**South Carolina General Assembly**

121st Session, 2015-2016

**A221, R252, H3560**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Limehouse, Sottile, McCoy and Spires

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Introduced in the House on February 11, 2015

Introduced in the Senate on April 29, 2015

Last Amended on May 11, 2016

Passed by the General Assembly on May 26, 2016

Governor's Action: June 3, 2016, Signed

Summary: Teacher dismissal hearings

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 2/11/2015 House Introduced and read first time ([House Journal‑page 6](file:///h%3A%5CHJ%20Archive%5C2015%5C02-11-15.docx))

 2/11/2015 House Referred to Committee on **Education and Public Works** ([House Journal‑page 6](file:///h%3A%5CHJ%20Archive%5C2015%5C02-11-15.docx))

 4/23/2015 House Committee report: Favorable with amendment **Education and Public Works** ([House Journal‑page 9](file:///h%3A%5CHJ%20Archive%5C2015%5C04-23-15.docx))

 4/28/2015 House Amended ([House Journal‑page 71](file:///h%3A%5CHJ%20Archive%5C2015%5C04-28-15.docx))

 4/28/2015 House Read second time ([House Journal‑page 71](file:///h%3A%5CHJ%20Archive%5C2015%5C04-28-15.docx))

 4/28/2015 House Roll call Yeas‑96 Nays‑3 ([House Journal‑page 77](file:///h%3A%5CHJ%20Archive%5C2015%5C04-28-15.docx))

 4/29/2015 House Read third time and sent to Senate ([House Journal‑page 14](file:///h%3A%5CHJ%20Archive%5C2015%5C04-29-15.docx))

 4/29/2015 Senate Introduced and read first time ([Senate Journal‑page 12](file:///h%3A%5CSJ%20Archive%5C2015%5C04-29-15.docx))

 4/29/2015 Senate Referred to Committee on **Education** ([Senate Journal‑page 12](file:///h%3A%5CSJ%20Archive%5C2015%5C04-29-15.docx))

 5/5/2015 Senate Recalled from Committee on **Education** ([Senate Journal‑page 3](file:///h%3A%5CSJ%20Archive%5C2015%5C05-05-15.docx))

 5/5/2015 Senate Committee report: Majority favorable, minority unfavorable **Education** ([Senate Journal‑page 3](file:///h%3A%5CSJ%20Archive%5C2015%5C05-05-15.docx))

 5/11/2016 Senate Amended ([Senate Journal‑page 18](file:///h%3A%5CSJ%20Archive%5C2016%5C05-11-16.docx))

 5/11/2016 Senate Read second time ([Senate Journal‑page 18](file:///h%3A%5CSJ%20Archive%5C2016%5C05-11-16.docx))

 5/11/2016 Senate Roll call Ayes‑40 Nays‑1 ([Senate Journal‑page 18](file:///h%3A%5CSJ%20Archive%5C2016%5C05-11-16.docx))

 5/18/2016 Senate Read third time and returned to House with amendments ([Senate Journal‑page 38](file:///h%3A%5CSJ%20Archive%5C2016%5C05-18-16.docx))

 5/26/2016 House Concurred in Senate amendment and enrolled ([House Journal‑page 43](file:///h%3A%5CHJ%20Archive%5C2016%5C05-26-16.docx))

 5/26/2016 House Roll call Yeas‑92 Nays‑0 ([House Journal‑page 43](file:///h%3A%5CHJ%20Archive%5C2016%5C05-26-16.docx))

 6/2/2016 Ratified R 252

 6/3/2016 Signed By Governor

 6/9/2016 Effective date 06/03/16

 6/9/2016 Act No. 221

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**VERSIONS OF THIS BILL**

[2/11/2015](file:///p%3A%5Cpprever%5C2015-16%5C3560_20150211.docx)

[4/23/2015](file:///p%3A%5Cpprever%5C2015-16%5C3560_20150423.docx)

[4/28/2015](file:///p%3A%5Cpprever%5C2015-16%5C3560_20150428.docx)

[5/5/2015](file:///p%3A%5Cpprever%5C2015-16%5C3560_20150505.docx)

[5/11/2016](file:///p%3A%5Cpprever%5C2015-16%5C3560_20160511.docx)

[5/12/2016](file:///p%3A%5Cpprever%5C2015-16%5C3560_20160512.docx)

(A221, R252, H3560)

