

SENATE BILL No. 52

By Senators Hensley, Bollier, Faust-Goudeau, Francisco, Haley, Hawk, Holland,
Miller, Pettey, Sykes and Ware

1-28

1 AN ACT concerning teachers; relating to contracts; due process; amending
2 K.S.A. 72-2252, 72-2253, 72-2254 and 72-2260 and repealing the
3 existing sections.
4

5 *Be it enacted by the Legislature of the State of Kansas:*

6 Section 1. K.S.A. 72-2252 is hereby amended to read as follows: 72-
7 2252. As used in ~~this act~~ K.S.A. 72-2252 through 72-2262, and
8 amendments thereto: (a) "Teacher" means *any professional employee who*
9 *is required to hold a certificate to teach in any school district and any*
10 *teacher or instructor in any technical college, the institute of technology at*
11 *Washburn university or community college. The term "teacher" does not*
12 *include within its meaning any supervisor, principal, superintendent or*
13 *any person employed under the authority of K.S.A. 72-1134, and*
14 *amendments thereto, or any persons person employed in an administrative*
15 *capacity by any technical college, the institute of technology at Washburn*
16 *university or community college.*

17 (b) "Board" means the *board of education of any school district,*
18 *governing body of any technical college or the institute of technology at*
19 *Washburn university, and the board of trustees of any community college.*

20 Sec. 2. K.S.A. 72-2253 is hereby amended to read as follows: 72-
21 2253. (a) Whenever a teacher is given written notice of intention by a
22 board to not renew or to terminate the contract of the teacher as provided
23 in K.S.A. 72-2251, and amendments thereto, the written notice of the
24 proposed nonrenewal or termination shall include: (1) A statement of the
25 reasons for the proposed nonrenewal or termination; and (2) a statement
26 that the teacher may have the matter heard by a hearing officer upon
27 written request filed with *the clerk of the board of education or the board*
28 *of control or the secretary of the board of trustees within 15 calendar days*
29 *from the date of such notice of nonrenewal or termination.*

30 (b) Within 10 calendar days after the filing of any written request of a
31 teacher to be heard as provided in subsection (a), the board shall notify the
32 commissioner of education that a list of qualified hearing officers is
33 required. Such notice shall contain the mailing address of the teacher.
34 Within 10 days after receipt of notification from the board, the
35 commissioner shall provide to the board and to the teacher, a list of five

1 randomly selected, qualified hearing officers.

2 (c) Within five days after receiving the list from the commissioner,
3 each party shall eliminate two names from the list, and the remaining
4 individual on the list shall serve as hearing officer. In the process of
5 elimination, each party shall eliminate no more than one name at a time,
6 the parties alternating after each name has been eliminated. The first name
7 to be eliminated shall be chosen by the teacher within five days after the
8 teacher receives the list. The process of elimination shall be completed
9 within five days thereafter.

10 (d) Either party may request that one new list be provided within five
11 days after receiving the list. If such a request is made, the party making the
12 request shall notify the commissioner and the other party, and the
13 commissioner shall generate a new list and distribute it to the parties in the
14 same manner as the original list.

15 (e) In lieu of using the process provided in subsections (b) and (c), if
16 the parties agree, they may make a request to the American arbitration
17 association for an arbitrator to serve as the hearing officer. Any party
18 desiring to use this alternative procedure shall so notify the other party in
19 the notice required under subsection (a). If the parties agree to use this
20 procedure, the parties shall make a joint request to the American
21 arbitration association for a hearing officer within 10 days after the teacher
22 files a request for a hearing. If the parties choose to use this procedure, the
23 parties shall each pay one-half of the cost of the arbitrator and of the
24 arbitrator's expenses.

25 (f) The commissioner of education shall compile and maintain a list
26 of hearing officers comprised of residents of this state who are attorneys at
27 law. Such list shall include a statement of the qualifications of each
28 hearing officer.

29 (g) Attorneys interested in serving as hearing officers under the
30 provisions of this act shall submit an application to the commissioner of
31 education. The commissioner shall determine if the applicant is eligible to
32 serve as a hearing officer pursuant to the provisions of subsection (h).

33 (h) An attorney shall be eligible for appointment to the list if the
34 attorney has: (1) Completed a minimum of 10 hours of continuing legal
35 education credit in the area of education law, due process, administrative
36 law or employment law within the past five years; or (2) previously served
37 as the chairperson of a due process hearing committee prior to the effective
38 date of this act. An attorney shall not be eligible for appointment to the list
39 if the attorney has been employed to represent a board or a teacher in a due
40 process hearing within the past five years.

