

LEGISLATIVE BILL 802

Approved by the Governor May 19, 1971

Introduced by Donald Elrod, 35th District

AN ACT to amend sections 79-1236, 79-1239, 79-1240, 79-1248, 79-1249, 79-1250, 79-1251, and 79-1254, Reissue Revised Statutes of Nebraska, 1943, section 79-1234, Revised Statutes Supplement, 1969, and section 79-101, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 997, Eighty-second Legislature, First Session, 1971, relating to schools; to provide for the election of school administrators; to clarify the law in relation to school administrators; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. That section 79-101, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 997, Eighty-second Legislature, First Session, 1971, be amended to read as follows:

79-101. As used in Chapter 79: (1) The term school district means shall mean the territory under the jurisdiction of a single school board authorized by Chapter 79; (2) the term school means shall mean a school under the jurisdiction of a school board authorized by Chapter 79; (3) the terms legal voters or electors shall mean all who are eligible to vote at an election for school district officers; (4) the term elementary grades means shall mean all grades up to and including the eighth grade; (5) the term high school grades means shall mean all grades above the eighth grade; (6) the term school year means shall mean a minimum of thirty-six weeks of instruction; (7) the term school month means shall mean a period of twenty days of instruction; (8) the term school week means shall mean a period of five days of instruction; (9) the term deaf pupil means shall mean any person of sound mind who, by reason of defective hearing, cannot profitably be educated in the public schools; (10) the term teacher means shall mean any certified employee, who is regularly employed for the instruction of pupils in the public schools; (11) the term administrator shall mean any certified employee such as superintendent, assistant superintendent, principal, assistant principal, school nurse or other supervisory or administrative personnel

~~who does not have as a primary duty the instruction of pupils in the public schools; and includes--a--full-time school-nurse-duty-licensed-by--the--State--of--Nebraska;~~
 (11) (12) the terms term school board or board of education shall mean the governing body of any school district; and (13) the term teach shall mean and include, but not be limited to, the following responsibilities: (a) The organization and management of the classroom or the physical area in which the learning experiences of pupils take place, (b) the assessment and diagnosis of the individual educational needs of the pupils, (c) the planning, selecting, organizing, prescribing, and directing of the learning experiences of pupils, (d) the planning of teaching strategies and the selection of available materials and equipment to be used, and (e) the evaluation and reporting of student progress.

Sec. 2. That section 79-1234, Revised Statutes Supplement, 1969, be amended to read as follows:

79-1234. The State Board of Education may, for just cause, revoke any teacher's certificate or administrator's certificate or suspend such certificate for such period of time as the board, in its discretion, shall determine. Just cause may consist of any one or more of the following: (1) Incompetence, (2) immorality, (3) intemperance, (4) cruelty, (5) crime against the law of the state, (6) neglect of duty, (7) general neglect of the business of the school, (8) unprofessional conduct, (9) physical or mental incapacity, or (10) breach of contract for teaching or administrating services. The revocation or suspension of the certificate shall terminate the employment of such teacher or administrator, but such teacher or administrator ~~must~~ shall be paid up to the time of receiving notice of revocation or suspension. The board shall immediately notify the secretary of the school district or board of education where such teacher or administrator is employed. It shall also notify the teacher or administrator of such revocation or suspension and shall enter its action in such case in the books or records of its office; Provided, no certificate shall be revoked or suspended without due notice from the board and an opportunity given the teacher or administrator to explain or defend his conduct. Any person failing to appear at a hearing called for the purpose of considering the revocation or suspension of his certificate, shall be deemed guilty of the charges preferred and shall have his certificate revoked or suspended immediately.

If, at the end of the period of suspension, the teacher or administrator makes an affirmative showing to the board that he has fully complied with the order of suspension and that he will not in the future engage in any practice listed in this section as grounds for revocation or suspension, his certificate shall be reinstated. The Commissioner of Education shall promptly notify the chief state school officer of each state of any revocation, suspension, or reinstatement under the provisions of this section.

Sec. 3. That section 79-1236, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1236. The Commissioner of Education may extend the term of the teacher's certificate or administrator's certificate of any person who has served in the armed forces of the United States, and whose certificate was in force on the day of induction. This extension shall be equal in length of time to the total number of months which intervenes between the date of his entrance into the military service and the date of his discharge therefrom. There shall be no fee for this service. Each person who applies for an extension of the term of his certificate shall furnish the Commissioner of Education proper evidence of his service in the armed forces and of his sound physical and mental health at the time the application for such extension is made.

Sec. 4. That section 79-1239, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1239. (1) Each teacher or administrator shall register his certificate in the office of the county superintendent of the county in which he is ~~contracted-to-teach~~ employed. The superintendent shall endorse upon the certificate that it has been registered and the date of registration. Such registration shall be without fee, and no certificate to ~~teach nor~~ contract for a school shall be valid until the certificate is so registered. The school board at the time of contracting with a teacher or administrator shall transmit to the county superintendent the name of the teacher or administrator to be employed, together with the position to which elected. Fifteen calendar days after the first day of teaching school, the county superintendent shall certify to the school board the name of any teacher or administrator who has not registered his certificate or given evidence of application to the Department of

Education and qualification for a teaching certificate or permit. Sixty calendar days after the first day of teaching school the county superintendent shall certify to the school board the name of any teacher or administrator who has not registered a teaching certificate or permit valid for the position to which elected and that the contract of the teacher or administrator has been declared invalid. The teacher or administrator shall not be reimbursed for any services to the school district after the date of receipt of notification by the board of education that the contract of the teacher or administrator has been declared invalid.

