivision 9 shall take effect at the close of the school year in which the contract is terminated in the manner aforesaid, and termination discharge under subdivision 13 shall take effect immediately. A board may, however, suspend a teacher with pay pending the conclusion of such a hearing or arbitration and determination of the issues raised in the hearing or arbitration after charges have been filed which constitute grounds for discharge. Such contract A continuing contract teacher's contract may be terminated at any time by mutual consent of the board and the teacher, and this section does not affect the powers of a board to suspend, discharge, or demote a teacher under and pursuant to other provisions of law.

(b) A teacher electing to have a continuing contract based on the extended school calendar under section 120A.415 must participate in staff development training under subdivision 7a and shall receive an increased base salary.

Sec. 2. Minnesota Statutes 2010, section 122A.40, subdivision 9, is amended to read:

Subd. 9. **Grounds for termination.** A continuing contract may be terminated, effective at the close of the school year, upon any of the following grounds:

~~(a)~~ (1) inefficiency;

~~(b)~~ (2) neglect of duty, or persistent violation of school laws, rules, regulations, or directives;

~~(c)~~ (3) conduct unbecoming a teacher which materially impairs the teacher's educational effectiveness; or

~~(d)~~ (4) other good and sufficient grounds rendering the teacher unfit to perform the teacher's duties.

A contract must not be terminated upon one of the grounds specified in clause ~~(a), (b), (c), or (d)~~ (1), (2), (3), or (4), unless the teacher fails to correct the deficiency after being given written notice of the specific items of complaint ~~and reasonable time,~~ a written plan to assist the teacher in remedy, the specific items of complaint, and for a period not to exceed six months within which to remedy them.

Sec. 3. Minnesota Statutes 2010, section 122A.40, subdivision 13, is amended to read:

Subd. 13. **Immediate discharge.** (a) Except as otherwise provided in paragraph (b), a board may discharge a continuing-contract teacher, effective immediately, upon any of the following grounds:

(1) immoral conduct, insubordination, or conviction of a felony;

(2) conduct unbecoming a teacher which requires the immediate removal of the teacher from the classroom or other duties;

(3) failure without justifiable cause to teach without first securing the written release of the school board;

(4) gross inefficiency which the teacher has failed to correct after reasonable written notice;

(5) willful neglect of duty; ~~or~~

(6) continuing physical or mental disability subsequent to a ~~12-months~~ 12-month leave of absence and inability to qualify for reinstatement in accordance with subdivision 12; or

(7) the inability of the board to terminate at the close of the previous school year under subdivision 9.

For purposes of this ~~paragraph~~ subdivision, conduct unbecoming a teacher includes an unfair discriminatory practice described in section 363A.13.

~~Prior to discharging a teacher under this paragraph, the board must notify the teacher in writing and state its ground for the proposed discharge in reasonable detail. Within ten days after receipt of this notification the teacher may make a written request for a hearing before the board and it shall be granted before final action is taken. The board may, however, suspend a teacher with pay pending the conclusion of such hearing and determination of the issues raised in the hearing after charges have been filed which constitute ground for discharge.~~

(b) A board must discharge a continuing-contract teacher, effective immediately, upon receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's license has been revoked due to a conviction for child abuse or sexual abuse.

Sec. 4. Minnesota Statutes 2010, section 122A.40, subdivision 15, is amended to read:

Subd. 15. **Hearing and determination by arbitrator.** (a) A teacher whose ~~termination-discharge~~ is proposed under subdivision 7 on grounds specified in ~~subdivision 9, or whose discharge is proposed under~~ subdivision 13, may elect ~~a hearing before an arbitrator~~ arbitration instead of a hearing before the school board. The ~~hearing~~ arbitration is governed by this subdivision.

~~(a)~~ (b) The teacher must make a written request for a hearing before an arbitrator within 14 calendar days after receiving notification of proposed termination on grounds specified in subdivision 9 or within ten days of receiving notification of proposed discharge under subdivision 13. ~~If a request for a hearing does not specify that the hearing be before an arbitrator, it is considered to be a request for a hearing before the school board.~~

~~(b)~~ (c) If the teacher and the school board are unable to mutually agree on an arbitrator, the board must request from the bureau of mediation services a list of five randomly selected persons to serve as an arbitrator. ~~If the matter to be heard is a proposed termination on grounds specified in subdivision 9, arbitrators on the list must be available to hear the matter and make a decision within a time frame that will allow the board to comply with all statutory timelines relating to termination.~~ If the teacher and the board are unable to mutually agree on an arbitrator from the list provided, the parties shall alternately strike names from the list until the name of one arbitrator remains. The person remaining after the striking procedure must be the arbitrator. If the parties are unable to agree on who shall strike the first name, the question must be decided by a flip of a coin. The teacher and the school board must share equally the costs and fees of the arbitrator.

~~(c)~~ (d) The arbitrator shall determine, by a preponderance of the evidence, whether the grounds for ~~termination or~~ discharge specified in ~~subdivision 9 or~~ 13 exist to support the proposed ~~termination or~~ discharge. A lesser penalty than ~~termination or~~ discharge may be imposed by the arbitrator only to the extent that ~~either party proposes such~~ both parties agree to a lesser penalty in the proceeding. In making the determination, the arbitration proceeding is governed by sections 572B.15 to 572B.28 and by the collective bargaining agreement applicable to the teacher.

~~(d)~~ (e) An arbitration hearing conducted under this subdivision is a meeting for preliminary consideration of allegations or charges within the meaning of section 13D.05, subdivision 3, paragraph (a), and must be closed, unless the teacher requests it to be open.

~~(e)~~ (f) The arbitrator's award is final and binding on the parties, subject to sections 572B.18 to 572B.28.

Sec. 5. Minnesota Statutes 2010, section 122A.40, subdivision 16, is amended to read:

5.1 Subd. 16. **Decision.** After the hearing or arbitration, the board must issue a written
5.2 decision and order. ~~If the board orders termination of a continuing contract or discharge of~~
5.3 ~~a teacher, and~~ its decision must include findings of fact based upon competent evidence in
5.4 the record and must be served on the teacher, ~~accompanied by an order of termination or~~
5.5 ~~discharge, prior to April 1 in the case of a contract termination for grounds specified in~~
5.6 ~~subdivision 9, prior to July 1 for grounds specified in subdivision 10 or 11, or within ten~~
5.7 calendar days after conclusion of the hearing in the case of a discharge or receipt of an
5.8 arbitrator's decision. If the decision of the board or of a reviewing court is favorable to the
5.9 teacher, the proceedings must be dismissed and the decision entered in the board minutes,
5.10 and all references to ~~such~~ the proceedings must be excluded from the teacher's record file.