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HOUSE BILL NO. 363

Offered January 12, 2022

Prefiled January 11, 2022

A BILL to amend and reenact §§ 22.1-79 and 22.1-307 of the Code of Virginia, relating to certain school board employees; dismissal; grounds continuing contract study; report.

Patron—Freitas

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-79 and 22.1-307 of the Code of Virginia are amended and reenacted as follows: § 22.1-79. Powers and duties.

A school board shall:

1. See that the school laws are properly explained, enforced and observed; 2. Secure, by visitation or otherwise, as full information as possible about the conduct of the public schools in the school division and take care that they are conducted according to law and with the utmost efficiency;

3. Care for, manage and control the property of the school division and provide for the erecting, furnishing, equipping, and noninstructional operating of necessary school buildings and appurtenances and the maintenance thereof by purchase, lease, or other contracts;

4. Provide for the consolidation of schools or redistricting of school boundaries or adopt pupil assignment plans whenever such procedure will contribute to the efficiency of the school division;

5. Insofar as not inconsistent with state statutes and regulations of the Board of Education, operate and maintain the public schools in the school division and determine the length of the school term, the studies to be pursued, the methods of teaching and the government to be employed in the schools;

6. In instances in which no grievance procedure has been adopted prior to January 1, 1991, establish and administer by July 1, 1992, a grievance procedure for all school board employees, except the division superintendent and those employees covered under the provisions of Article 2 (§ 22.1-293 et seq.) and Article 3 (§ 22.1-306 et seq.) of Chapter 15 of this title, who have completed such probationary period as may be required by the school board, not to exceed 18 months. The grievance procedure shall afford a timely and fair method of the resolution of disputes arising between the school board and such employees regarding dismissal or other disciplinary actions, excluding suspensions, and shall be consistent with the provisions of the Board of Education's procedures for adjusting grievances. Except in the case of dismissal, suspension, or other disciplinary action, the grievance procedure prescribed by the Board of Education pursuant to § 22.1-308 shall apply to all full-time employees of a school board, except supervisory employees. No school board employee to whom the provisions of this subdivision apply shall be dismissed based on a last-hired, first-fired dismissal policy or any other similar policy that mandates that when considering more than one such employee for dismissal, the seniority of each such employee shall be the sole determinative factor in the dismissal decision;

7. Perform such other duties as shall be prescribed by the Board of Education or as are imposed by law;

8. Obtain public comment through a public hearing not less than 10 days after reasonable notice to the public in a newspaper of general circulation in the school division prior to providing (i) for the consolidation of schools; (ii) the transfer from the public school system of the administration of all instructional services for any public school classroom or all noninstructional services in the school division pursuant to a contract with any private entity or organization; or (iii) in school divisions having 15,000 pupils or more in average daily membership, for redistricting of school boundaries or adopting any pupil assignment plan affecting the assignment of 15 percent or more of the pupils in average daily membership in the affected school. Such public hearing may be held at the same time and place as the meeting of the school board at which the proposed action is taken if the public hearing is held before the action is taken. If a public hearing has been held prior to the effective date of this provision on a proposed consolidation, redistricting or pupil assignment plan which is to be implemented after the effective date of this provision, an additional public hearing shall not be required;

9. (Expires July 1, 2025) At least annually, survey the school division to identify critical shortages of (i) teachers and administrative personnel by subject matter and (ii) school bus drivers and report such critical shortages to the Superintendent of Public Instruction and to the Virginia Retirement System; however, the school board may request the division superintendent to conduct such survey and submit such report to the school board, the Superintendent, and the Virginia Retirement System; and

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HB363

59 10. Ensure that the public schools within the school division are registered with the Department of
60 State Police to receive from the State Police electronic notice of the registration, reregistration, or
61 verification of registration information of any person required to register with the Sex Offender and
62 Crimes Against Minors Registry pursuant to Chapter 9 (§ 9.1-900 et seq.) of Title 9.1 within that school
63 division pursuant to § 9.1-914.

64 **§ 22.1-307. Dismissal of teacher; grounds.**

65 Teachers may be dismissed for incompetency, immorality, noncompliance with school laws and
66 regulations, disability as shown by competent medical evidence when in compliance with federal law,
67 conviction of a felony or a crime of moral turpitude, or other good and just cause. A teacher shall be
68 dismissed if such teacher is or becomes the subject of a founded complaint of child abuse and neglect,
69 pursuant to § 63.2-1505, and after all rights to any administrative appeal provided by § 63.2-1526 have
70 been exhausted. The fact of such finding, after all rights to any administrative appeal provided by
71 § 63.2-1526 have been exhausted, shall be grounds for the local school division to recommend that the
72 Board of Education revoke such person's license to teach. No teacher shall be dismissed or placed on
73 probation solely on the basis of the teacher's refusal to submit to a polygraph examination requested by
74 the school board. *No teacher shall be dismissed based on a last-hired, first-fired dismissal policy or any*
75 *other similar policy that mandates that when considering more than one teacher for dismissal, the*
76 *seniority of each such teacher shall be the sole determinative factor in the dismissal decision.*

77 **2. That the Board of Education, the House Committee on Education, and the Senate Committee on**
78 **Education and Health, in consultation with local school boards, shall study and make**
79 **recommendations to the General Assembly no later than November 1, 2022, regarding effective,**
80 **alternative ways in which the performance of teachers may be evaluated for the purpose of**
81 **awarding or rescinding continuing contract status.**