

State of Arkansas

76th General Assembly

Regular Session, 1987

HOUSE BILL 1813

By: Reps. Matthews, Cunningham and Bryan

"AN ACT TO AMEND ACT 936 OF 1983 TO PROVIDE FOR THE  
NONRENEWAL AND TERMINATION OF ADMINISTRATORS AND  
NONPROBATIONARY TEACHERS FOR JUST CAUSE; AND FOR  
OTHER PURPOSES."

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Section 1 of Act 936 of 1983, the same being Arkansas Statute 80-1266, is hereby amended to read as follows:

"Section 1. This Act shall be referred to and may be cited as "The Teacher Fair Dismissal Act of 1983". This Act shall be cumulative to the duly promulgated and adopted personnel policies of school districts which provide more or greater rights to the teacher than those provided by this Act."

SECTION 2. Section 2 of Act 936 of 1983, the same being Arkansas Statute 80-1266.1, is hereby amended to read as follows:

"Section 2. The term 'teacher' as used in this Act shall be defined as any person employed in an Arkansas public school district who is required to hold a teaching certificate from the Arkansas Department of Education as a condition of employment. The term 'teacher' shall include superintendents unless otherwise provided by a section of this Act.

The term 'probationary teacher' as used in this Act shall be defined as a teacher who has not completed three (3) successive years of employment in the school district in which the teacher is currently employed. A teacher employed in a school district in this State for three (3) years shall be deemed to have completed the probationary period; provided, however, that a new employing school district may, by a majority vote of its directors at the time of hiring, provide for one additional year of probationary status."

SECTION 3. Section 3 of Act 936 of 1983, the same being Arkansas Statute 80-1266.2, is hereby amended to read as follows:

"Section 3. This Act is not a teacher tenure law in that it does not confer lifetime appointment, nor prevent discharge or nonrenewal of teachers for just cause. The term 'just cause' as used in this Act, includes but is not limited to immorality, insubordination, incompetence, and the failure to abide by lawful and reasonable rules, policies and procedures. The failure of a school district to comply with the procedural protections of this Act shall make ineffective any nonrenewal, suspension, or termination of a teacher."

SECTION 4. Section 4 of Act 936 of 1983, the same being Arkansas Statute 80-1266.3, is hereby amended to read as follows:

"Section 4. Every contract of employment hereafter made between a teacher and the board of directors of a school district shall be renewed in writing on the same terms and for the same salary, unless increased or decreased by law, for the next school year succeeding the date of termination fixed therein, which renewal may be made by an endorsement on the existing contract instrument, unless by May 1st of the contract year, the teacher is notified by the school superintendent that the superintendent is recommending that the teacher's contract not be renewed or unless during the period of the contract or within ten (10) days after the end of the school year, the teacher shall deliver or mail by registered mail to the board of directors his or her resignation as a teacher, or unless such contract is superceded by another contract between the parties; provided, however, that a notice of recommended nonrenewal of a superintendent's contract shall be from the school board president. Termination, nonrenewal or suspension shall be only upon the recommendation of the Superintendent; or in the case of the superintendent, only upon the recommendation of the school board president.

A notice of nonrenewal shall be mailed by registered or certified mail to the teacher at the teacher's residence address as reflected in the teacher's personnel file. A teacher who has completed three (3) successive years of employment in the school district in which the teacher is employed on the effective date of this Act or a teacher who has been given credit for a prior service in another district as authorized by Section 2 herein is deemed to have completed the required probationary period. The notice of recommended nonrenewal of a teacher shall include a simple but complete statement of the

reasons for such recommendation."

SECTION 5. Section 5 of Act 936 of 1983, the same being Arkansas Statute 80-1266.4, is hereby amended to read as follows:

"Section 5. A teacher may be terminated during the term of any contract period for just cause. The superintendent shall notify the teacher of the termination recommendation; provided, however, the notice of recommended termination of the superintendent's contract shall be from the school board president. Such notice shall include a simple but complete statement of the grounds for the recommendation of termination, and shall be sent by registered or certified mail to the teacher at the teacher's residence address as reflected in the teacher's personnel file."

SECTION 6. Section 6 of Act 936 of 1983, the same being Arkansas Statute 80-1266.5, is hereby amended to read as follows:

"Section 6. (a) Whenever a superintendent has reasons to believe that just cause exists for the termination of a teacher and that immediate suspension of the teacher is necessary, the superintendent may suspend the teacher without notice or a hearing. The superintendent shall notify the teacher in writing within two (2) school days of the suspension. Such written notice shall include a simple but complete statement of the grounds for suspension and/or recommended termination, and shall state that a hearing before the Board of Directors is available to the teacher upon request, provided such request is made in writing within the time provided in Section 9. The hearing shall be scheduled by the president of the board and the teacher and shall be held within the time provided in Section 9 after a request for the hearing unless the teacher and the board agree to a later time. The hearing procedures of Section 9 herein shall apply in all cases of recommended suspension.

(b) Whenever the school board president has reasons to believe that just cause exists for the termination of the superintendent and that immediate suspension of the superintendent is necessary, the president may suspend the superintendent without notice or a hearing. The president shall notify the superintendent in writing within two (2) school days of the suspension. Such written notice shall include a simple but complete statement of the grounds for suspension and or recommended termination, and shall state that a hearing before the Board of Directors is available to the superintendent upon request,

provided such request is made in writing within the time provided in Section 9. The hearing shall be scheduled by the board president and the superintendent and shall be held within the time provided in Section 9 after a request for the hearing unless the superintendent and the board agree to a later time. The hearing procedures of Section 9 shall apply in all cases of recommended suspension.

