

FILED FEB 2 1990

SENATE FILE 2213
BY COMMITTEE ON EDUCATION
Approved (7334)
(SUCCESSOR TO SSB 2011)

Passed Senate, Date 2-9-90 (p. 454) Passed House, Date _____
Vote: Ayes 48 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the appointment of administrative law judges
2 for the board of educational examiners for certain
3 administrative hearings.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 2213

1 Section 1. NEW SECTION. 260.14 APPOINTMENT OF
2 ADMINISTRATIVE LAW JUDGES.

3 The board shall maintain a list of qualified persons who
4 are experienced in the educational system of this state to
5 serve as administrative law judges when a hearing is requested
6 under section 279.24. When requested under section 279.24,
7 the board shall submit a list of five qualified administrative
8 law judges to the parties. The parties shall select one of
9 the five qualified persons to conduct the hearing as provided
10 in section 279.24. The hearing shall be held pursuant to the
11 provisions of chapter 17A relating to contested cases. The
12 full costs of the hearing shall be shared equally by the
13 parties. A person who is employed as a teacher or
14 administrator by a school district is not eligible to serve as
15 an administrative law judge.

16 Sec. 2. Section 279.24, Code 1989, is amended to read as
17 follows:

18 279.24 CONTRACT WITH ADMINISTRATORS -- AUTOMATIC
19 CONTINUATION OR TERMINATION.

20 An administrator's contract shall remain in force and
21 effect for the period stated in the contract. The contract
22 shall be automatically continued in force and effect for one
23 year beyond the end of its term, except as modified or
24 terminated by mutual agreement of the board of directors of
25 the school corporation and the administrator, or until
26 terminated as hereinafter provided.

27 An administrator may file a written resignation with the
28 secretary of the board of the school corporation on or before
29 May 1 of each year or the date specified by the board of the
30 school corporation for return of the contract, whichever date
31 occurs first.

32 Administrators employed in a school district for less than
33 two consecutive years are probationary administrators.
34 However, a board of the school corporation may waive the
35 probationary period for any administrator who has previously

1 served a probationary period in another school district and
2 the board of the school corporation may extend the
3 probationary period for an additional year with the consent of
4 the administrator. If a board of a school corporation
5 determines that it should terminate a probationary
6 administrator's contract, the board of the school corporation
7 shall notify the administrator not later than March 31 that
8 the contract will not be renewed beyond the current year. The
9 notice shall be in writing by letter, personally delivered, or
10 mailed by certified mail. The notification shall be complete
11 when received by the administrator. Within ten days after
12 receiving the notice, the administrator may request a private
13 conference with the board of the school corporation to discuss
14 the reasons for termination. The ~~board's~~ board of the school
15 corporation's decision to terminate a probationary
16 administrator's contract shall be final unless the termination
17 was based upon an alleged violation of a constitutionally
18 guaranteed right of the administrator.

19 The board of a school corporation may, by majority vote of
20 the membership of the board of the school corporation, cause
21 the contract of an administrator to be terminated. If the
22 board of the school corporation determines that it should
23 consider the termination of a nonprobationary administrator's
24 contract, the following procedure shall apply:

25 On or before March 31, the administrator shall be notified
26 in writing by a letter personally delivered or mailed by
27 certified mail that the board of the school corporation has
28 voted to consider termination of the contract. The
29 notification shall be complete when received by the
30 administrator.

31 The notice shall state the specific reasons to be used by
32 the board of the school corporation for considering
33 termination which for all administrators except
34 superintendents shall be for just cause.

35 Within five days after receipt of the written notice that

1 the board of the school corporation has voted to consider
2 termination of the contract, the administrator may request in
3 writing to the secretary of the board of the school
4 corporation that the notification be forwarded to the
5 professional-teaching-practices-commission board of
6 educational examiners along with a request that the
7 professional-teaching-practices-commission board of
8 educational examiners submit a list of five qualified
9 administrative law judges to the parties. Within three days
10 from receipt of the list the parties shall select an
11 administrative law judge by alternately removing a name from
12 the list until only one name remains. The person whose name
13 remains shall be the administrative law judge. The parties
14 shall determine by lot which party shall remove the first name
15 from the list. The hearing shall be held no sooner than ten
16 days and not later than thirty days following the
17 administrator's request unless the parties otherwise agree.
18 If the administrator does not request a hearing, the board of
19 the school corporation, not later than April 15, may determine
20 the continuance or discontinuance of the contract. Board
21 action Action by the board of the school corporation shall be
22 by majority roll call vote entered on the minutes of the
23 meeting. Notice of board action by the board of the school
24 corporation shall be personally delivered or mailed to the
25 administrator.

26 The administrative law judge selected shall notify the
27 secretary of the board of the school corporation and the
28 administrator in writing concerning the date, time, and
29 location of the hearing. The board of the school corporation
30 may be represented by a legal representative, if any, and the
31 administrator shall appear and may be represented by counsel
32 or by representative, if any. A transcript or recording shall
33 be made of the proceedings at the hearing. A school member of
34 the board member of a school corporation or administrator is
35 not liable for any damage to an administrator or board member

1 if a statement made at the hearing is determined to be
2 erroneous as long as the statement was made in good faith.