**AN ACT** **TO AMEND SECTION 59‑25‑410, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE ANNUAL DEADLINE BY WHICH PUBLIC SCHOOL DISTRICTS MUST NOTIFY TEACHERS OF THEIR EMPLOYMENT STATUS FOR THE ENSUING YEAR, SO AS TO EXTEND THE DEADLINE TO MAY FIRST; TO AMEND SECTION 59‑25‑420, RELATING TO THE ANNUAL DEADLINE BY WHICH TEACHERS MUST NOTIFY PUBLIC SCHOOL DISTRICTS OF THEIR ACCEPTANCE OF TEACHING CONTRACTS OFFERED BY THE DISTRICT, SO AS TO EXTEND THE DEADLINE TO MAY ELEVENTH; TO AMEND SECTION 59‑25‑460, RELATING TO NOTICES OF DISMISSAL AND THE CONDUCT OF RELATED PROCEEDINGS, SO AS TO PROVIDE THE HEARINGS ARE EVIDENTIARY HEARINGS, TO PROVIDE THE HEARINGS MAY BE CONDUCTED BY SCHOOL BOARDS OR THEIR DESIGNEES, TO PROVIDE REQUIRED QUALIFICATIONS FOR BOARD DESIGNEES, TO PROVIDE FOR PRELIMINARY MEETINGS AT WHICH PARTIES AND THEIR REPRESENTATIVES MAY DISCUSS ALTERNATIVE RESOLUTIONS, TO REVISE THE PROCESS FOR DISTRICTS TO ADOPT CERTAIN POLICIES CONCERNING THEIR DISMISSAL PROCEDURES, AND TO PROVIDE MISCELLANEOUS REQUIREMENTS CONCERNING THE CONDUCT OF HEARINGS AND RELATED MATTERS; TO AMEND SECTION 59‑25‑470, RELATING TO THE SCHEDULING OF TEACHER DISMISSAL HEARINGS, SO AS TO MAKE CONFORMING CHANGES, TO EXTEND THE PERIOD FOR SCHEDULING HEARINGS TO FORTY‑FIVE DAYS, AND TO REVISE PROCEDURES CONCERNING THE CONDUCT OF HEARINGS; TO AMEND SECTION 59‑25‑480, RELATING TO APPEALS OF BOARD DECISIONS, SO AS TO CORRECT ARCHAIC LANGUAGE; AND TO AMEND SECTION 59‑25‑490, RELATING TO DEPOSITIONS IN TEACHER DISMISSAL HEARINGS, SO AS TO CORRECT ARCHAIC LANGUAGE.**

Be it enacted by the General Assembly of the State of South Carolina:

**Annual teacher employment notification deadline extended**

SECTION 1. Section 59‑25‑410 of the 1976 Code is amended to read:

 “Section 59‑25‑410. (A) The boards of trustees of the several school districts annually before May first shall decide and notify, in writing, a teacher, as defined in Section 59‑1‑130, whom the district employs concerning his reemployment for the ensuing year. If the superintendent fails to notify a teacher who has been employed by a school district for a majority of the current school year of his status for the ensuing year, the teacher is considered to be reemployed for the ensuing year and the board shall issue a contract to him as though the board had reemployed him in the usual manner. Notice of the superintendent’s recommendation not to renew an employment contract must be given in writing before May first.

 (B) On or before August fifteenth, the superintendent, principal, where applicable, or supervisor shall notify the teacher of his tentative assignment for the ensuing school year.

 (C) This section does not apply to a teacher whose contract of employment or dismissal is under appeal under Section 59‑25‑450.

 (D) For purposes of this article, ‘teacher’ means an employee possessing a professional certificate issued by the State Department of Education, except an employee working pursuant to a multiyear contract.”

**Annual teacher acceptance of employment offer deadline extended**

SECTION 2. Section 59‑25‑420 of the 1976 Code is amended to read:

 “Section 59‑25‑420. (A) A teacher who is reemployed by written notification pursuant to Section 59‑25‑410 shall before May eleventh notify the board of trustees in writing of his acceptance of the contract. Failure on the part of the teacher to notify the board of acceptance within the specified time limit is conclusive evidence of the teacher’s rejection of the contract.

 (B) A teacher, receiving a notice that he will not be reemployed for the ensuing year, has the same notice and opportunity for a hearing provided in this article for a teacher dismissed for cause during the school year.”

**Dismissal process revised**

SECTION 3. Section 59‑25‑460 of the 1976 Code is amended to read:

 “Section 59‑25‑460. (A) A teacher may not be dismissed unless written notice specifying the cause of dismissal first is given to the teacher by the superintendent and the teacher is given an opportunity for an evidentiary hearing. The superintendent or his designee may meet with the teacher before issuing a notice of dismissal to discuss alternative resolutions. The parties attending this meeting must have the option of having a representative present. This written notice must include the fact that a hearing before the board or its designee is available to the teacher upon request if the request is made in writing within fifteen days as provided in Section 59‑25‑470. Any such hearing must be public unless the teacher requests in writing that it be private. A board that chooses to delegate the evidentiary hearing to one or more designees, as provided in this section, shall indicate in board policy that it engages in this practice. The hearing process becomes effective when the board adopts the policy, and must be communicated to all affected employees within fifteen days. A subsequent change only may be made pursuant to the board policy revision process.