(c) If just cause for termination or suspension is found, the board may terminate the superintendent or teacher or continue the suspension for a definite period of time. The salary of a suspended superintendent or teacher shall cease as of the date the board sustains the suspension. If sufficient grounds for termination or suspension are not found, the superintendent or teacher shall be reinstated without loss of compensation."

SECTION 7. Section 7 of Act 936 of 1983, the same being Arkansas Statute 80-1266.6, is hereby amended to read as follows:

"Section 7. (a) Each teacher employed by the Board of Directors of a school district must be evaluated in writing annually in accordance with State Board of Education regulations and local policies. Evaluation criteria and procedures shall be established in the manner prescribed in Act 400 of 1975, as amended. Whenever a superintendent or other school administrator charged with the supervision of a teacher believes or has reason to believe that a teacher is having difficulties or problems meeting the expectations of the district or its administration and the administrator believes or has reason to believe the problems could lead to termination or nonrenewal of contract, the administrator shall bring the problems and difficulties to the attention of the teacher involved in writing and shall document the efforts which have been undertaken to assist the teacher to correct whatever appears to be the cause for potential termination or nonrenewal.

(b) The provisions of Section 7(a) shall apply to superintendents provided, however, that the board of directors shall be responsible for the evaluation and documentation duties."

SECTION 8. Section 8 of Act 936 of 1983, the same being Arkansas Statutes 80-1266.7, is hereby amended to read as follows:

"Section 8. The district shall maintain a personnel file for each teacher which shall be available to the teacher for inspection and copying at

the teacher's expense during normal office hours. The teacher may submit for inclusion in the file written information in response to any of the matter contained therein."

SECTION 9. Section 9 of Act 936 of 1983, the same being Arkansas Statutes 80-1266.8, is hereby amended to read as follows:

"Section 9. A teacher who receives a notice of recommended termination, nonrenewal, or suspension may file a written request with the school board of the district for a hearing. Such written request for a hearing shall be sent by certified or registered mail to the president of the school board, with a copy to the superintendent, or may be delivered in person to each of them by such teacher, within thirty (30) days after the written notice of proposed termination or nonrenewal is received by the teacher. Upon receipt of such request for a hearing, the board shall grant a hearing in accordance with the following provisions:

(a) The hearing shall take place not less than five (5) nor more than ten (10) days after the written request therefor has been served on the board, except that the teacher and the board may, in writing, agree to a postponement of the hearing to a later date.

(b) The hearing shall be private unless the teacher or the board shall request that the hearing be public.

(c) The teacher and the board may be represented by representative(s) of their choosing.

(d) It shall not be necessary that a full record of the proceedings at the hearing be made and preserved unless:

(1) The board shall elect to make and preserve a record of the hearing at its own expense, in which event a copy thereof shall be furnished the teacher, upon request, without cost to the teacher;

(2) A written request is filed with the board by the teacher at least twenty-four (24) hours prior to the time set for the hearing, in which event the board shall make and preserve, at its own expense, a record of the hearing, and shall furnish a transcript thereof to the teacher without cost."

SECTION 10. Section 10 of Act 936 of 1983, the same being Arkansas Statute 80-1266.9, is hereby amended to read as follows:

"Section 10. (a) Upon conclusion of its hearing with respect to the ter-

mination, nonrenewal or suspension of a contract of a teacher who has been employed as a full time teacher by the school district for less than three (3) continuous years, the board shall take action on the recommendations by the superintendent, or in the case of the superintendent, the recommendation by the board president, with respect to the termination, nonrenewal, or suspension of such contract. The board's decision with regard to non-renewal of a probationary teacher shall be final.

(b) Any certified teacher who has been employed continuously by the school district three (3) or more years (or who may have achieved nonprobationary status pursuant to Section 2 hereof), may be terminated or the board may refuse to renew the contract of such teacher for just cause. Upon completion of such hearing, the board shall, within ten (10) days after the holding of the hearing: (1) uphold the recommendation of the superintendent to terminate or not renew the teacher contract, or (2) may reject or modify the superintendent's recommendation to terminate or not renew the contract of the teacher, or (3) may vote to continue the contract of such teacher under such restrictions, limitations, or assurances as the school board may deem to be in the best interest of the school district. Said decision shall be reached by the school board within ten (10) days from the date of the hearing, and a copy thereof shall be furnished in writing to the teacher involved either by personally delivering the same to the teacher or by addressing the same to the teacher's last known address by registered or certified mail.

(c) Subsequent to any hearing granted a teacher by this Act, the school board shall, by majority vote, make specific written conclusions with regard to the truth of each reason given in support of the recommended termination or nonrenewal.

(d) The exclusive remedy for any non-probationary teacher aggrieved by the decision by the school board shall be an appeal therefrom to the Circuit Court of the county in which the school district is located, within seventy-five (75) days from the date of receipt by the teacher of written notice of the action of the school board. Additional testimony and evidence may be introduced on appeal to show that the termination, nonrenewal, or suspension was unlawful."

SECTION 11. All laws and parts of laws in conflict herewith are hereby repealed.

SECTION 12. EMERGENCY CLAUSE. It is hereby found and determined by the General Assembly that many school districts during the coming school year will be in the process of merger, consolidation, or annexation, and that the Arkansas Supreme Court has held that the current Teacher Fair Dismissal Act does not apply to teachers under such circumstances. In order that teachers have the protection of this Act in any merger, consolidation or annexation, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of public peace, health and safety, shall be in full force and effect from and after the date of its passage and approval.