3 The administrative law judge shall, within ten days
4 following the date of the hearing, make a proposed decision as
5 to whether or not the administrator should be dismissed, and
6 shall give a copy of the proposed decision to the
7 administrator and the school board. Findings of fact shall be
8 prepared by the administrative law judge. The proposed
9 decision of the administrative law judge shall become the
10 final decision of the board of the school corporation unless
11 within ten days after the filing of the decision the
12 administrator files a written notice of appeal with the board
13 of the school corporation, or the board of the school
14 corporation on its own motion determines to review the
15 decision.

16 If the administrator appeals to the board of the school
17 corporation, or if the board of the school corporation
18 determines on its own motion to review the proposed decision
19 of the administrative law judge, a private hearing shall be
20 held before the board of the school corporation within five
21 days after the petition for review, or motion for review, has
22 been made or at such other time as the parties agree. The
23 private hearing is not subject to chapter 21. The board of
24 the school corporation may hear the case de novo upon the
25 record as submitted before the administrative law judge. In
26 cases where there is an appeal from a proposed decision or
27 where a proposed decision is reviewed on motion of the board
28 of the school corporation, an opportunity shall be afforded to
29 each party to file exceptions, present briefs and present oral
30 arguments to the board of the school corporation which is to
31 render the final decision. The secretary of the board of the
32 school corporation shall give the administrator written notice
33 of the time, place, and date of the hearing. The board of the
34 school corporation shall meet within five days after the
35 hearing to determine the question of continuance or

1 discontinuance of the contract. The board of the school
2 corporation shall make findings of fact which shall be based
3 solely on the evidence in the record and on matters officially
4 noticed in the record.

5 The decision of the board of the school corporation shall
6 be in writing and shall include findings of fact and
7 conclusions of law, separately stated. Findings of fact, if
8 set forth in statutory language, shall be accompanied by a
9 concise and explicit statement of the underlying facts and
10 supporting the findings. Each conclusion of law shall be
11 supported by cited authority or by reasoned opinion.

12 When the board of the school corporation has reached a
13 decision, opinion, or conclusion, it shall convene in open
14 meeting and by roll call vote determine the continuance or
15 discontinuance of the administrator's contract. The record of
16 the private conference and findings of fact and exceptions
17 shall be exempt from the provisions of chapter 22. The
18 secretary of the board of the school corporation shall
19 immediately personally deliver or mail notice of the board's
20 action by the board of the school corporation to the
21 administrator.

22 The administrator may within thirty days after notification
23 by the board of the school corporation of discontinuance of
24 the contract appeal to the district court of the county in
25 which the administrative office of the school district is
26 located.

27 The court may affirm the board of the school corporation's
28 action. The court shall reverse, modify, or grant any other
29 appropriate relief from the board of the school corporation's
30 action, equitable or legal, and including declaratory relief,
31 if substantial rights of the administrator have been
32 prejudiced because the board of the school corporation's
33 action is any of the following:

- 34 1. In violation of constitutional or statutory provisions.
- 35 2. In excess of the statutory authority of the board of

1 the school corporation.

2 3. In violation of board a policy or rule of the board of
3 the school corporation.

4 4. Made upon unlawful procedure.

5 5. Affected by other error of law.

6 6. Unsupported by a preponderance of the evidence in the
7 record made before the board of the school corporation when
8 that record is reviewed as a whole.

9 7. Unreasonable, arbitrary, or capricious, or
10 characterized by an abuse of discretion or clearly unwarranted
11 exercise of discretion.

12 EXPLANATION

13 This bill reinstates the authority to use administrative
14 law judges for purposes of conducting hearings relating to
15 administrators employed by a school corporation. The language
16 of the new section was previously found under section 272A.8,
17 Code 1989, which related to the powers of the professional
18 teaching practices commission. The former commission's duties
19 are currently held by the board of educational examiners under
20 chapter 260. The bill also makes technical changes to reflect
21 the transfer of authority.

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SSB 2011
EDUCATION

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BY (PROPOSED DEPARTMENT OF
EDUCATION BILL)

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34 are currently held by the board of educational examiners under
35 chapter 260. The bill also makes technical changes to reflect

1 the transfer of authority.

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BACKGROUND STATEMENT

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SUBMITTED BY THE AGENCY

4 In the development of House File 794, passed during the
5 1989 legislative session, the former chapter 272A was
6 repealed.

7 One section of chapter 272A related to the appointment of
8 administrative law judges in certain circumstances concerning
9 the termination of school administrators. This process is
10 outlined in section 279.24.

11 Thus, the provisions set out in section 279.24 are in
12 force, but the provisions and procedures formerly detailed in
13 section 272A.8 were repealed.

14 The board of educational examiners believes these
15 provisions should be retained in order to clarify the process
16 and procedures for the board of educational examiners.

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