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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2013

A N A C T

**RELATING TO LABOR AND LABOR RELATIONS -- CERTIFIED SCHOOL TEACHERS'
JUDICIAL RESOLUTION PROCESS**

Introduced By: Representative Spencer E. Dickinson

Date Introduced: February 12, 2013

Referred To: House Labor

It is enacted by the General Assembly as follows:

1 SECTION 1. Preamble:

2 WHEREAS, Every decision made concerning public education must be in the best
3 interest of our students;

4 WHEREAS, The general assembly has the authority to establish education policy and to
5 ensure that the education of our children is free from the unintended learning impediments
6 associated with ongoing labor actions, including strikes and work-to-rule situations;

7 WHEREAS, This will provide an avenue for a school district to avoid teachers' strikes
8 through a judicial resolution process thereby minimizing family worries as the school year
9 begins, providing stability in our public education system;

10 WHEREAS, This process provides prompt settlement to often lengthy, expensive and
11 disruptive negotiations, saving communities' legal fees;

12 WHEREAS, This process saves taxpayer money by producing well-balanced negotiation
13 outcomes that must focus on what is best for our children's education and the local taxpayer's
14 ability to pay.

15 The general assembly does hereby introduce the 2013 "Teachers' Judicial Resolution
16 Process."

17 SECTION 2. Sections 16-13-2, 16-13-3, 16-13-6 and 16-13-8 of the General Laws in
18 Chapter 16-13 entitled "Teachers' Tenure" are hereby amended to read as follows:

1 **16-13-2. Annual contract basis -- Automatic continuation.** -- (a) Teaching service
2 shall be on the basis of an annual contract, except as hereinafter provided, and the contract shall
3 be deemed to be continuous unless the governing body of the schools shall notify the teacher in
4 writing on or before ~~March 1~~ April 1 that the contract for the ensuing year will not be renewed;
5 provided, however, that a teacher, upon request, shall be furnished a statement of cause for
6 dismissal or nonrenewal of his or her contract by the school committee; provided further, that
7 whenever any contract is not renewed or the teacher is dismissed, the teacher shall be entitled to a
8 hearing and appeal pursuant to the procedure set forth in section 16-13-4.

9 (b) Nothing contained in this section shall be construed to prohibit or at any time to have
10 prohibited a school committee from agreeing, in a collective bargaining agreement, to the
11 arbitration of disputes arising out of a dismissal or nonrenewal of a nontenured teacher pursuant
12 to subsection (a) of this section.

13 **16-13-3. Probationary period -- Tenure after probation.** -- (a) Three (3) annual
14 contracts within five (5) successive school years shall be considered evidence of satisfactory
15 teaching and shall constitute a probationary period. Teachers who complete the probationary
16 period shall be considered in continuous service and shall not be subject to annual renewal or
17 nonrenewal of their contracts. No tenured teacher in continuous service shall be dismissed except
18 for good and just cause. Whenever a tenured teacher in continuous service is to be dismissed, the
19 notice of the dismissal shall be given to the teacher, in writing, on or before ~~March 1st~~ April 1 of
20 the school year immediately preceding the school year in which the dismissal is to become
21 effective. The teacher shall be furnished with a complete statement of the cause(s) for the
22 dismissal by the governing body of the school and shall be entitled to a hearing and appeal
23 pursuant to the procedure set forth in section 16-13-4.

24 (b) Nothing contained in this section shall be construed to prohibit or at any time to have
25 prohibited a school committee from agreeing, in a collective bargaining agreement, to the
26 arbitration of disputes arising out of the dismissal of a tenured teacher pursuant to subsection (a)
27 of this section.

28 (c) Any teacher appointed to a position of principal, assistant principal, or vice principal
29 within the school system in which the teacher has attained tenure shall, upon termination or
30 resignation of the administrative position, be allowed to return to his or her former status as a
31 tenured teacher within the system.