(2) Sixty calendar days after the first day of teaching in each school year, the county superintendent shall notify the county treasurer to withhold all school money belonging to any district employing an uncertificated teacher or administrator until the teacher or administrator has registered a certificate with the county superintendent or has been dismissed by the board of education employing such teacher or administrator, and it shall be the duty of the county treasurer to withhold such money.

Sec. 5. That section 79-1240, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1240. The school board shall be personally liable for all public money paid to teachers or administrators who are not qualified under the provisions of sections 79-1247.03 to 79-1247.14. A teacher or administrator violating the provisions of said sections shall not recover any money for services while teaching during the time that such contract and certificate are invalid. Any person having knowledge of the employment by a school district of an uncertified teacher or administrator may prefer charges against the school board.

Sec. 6. That section 79-1248, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1248. A contract for the employment of a teacher, ~~nurse, principal, supervisor, assistant superintendent, or superintendent~~ or administrator for a public school in the State of Nebraska shall be in writing. The contract form or forms to be used shall be recommended by the Department of Education.

Sec. 7. That section 79-1249, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1249. A majority of the members of a school board or board of education of any district may enter into a contract of employment with a legally qualified teacher or administrator. Such majority shall have authority to designate one or more members of the board to sign such contract, which signature shall be binding upon the entire board. A duplicate of such contract shall be filed with the secretary. No member of the board shall enter into or execute on behalf of the district any contract with any teacher or administrator related to him or to the majority of the board by blood or marriage. The secretary shall notify the county superintendent, at the time the contract is made, of the length of the proposed term of school, when the school will begin, and the name of the teacher or administrator. No money belonging to the district shall be paid for teaching to any but legally qualified teachers, nor shall any school board pay out money belonging to the school district to any teacher or administrator after such board has received a sworn statement upon behalf of a school board or board of education that the services of the teacher or administrator in question are under previous contract to said board.

Sec. 8. That section 79-1250, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1250. A contract for employment of a teacher or administrator shall contain (1) a provision whereby the employed person affirms that he holds or will hold, at the beginning of the term of the contract, a valid certificate properly registered in the office of the county superintendent, and that he is not under contract with another school board or board of education of a school district in this state, and (2) a provision that there shall be no penalty for release from said contract.

Sec. 9. That section 79-1251, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1251. No school board or board of education in the State of Nebraska shall enter into a contract of employment with a teacher or administrator, --nurse, principal, --supervisor, --assistant--superintendent, --or

~~superintendent,~~ who is already under contract with another school board or board of education within this state covering a part or all of the same time of performance as the contract with such other board. No person, under contract with any school board or board of education, shall enter into such a contract of employment with another school board or board of education for part or all of the same time of performance as his contract with such other board. Upon the receipt of a sworn statement, made for or authorized by such other board that a person employed by any board in such capacity is already under contract of employment with such other board, for part or all of the same time of performance as such person is, has been, or will be so employed by said board, said board shall immediately cease payment of any salary to such teacher or administrator. ~~7---nurse,---principal,---supervisor, assistant-superintendent, or superintendent.~~ Any member of a board of education or school board, who knowingly violates any of the provisions of this section, shall be individually and personally liable for any damages sustained by the other school district.

Sec. 10. That section 79-1254, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

79-1254. The original contract of employment with ~~a-superintendent-or~~ a teacher and a school board or board of education of a Class I, II, III, or VI district shall require the sanction of a majority of the members of the board. Any contract of employment between a teacher who holds a certificate which is valid for a term of more than one year and a Class I, II, III, or VI district shall be deemed renewed and shall remain in full force and effect until a majority of the members of the board vote on or before April 1 to amend or to terminate the contract at the close of the contract period; Provided, that the secretary of the board shall, not later than April 15, notify each teacher in writing of any amendments to his contract or the termination of his contract; and provided further, that a teacher whose contract is terminated shall have the right to file a written request with the board of education for a hearing before the board. Such request shall be filed within fifteen days after receipt of the notice of termination and such request shall be granted by the school board or board of education. After such hearing a written statement as to the termination shall be given if requested by the teacher. Any ~~superintendent--or~~ teacher whose contract is amended or automatically renewed according to the provisions of this section

shall file written notice with the secretary of the board within fifteen days after receiving such notice of his acceptance of the amendments to or renewal of such contract, and failure to file such notice shall be regarded as conclusive evidence of his nonacceptance of the amendments to or renewal of his contract. No member of the school board or board of education may cast a vote in favor of the election of any teacher when such member of the board is related by blood or marriage to such teacher.

Sec. 11. At any regular meeting, a board of education may elect for employment such administrators as the board may deem necessary for the proper conduct of the affairs of the school district at such salaries as the board may deem reasonable. It may contract with such administrators for a term not to exceed three years. No person shall be declared elected unless he receives the vote of a majority of all the members of the board. The contract of employment shall be reduced to writing.

Sec. 12. That original sections 79-1236, 79-1239, 79-1240, 79-1248, 79-1249, 79-1250, 79-1251, and 79-1254, Reissue Revised Statutes of Nebraska, 1943, section 79-1234, Revised Statutes Supplement, 1969, and section 79-101, Reissue Revised Statutes of Nebraska, 1943, as amended by section 1, Legislative Bill 997, Eighty-second Legislature, First Session, 1971, are repealed.