 (B)(1) If the board chooses to delegate the evidentiary hearing to a designee, the designee must be:

 (a) an attorney licensed to practice law in this State;

 (b) certified by the South Carolina Supreme Court as a mediator or arbitrator; and

 (c) designated by the board to hear all evidentiary hearings in the district for the school year, except when:

 (i) both parties consent to use an alternate hearing officer; or

 (ii) the district uses more than one designee, in which case the parties may by mutual consent select one of these designees for their hearing or, if they fail to reach such an agreement, the board randomly shall select one of its designees for the hearing.

 (2) If the designee holds the evidentiary hearing, he shall issue a written report and recommendation containing findings of facts and conclusions of law to the board, superintendent, and teacher within fifteen days after the hearing concludes. The superintendent and the teacher may submit a written response to this report and recommendation to the board within ten days after the date on which the report and recommendation are issued, after which the board shall issue a decision affirming or withdrawing the notice of suspension or dismissal within thirty days. In the interim, the board may conduct a hearing on the order to consider any written responses from the superintendent and teacher, but this hearing may not operate to extend the thirty‑day limit in which the board shall issue its decision affirming or withdrawing the notice of suspension or dismissal. The board retains final decision‑making authority regarding the teacher dismissal or suspension recommendation based on its consideration of the record, the report and recommendation, and any written submission of the superintendent and teacher.

 (C) If the board holds the evidentiary hearing, the board shall issue its decision within the thirty days after the hearing. This decision must be in writing and must include findings of facts and conclusions of law.

 (D) The board shall determine if the evidence shows good and just cause for the notice of suspension or dismissal, and accordingly shall render a decision to affirm or withdraw the notice of suspension or dismissal.

 (E) The District Board of Trustees as provided in subsection (C), or its designee, as provided in subsection (B), may issue subpoenas requiring the attendance of witnesses at the hearing and, at the request of the teacher against whom a charge is made, shall issue these subpoenas, but it may limit the number of these witnesses to ten. Testimony at a hearing must be taken under oath. A member of the board, or its designee, may administer oaths to witnesses. The board, or its designee, shall cause a record of the proceedings to be kept and shall employ a competent reporter to take stenographic or stenotype notes of all testimony.

 (F) If the board’s decision is favorable to the teacher, the board shall pay the cost of the reporter’s attendance and services at the hearing. If the decision is unfavorable to the teacher, one‑half of the cost of the reporter’s attendance and services must be borne by the teacher. A party desiring a transcript of the hearing must pay for the costs of obtaining the transcript.”

**Dismissal hearing scheduling and procedures revised**

SECTION 4. Section 59‑25‑470 of the 1976 Code is amended to read:

 “Section 59‑25‑470. (A) Within fifteen days after receipt of notice of suspension or dismissal, a teacher may serve upon the chairman of the board or the superintendent a written request for a hearing before the board, or its designee.

 (B) If the teacher fails to make such a request, or after a hearing as provided in this article, the board shall take action and shall enter an order as it considers lawful and appropriate.

 (C) The hearing must be held by the board, or its designee, within forty‑five days after the request is served. A notice of the time and place of the hearing must be given the teacher not less than five days before the date of the hearing.

 (D) The teacher may be present with counsel at the hearing, and may cross‑examine witnesses, may offer evidence and witnesses, and present defenses to the charges. The board, or its designee, shall order the appearance of any witness requested by the teacher, subject to the limitations of Section 59‑25‑460. The superintendent shall initiate the introduction of evidence in substantiation of the charges.”

**Appeals, archaic language corrected**

SECTION 5. Section 59‑25‑480 of the 1976 Code is amended to read:

 “Section 59‑25‑480. (A) The decision of the district board of trustees is final, unless within thirty days afterward an appeal is made to the court of common pleas of any county in which the major portion of such district lies.

 (B) Notice of the appeal and the grounds thereof shall be filed with the district board of trustees. The district board shall, within thirty days thereafter, file a certified copy of the transcript record with the clerk of such court. An appeal from the order of the circuit court shall be taken in the manner provided by the South Carolina Appellate Court Rules. If the decision of the board is reversed on appeal, on a motion of either party the trial court shall order reinstatement and shall determine the amount for which the board shall be liable for actual damages and court costs. In no event shall any liability extend beyond two years from the effective date of dismissal. Amounts earned or amounts earnable with reasonable diligence by the person wrongfully suspended shall be deducted from any back pay.”

**Depositions, archaic language corrected**

SECTION 6. Section 59‑25‑490 of the 1976 Code is amended to read:

 “Section 59‑25‑490. A party to a proceeding conducted pursuant to this chapter may depose a witness within or without the State and either by commission or de bene esse. The deposition must be taken pursuant and subject to the same provisions, conditions, and restrictions that apply to taking of similar depositions in actions brought in the court of common pleas. The same rules with respect to the giving of notice to the opposite party, the taking and transcribing of testimony, the transmission and certification of them and matters of practice relating to them apply.”

**Time effective**

SECTION 7. This act takes effect upon approval by the Governor.

Ratified the 2nd day of June, 2016.

Approved the 3rd day of June, 2016.

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