32 **16-13-6. Suspension because of decrease in school population -- Seniority --**
33 **Reinstatement.** -- (a) A school board may, by reason of a substantial decrease of pupil
34 population within its school system, suspend teachers in numbers necessitated by the decrease in

1 pupil population; provided, however, that suspension of teachers shall be in the inverse order of
2 their employment unless it is necessary to retain certain teachers of technical subjects whose
3 places cannot be filled by teachers of earlier appointment; and, provided, further, that teachers
4 that are suspended shall be reinstated in the inverse order of their suspension. No new
5 appointments shall be made while there are available teachers so suspended.

6 (b) Notice of suspension under this section and section 16-13-5 shall be given, in
7 writing, by the governing body of schools on or before ~~March 1~~ April 1 notifying the teacher that
8 his or her employment for the ensuing year shall be suspended, provided however, notice by that
9 date need not be provided in the instance of an emergency performance related cause.

10 **16-13-8. Continuity of tenure upon transfer.** -- Any teacher in continuing service who
11 voluntarily resigns and transfers to another community in Rhode Island without interrupting his
12 or her professional career, shall be considered to remain under tenure unless the teacher is
13 notified to the contrary, in writing, prior to ~~March 1~~ April 1 of the second school year in which
14 the teacher transfers.

15 SECTION 3. Sections 28-9.3-9, 28-9.3-10, 28-9.3-11 and 28-9.3-12 of the General Laws
16 in Chapter 28-9.3 entitled "Certified School Teachers' Arbitration" are hereby amended to read as
17 follows:

18 **28-9.3-9. Unresolved issues submitted to mediation or arbitration.** -- **Unresolved**
19 **issues submitted to mediation or judicial resolution.** -- (a) In the event that the negotiating or
20 bargaining agent and the school committee are unable, within thirty (30) days from and including
21 the date of their first meeting, to reach an agreement on a contract, either of them may request
22 mediation and conciliation upon any and all unresolved issues, including, but not limited to, the
23 expenditure of money by the director of labor and training or from any other source. ~~If mediation~~
24 ~~and conciliation fail or are not requested, at any time after the thirty (30) days, either party may~~
25 ~~request that any and all unresolved issues shall be submitted to arbitration by sending the request~~
26 ~~by certified mail postage prepaid to the other party, setting forth the issues to be arbitrated.~~

27 (b) In the event that the negotiating or bargaining agent and the school committee are
28 unable to reach an agreement on a contract thirty (30) days before the last day on which money
29 can be appropriated by the city and town to cover the first year of the contract period, any and all
30 unresolved issues, including, but not limited to, the expenditure of money shall be submitted to
31 the director of labor and training for compulsory mediation until the date upon which the money
32 is scheduled to be appropriated. The director of labor and training or his or her designee may
33 waive this requirement upon the mutual agreement of the parties.

34 (c) In the event that the negotiating or bargaining agent and the school committee are

1 unable within ten (10) days of the scheduled close of school in June of the last year of the
2 contract in effect to reach an agreement on a contract, any and all unresolved issues shall be
3 submitted to the director of labor and training for compulsory mediation.

4 (d) If the parties cannot mutually agree upon a mediator within twenty-four (24) hours,
5 the director of labor and training shall select a mediator from a panel previously established by
6 the director comprised of persons knowledgeable in the field of labor management relations to
7 mediate the dispute. The department of labor and training is empowered to compel the attendance
8 of all the parties to any and all meetings it deems necessary until the dispute is resolved.

9 (e) For any mediation pertaining to unresolved issues that are submitted to compulsory
10 mediation between the negotiating or bargaining agent and the school committee, pursuant to the
11 provisions of this section, the state shall pay up to five thousand dollars (\$5,000) of the cost of the
12 mediation expenses. Any costs above five thousand dollars (\$5,000) shall be shared equally
13 between the bargaining unit and the school committee.

14 (f) If no agreement is reached by midnight of the expiration of the existing contract, or by
15 mutual agreement of the parties at an earlier point in the mediation process, the parties shall
16 submit a list of their respective unresolved issues to the mediator. If an agreement is not reached
17 prior to the opening of school, the school committee may select the judicial resolution process by
18 so notifying the representative of the teachers, in which case, the teachers shall continue to work
19 under the terms of the existing contract.

