

SUBSTITUTE FOR
HOUSE BILL NO. 4820

A bill to amend 1976 PA 451, entitled
"The revised school code,"
by amending section 1248 (MCL 380.1248), as added by 2011 PA 102.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1248. **(1) This section does not prohibit, impair, or**
2 **limit the right or duty of a public school employer and a**
3 **collective bargaining representative to engage in collective**
4 **bargaining under 1947 PA 336, MCL 423.201 to 423.217. However, a**
5 **collective bargaining agreement must include, at a minimum, the**
6 **standards in this section.**

7 **(2)** ~~(1) For teachers, as defined in section 1 of article I of~~
8 ~~1937 (Ex Sess) PA 4, MCL 38.71, all of the following apply to~~
9 ~~policies regarding personnel decisions~~ **under section 1249**, when

1 **filling a vacancy, placing a teacher in a classroom, or** conducting
 2 a staffing or program reduction or any other personnel
 3 determination resulting in the elimination of a position, ~~when~~
 4 ~~conducting a recall from a staffing or program reduction or any~~
 5 ~~other personnel determination resulting in the elimination of a~~
 6 ~~position, or in hiring after a staffing or program reduction or any~~
 7 ~~other personnel determination resulting in the elimination of a~~
 8 ~~position by a school district or intermediate school district:~~

9 ~~(a) Subject to subdivision (c), the board of a school district~~
 10 ~~or intermediate school district~~ **or the board of directors of a**
 11 **public school academy** shall not adopt, implement, maintain, or
 12 comply with a policy **or collective bargaining agreement** that
 13 provides ~~that length of service or tenure status is~~ **seniority as**
 14 ~~the primary or determining~~ **sole** factor in personnel decisions. ~~when~~
 15 ~~conducting a staffing or program reduction or any other personnel~~
 16 ~~determination resulting in the elimination of a position, when~~
 17 ~~conducting a recall from a staffing or program reduction or any~~
 18 ~~other personnel determination resulting in the elimination of a~~
 19 ~~position, or in hiring after a staffing or program reduction or any~~
 20 ~~other personnel determination resulting in the elimination of a~~
 21 ~~position.~~

22 ~~(b) Subject to subdivision (c), the board of a school district~~
 23 ~~or intermediate school district shall ensure that the school~~
 24 ~~district or intermediate school district adopts, implements,~~
 25 ~~maintains, and complies with a policy that provides that all~~
 26 ~~personnel decisions when conducting a staffing or program reduction~~
 27 ~~or any other personnel determination resulting in the elimination~~
 28 ~~of a position, when conducting a recall from a staffing or program~~
 29 ~~reduction or any other personnel determination resulting in the~~

1 ~~elimination of a position, or in hiring after a staffing or program~~
 2 ~~reduction or any other personnel determination resulting in the~~
 3 ~~elimination of a position, are based on retaining effective~~
 4 ~~teachers. The policy shall ensure that a teacher who has been rated~~
 5 ~~as ineffective under the performance evaluation system under~~
 6 ~~section 1249 is not given any preference that would result in that~~
 7 ~~teacher being retained over a teacher who is evaluated as minimally~~
 8 ~~effective, effective, or highly effective under the performance~~
 9 ~~evaluation system under section 1249. Effectiveness shall be~~
 10 ~~measured by the performance evaluation system under section 1249,~~
 11 ~~and the personnel decisions shall be made based on the following~~
 12 ~~factors:~~

13 ~~(i) Individual performance shall be the majority factor in~~
 14 ~~making the decision, and shall consist of but is not limited to all~~
 15 ~~of the following:~~

16 ~~(A) Evidence of student growth, which shall be the predominant~~
 17 ~~factor in assessing an employee's individual performance.~~**This**
 18 **subsection does not prevent seniority from being considered as a**
 19 **tiebreaker if a personnel decision involves 2 or more employees and**
 20 **all other factors distinguishing those employees from each other**
 21 **are equal.**

22 (3) The board of a school district or intermediate school
 23 district or board of directors of a public school academy shall
 24 adopt, implement, maintain, and comply with clear and transparent
 25 procedures for all personnel decisions under this section. Any
 26 relevant factors may be used for personnel decisions under this
 27 section, including, but not limited to, the following:

28 (a) Effectiveness as measured under the performance evaluation
 29 system in section 1249 or as otherwise collectively bargained.

1 **(b)** ~~(B) The teacher's demonstrated pedagogical skills,~~
2 ~~including at least a special determination concerning the teacher's~~
3 ~~knowledge of his or her subject area and the ability to impart that~~
4 ~~knowledge through planning, delivering rigorous content, checking~~
5 ~~for and building higher-level understanding, differentiating, and~~
6 ~~managing a classroom; and consistent preparation to maximize~~
7 ~~instructional time.~~

8 ~~(C) The teacher's management of the classroom, manner and~~
9 ~~efficacy of disciplining pupils, rapport with parents and other~~
10 ~~teachers, and ability to withstand the strain of teaching.~~

11 ~~(D) The teacher's attendance and disciplinary record, if any.~~

12 ~~(ii) Significant, relevant accomplishments and contributions.~~

13 ~~This factor shall be based on whether the individual contributes to~~
14 ~~the overall performance of the school by making clear, significant,~~
15 ~~relevant contributions above the normal expectations for an~~
16 ~~individual in his or her peer group and having demonstrated a~~
17 ~~record of exceptional performance.~~ **length of service in a grade**
18 **level or subject area.**

19 **(c)** ~~(iii)~~ Relevant special training. This factor shall ~~shall~~ **may** be
20 based on completion of relevant training other than the
21 professional development or continuing education that is required
22 by the employer or by state law, and integration of that training
23 into instruction in a meaningful way.

24 ~~(e) Except as otherwise provided in this subdivision, length~~
25 ~~of service or tenure status shall not be a factor in a personnel~~
26 ~~decision described in subdivision (a) or (b). However, if that~~
27 ~~personnel decision involves 2 or more employees and all other~~
28 ~~factors distinguishing those employees from each other are equal,~~
29 ~~then length of service or tenure status may be considered as a~~

1 tiebreaker.

2 ~~(2) If a collective bargaining agreement is in effect for~~
3 ~~employees of a school district or intermediate school district as~~
4 ~~of the effective date of this section and if that collective~~
5 ~~bargaining agreement prevents compliance with subsection (1), then~~
6 ~~subsection (1) does not apply to that school district or~~
7 ~~intermediate school district until after the expiration of that~~
8 ~~collective bargaining agreement.~~

9 ~~(3) If a teacher brings an action against a school district or~~
10 ~~intermediate school district based on this section, the teacher's~~
11 ~~sole and exclusive remedy shall be an order of reinstatement~~
12 ~~commencing 30 days after a decision by a court of competent~~
13 ~~jurisdiction. The remedy in an action brought by a teacher based on~~
14 ~~this section shall not include lost wages, lost benefits, or any~~
15 ~~other economic damages.~~

16 Enacting section 1. This amendatory act takes effect July 1,
17 2024.