41 Sec. 3. K.S.A. 72-2254 is hereby amended to read as follows: 72-
42 2254. The hearing provided for under K.S.A. 72-2253, and amendments
43 thereto, shall commence within 45 calendar days after the hearing officer

1 is selected unless the hearing officer grants an extension of time. The
2 hearing shall afford procedural due process, including the following:

3 (a) The right of each party to have counsel of such party's own choice
4 present and to receive the advice of such counsel or other person whom
5 such party may select;

6 (b) the right of each party or such party's counsel to cross-examine
7 any person who provides information for the consideration of the hearing
8 officer, except those persons whose testimony is presented by affidavit;

9 (c) the right of each party to present such party's own witnesses in
10 person, or their testimony by affidavit or deposition, except that testimony
11 of a witness by affidavit may be presented only if such witness lives more
12 than 100 miles from the location of *the unified school district office*, the
13 technical college, institute of technology at Washburn university or
14 community college, or is absent from the state, or is unable to appear
15 because of age, illness, infirmity or imprisonment. When testimony is
16 presented by affidavit the same shall be served upon *the clerk of the board*
17 *of education*, the board of control, the secretary of the board of trustees or
18 the agent of the board and upon the teacher in person or by first-class mail
19 to the address of the teacher ~~which~~ *that* is on file with the board not less
20 than 10 calendar days prior to presentation to the hearing officer;

21 (d) the right of the teacher to testify in the teacher's own behalf and
22 give reasons for the teacher's conduct, and the right of the board to present
23 its testimony through such persons as the board may call to testify in its
24 behalf and to give reasons for its actions, rulings or policies;

25 (e) the right of the parties to have an orderly hearing; and

26 (f) the right of the teacher to a fair and impartial decision based on
27 substantial evidence.

28 Sec. 4. K.S.A. 72-2260 is hereby amended to read as follows: 72-
29 2260. (a) *Except as otherwise provided in this section*, the provisions of
30 K.S.A. 72-2253 through 72-2258, and amendments thereto, apply only to:

31 (1) Teachers who have completed not less than three consecutive years of
32 employment, and been offered a fourth contract, in the *school district*,
33 technical college, institute of technology at Washburn university or
34 community college by which any such teacher is currently employed; and
35 (2) teachers who have completed not less than two consecutive years of
36 employment, and been offered a third contract, in the *school district*,
37 technical college, institute of technology at Washburn university or
38 community college by which any such teacher is currently employed if at
39 any time prior to the current employment the teacher has completed the
40 years of employment requirement of paragraph (1) ~~of this subsection~~ in
41 any *school district*, technical college, the institute of technology at
42 Washburn university or community college in this state.

43 (b) Any board may waive, at any time, the years of employment

1 requirements of subsection (a)(1) for any teacher employed by it.

2 (c) The provisions of this ~~subsection~~ *section* are subject to the
3 provisions of K.S.A. 72-2262, and amendments thereto.

4 (d) *The provisions of K.S.A. 72-2253 through 72-2258, and*
5 *amendments thereto, do not apply to any teacher whose license has been*
6 *non-renewed or revoked by the state board of education because the*
7 *teacher has:*

8 (1) *Been convicted of a felony under K.S.A. 2010 Supp. 21-36a01*
9 *through 21-36a17, prior to their transfer, or article 57 of chapter 21 of the*
10 *Kansas Statutes Annotated, and amendments thereto, or any felony*
11 *violation of any provision of the uniform controlled substances act prior to*
12 *July 1, 2009;*

13 (2) *been convicted of a felony described in article 34 of chapter 21 of*
14 *the Kansas Statutes Annotated, prior to its repeal, or article 54 of chapter*
15 *21 of the Kansas Statutes Annotated or K.S.A. 2018 Supp. 21-6104, 21-*
16 *6325, 21-6326 or 21-6418, and amendments thereto, or an act described*
17 *in K.S.A. 21-3412 or 21-3412a, prior to its repeal, or K.S.A. 2018 Supp.*
18 *21-5413(a) or 21-5414, and amendments thereto, if the victim is a minor*
19 *or student;*

20 (3) *been convicted of a felony described in article 35 of chapter 21 of*
21 *the Kansas Statutes Annotated, prior to its repeal, or article 55 of chapter*
22 *21 of the Kansas Statutes Annotated or K.S.A. 2018 Supp. 21-6419*
23 *through 21-6422, and amendments thereto, or has been convicted of an*
24 *act described in K.S.A. 21-3517, prior to its repeal, or K.S.A. 2018 Supp.*
25 *21-5505(a), and amendments thereto, if the victim is a minor or student;*

26 (4) *been convicted of any act described in article 36 of chapter 21 of*
27 *the Kansas Statutes Annotated, prior to its repeal, or article 56 of chapter*
28 *21 of the Kansas Statutes Annotated, and amendments thereto;*

29 (5) *been convicted of a felony described in article 37 of chapter 21 of*
30 *the Kansas Statutes Annotated, prior to its repeal, or article 58 of chapter*
31 *21 of the Kansas Statutes Annotated or K.S.A. 2018 Supp. 21-6412(a)(6),*
32 *and amendments thereto;*

33 (6) *been convicted of an attempt under K.S.A. 21-3301, prior to its*
34 *repeal, or K.S.A. 2018 Supp. 21-5301, and amendments thereto, to commit*
35 *any act specified in this subsection;*

36 (7) *been convicted of any act that is described in K.S.A. 21-4301, 21-*
37 *4301a or 21-4301c, prior to their repeal, or K.S.A. 2018 Supp. 21-6401 or*
38 *21-6402, and amendments thereto;*

39 (8) *been convicted in another state or by the federal government of*
40 *an act similar to any act described in this subsection; or*

41 (9) *has entered into a criminal diversion agreement after having been*
42 *charged with any offense described in this subsection.*

43 Sec. 5. K.S.A. 72-2252, 72-2253, 72-2254 and 72-2260 are hereby

1 repealed.

2 Sec. 6. This act shall take effect and be in force from and after its
3 publication in the statute book.