20 (g) The parties shall then proceed to judicial resolution with the composition of the
21 resolution board made in accordance with section 28-9.3-10.

22 (h) Ten (10) days prior to the first scheduled resolution hearing, the parties shall meet
23 with the mediator and submit to the mediator their respective positions on each individual issue in
24 dispute between them in the form of a last best offer total package.

25 (i) In the event an agreement is not reached by the date of the first scheduled resolution
26 hearing, the parties shall proceed with resolution. The resolution board shall consider the last best
27 final offer total package tendered by the parties. After consideration of said offers, the resolution
28 board will select one of the offers in its entirety which shall become binding on all parties. The
29 decision shall be rendered within thirty (30) days of the conclusion of the resolution hearings and
30 shall be retroactive to the expiration date of the prior contract.

31 ~~**28-9.3-10. Arbitration board -- Composition. --**~~ **Resolution board -- Composition. --**

32 (a) Within seven (7) days after ~~arbitration~~ resolution has been requested as provided in section
33 28-9.3-9, the negotiating or bargaining agent and the school committee shall each select and name
34 one ~~arbitrator~~ resolution specialist and shall immediately notify each other in writing of the name

1 and address of the person so selected. The qualification and selection of the first two (2)
2 resolution specialists shall be at the sole discretion of the naming authority. The two (2)
3 ~~arbitrators~~ resolution specialists selected and named shall, within ten (10) days from and after
4 their selection, agree upon and select and name a third ~~arbitrator~~ resolution specialist, who shall
5 be selected from a list of retired court judges and/or justices who have previously served as
6 judges and/or justices in a Rhode Island state court. If within the ten (10) days the ~~arbitrators~~
7 resolution specialists are unable to agree upon the selection of a third ~~arbitrator~~ resolution
8 specialist, the third ~~arbitrator~~ resolution specialist shall be selected ~~in accordance with the rules~~
9 ~~and procedure of the American Arbitration Association~~ by the presiding justice of the Rhode
10 Island superior court, from a list of retired court judges and/or justices who have previously
11 served as judges and/or justices in a Rhode Island state court.

12 ~~(b) If the negotiating or bargaining agent agrees with the school committee to a different~~
13 ~~method of selecting arbitrators, or to a lesser or greater number of arbitrators, or to any particular~~
14 ~~arbitrator, or if they agree to have the board of regents for elementary and secondary education~~
15 ~~designate the arbitrator or arbitrators to conduct the arbitration, the agreement shall govern the~~
16 ~~selection of arbitrators. However, if the board of regents for elementary and secondary education~~
17 ~~is unwilling or fails to designate the arbitrator or arbitrators, an alternative method of selection~~
18 ~~shall be used.~~

19 ~~(e)~~(b) The third ~~arbitrator~~ resolution specialist, whether selected as a result of agreement
20 between the two (2) previously selected ~~arbitrators~~ resolution specialists, or selected ~~under the~~
21 ~~rules of the American Arbitration Association~~ by the presiding justice of the Rhode Island
22 superior court, or by the board of regents for elementary and secondary education, or by any other
23 ~~method,~~ shall act as chairperson.

24 **28-9.3-11. Hearings. --** (a) The ~~arbitrators~~ resolution board shall call a hearing to be held
25 within ~~ten (10)~~ thirty (30) days after their appointment and shall give at least seven (7) days
26 notice in writing to the negotiating or bargaining agent and the school committee of the time and
27 place of the hearing. The hearing shall be informal, and the rules of evidence prevailing in
28 judicial proceedings shall not be binding. Any documentary evidence and other data deemed
29 relevant by the ~~arbitrators~~ resolution board may be received in evidence.

30 (b) The ~~arbitrators~~ resolution board shall have the power to administer oaths and to
31 require by subpoena the attendance and testimony of witnesses, and the production of books,
32 records, and other evidence relative or pertinent to the issues presented to them for determination.
33 The provisions of this subsection shall not prohibit the respective parties from engaging in
34 continued negotiations and/or from reaching a compromise agreement on their own accord,

1 [separate and apart from the judicial resolution process, prior to conclusion of the judicial](#)
2 [resolution process.](#)

3 (c) Both the negotiating or bargaining agent and the school committee shall have the
4 right to be represented at any hearing before the ~~arbitrators~~ [resolution board](#) by counsel of their
5 own choosing.

