

SUBJECT: Rehiring experienced teachers under probationary contracts.

COMMITTEE: Public Education — Reported favorably as substituted

VOTE: 8 ayes — Grusendorf, Oliveira, Branch, Dawson, Eissler, Griggs, Hochberg, Madden
0 nays
1 absent — Dutton

WITNESSES: For — Juan Cruz and Cheryl T. Mehl, Texas Association of School Boards and Council of School Attorneys; Karen Soehnge, Texas Association of School Administrators

Against — Kevin Lungwitz, Texas State Teachers Association; Lonnie Hollingsworth, Texas Classroom Teachers Association

On — Ted Melina Raab, Texas Federation of Teachers

BACKGROUND: Under Education Code, sec. 21.102, a first-time teacher in a school district or a teacher who has not been employed by a district for two consecutive years must be employed under a probationary contract. A teacher may be kept on a probationary contract for up to three years, after which a district must decide whether to non-renew or grant a term contract. Under certain circumstances a teacher may be kept on a probationary contract a fourth year. However, if a teacher has been employed in a district for at least five of the preceding eight years, the district may not employ the teacher on a probationary contract for longer than one year.

DIGEST: Starting with the 2003-04 school year, CSHB 558 would allow a school district to employ a returning teacher under a probationary contract if the teacher returned to the district after a lapse of employment of at least two years.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2003.

**SUPPORTERS
SAY:**

CSHB 558 would give school districts more flexibility in their hiring practices by allowing them to hire returning teachers with a two-year lapse in service under probationary contracts. Many changes can occur in a school district in two years — new accountability standards, new state and federal laws, new technologies in the classroom, changing student demographics — and it would be highly unlikely that returning teachers would be given the exact same assignment they had two years earlier. Districts need time to make a fair evaluation of returning teachers before granting a term contract.

CSHB 558 would be permissive, so districts still could grant a returning teacher a term contract if they needed to do so in order to fill a particular shortage area. However, probationary contracts give districts the ability to let teachers go after a year if they do not work out in their new assignments.

CSHB 558 would allow teachers with a lapse in service to return to the classroom while maintaining most of the rights they had upon leaving. Teachers on probationary contracts have nearly all the same rights as term contract teachers under chapter 21 of the Education Code, including being subject to the minimum salary schedule. The only difference is that districts may terminate a teacher at the end of a probationary contract without going through lengthy due process hearings. A teacher who is let go at the end of a probationary contract may file a grievance before the board of trustees, and should a district decide to fire a teacher before the end of the contract, the teacher is granted full due process rights.

CSHB 558 would help retired teachers return to the classroom by providing extra incentives for districts to hire them. Under current law, a retiree who has worked five of the eight preceding years for a district could be kept on a probationary contract for only one year. With this restriction, some districts may choose a less experienced teacher whom they can pay less and keep under a probationary contract longer. CSHB 558 would give districts the ability to keep a retired teacher with a two-year lapse in service on a probationary contract for as long as three years. Even under a probationary contract, retirees who returned to the classroom still would have better

benefits and a higher salary than they would have outside the teaching profession. Because retirees who return to work are subject to the minimum salary schedule, they receive high teaching salaries in addition to pension benefits.

**OPPONENTS
SAY:**

CSHB 558 could require teachers to surrender certain contract rights in order to return to work after a two-year lapse in service, thus creating a disincentive for teachers to return to the classroom during a teacher shortage. Currently, most returning teachers are granted term contracts, which give them the added protection of due process in the termination process. Probationary contracts have fewer protections for teachers and should not be encouraged.

**OTHER
OPPONENTS
SAY:**

CSHB 558 would not go far enough in granting districts hiring flexibility, particularly with regard to retired teachers. Because retired teachers can return to work and draw a salary as well as a pension, districts should be able to employ retired teachers on an at-will basis or keep them under probationary contracts indefinitely.

NOTES:

The committee substitute would define a lapse in service as “at least two years.”

A similar bill, HB 1253 by Crownover, which would allow school districts to hire retired teachers as at-will employees without being subject to probationary or term contracts or the minimum salary schedule, is pending in the House Public Education Committee.