6 (d) The hearing conducted by the ~~arbitrators~~ [resolution board](#) shall be concluded within
7 twenty (20) days of the time of commencement, and within ten (10) days after the conclusion of
8 the hearings, the ~~arbitrators~~ [resolution board](#) shall make written findings and a written opinion
9 upon the issues presented, a copy of which shall be mailed or otherwise delivered to the
10 negotiating or bargaining agent or its attorney or other designated representative and the school
11 committee.

12 **28-9.3-12. Appeal from decision. --- Appeal from judicial resolution. --**The decision of
13 the ~~arbitrators~~ [resolution board](#) shall be made public and shall be binding on the certified public
14 school teachers and their representative and the school committee on all matters ~~not involving the~~
15 ~~expenditure of money; provided, that nothing contained in this section shall prevent the~~
16 ~~representative of the certified public school teachers and the school committee from mutually~~
17 ~~agreeing to submit all unresolved issues to binding arbitration pursuant to the procedures set forth~~
18 ~~in sections 28-9.3-10 --- 28-9.3-12. In that case the decision of the arbitrators shall be final and~~
19 ~~binding on all matters so submitted, including those involving the expenditure of money,~~ and
20 cannot be appealed except on the ground that the decision was procured by fraud or that it
21 violates the law, in which case appeals shall be to the superior court. The school committee shall
22 within three (3) days after it receives the decision send a true copy of the decision by certified or
23 registered mail postage prepaid to the department or agency which appropriates money for the
24 operation of the schools in the city, town, or regional school district involved, if [the](#) decision
25 involves the expenditure of money.

26 SECTION 4. Chapter 28-9.3 of the General Laws entitled "Certified School Teachers'
27 Arbitration" is hereby amended by adding thereto the following sections:

28 **28-9.3-9.1 School committee judicial resolution process. --** If the school committee
29 does not elect to participate in the judicial resolution process, then the negotiating/mediation
30 process may continue as before. In the event that the school committee elects not to proceed with
31 the judicial resolution process, the right of the teachers to strike shall not be impeded or impinged
32 by law or by court process.

33 **28-9.3-17 ~~Conduct of teachers during arbitration --- Proceedings. ---~~ Conduct of**
34 **teachers during the judicial resolution process -- Proceedings. --** [\(a\) During the conduct of the](#)

1 judicial resolution process, if said process option is selected by the school committee, no certified
2 public school teacher shall participate in a strike.

3 **28-9.3-18 Factors to be considered by the resolution board. --** The resolution board
4 shall conduct the hearing and render their decision upon the basis of a prompt, peaceful and just
5 settlement of wage or hour disputes or working conditions and terms and conditions of
6 professional employment between the teachers and the school committee by which they are
7 employed. The factors to be considered by the resolution board shall include, but are not limited
8 to, the following:

9 (1) The interest and welfare of the students, teachers, and taxpayers;

10 (2) The city or town's ability to pay;

11 (3) Comparison of compensation, benefits and conditions of employment of the school
12 district in question with compensation, benefits and conditions of employment maintained for
13 other Rhode Island public school teachers;

14 (4) Comparison of compensation, benefits and conditions of employment of the school
15 district in question with compensation, benefits and conditions of employment maintained for the
16 same or similar skills under the same or similar working conditions in the local operating area
17 involved; and

18 (5) Comparison of education qualification and professional development requirements
19 with other professions.

20 SECTION 5. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

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RELATING TO LABOR AND LABOR RELATIONS -- CERTIFIED SCHOOL TEACHERS'
JUDICIAL RESOLUTION PROCESS

1 This act would extend the notification requirements for the dismissal, suspension or lay-
2 off of teachers from March 1 to April 1. This act would also create a judicial resolution process to
3 address all teacher contract formation issues as well as assuring teachers the right to strike in
4 limited circumstances.

5 This act would take effect upon passage.

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