

HOUSE BILL NO. 399

1/23 Introduced
1/23 Referred to Education & Cultural Resources
2/06 Hearing
Died in Committee

1 HOUSE BILL NO. 399
2 INTRODUCED BY James P. Smith Trust
3

4 A BILL FOR AN ACT ENTITLED: "AN ACT TO ELIMINATE THE STATUS
5 OF TENURE FOR TEACHERS; TO PROVIDE ANY TEACHER RECOMMENDED
6 FOR NONRENEWAL OF CONTRACT FOR THE ENSUING SCHOOL YEAR BY
7 THE TRUSTEES OF A DISTRICT THE RIGHT TO KNOW THE REASONS FOR
8 THE RECOMMENDATION AND THE RIGHT TO A HEARING PRIOR TO A
9 DETERMINATION OF NONRENEWAL; AMENDING SECTIONS 20-3-210 AND
10 20-7-456, MCA; AND REPEALING SECTIONS 20-4-203 THROUGH
11 20-4-206, MCA."
12

13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

14 NEW SECTION. Section 1. Notification of renewal or
15 nonrenewal of teacher contract. (1) The trustees of a
16 district, by April 15 of the school year, shall provide each
17 teacher employed by the district with written notice of the
18 intent to renew or not to renew the teacher's contract for
19 the ensuing school year. Any teacher who does not receive
20 notice of renewal or nonrenewal is automatically renewed for
21 the ensuing school year.

22 (2) A teacher who receives notice of and wishes to
23 accept renewal for the ensuing school year shall provide the
24 trustees with written acceptance of the conditions of the
25 renewal within 20 days after the receipt of the notice.

1 Failure to notify the trustees within 20 days constitutes
2 conclusive evidence of nonacceptance of the tendered
3 position.

4 NEW SECTION. Section 2. Legislative purpose --
5 hearing on recommendation for nonrenewal of teacher
6 contract. (1) The legislature recognizes the value of good
7 employer-employee relationships between school boards of
8 this state and the teachers employed in the school systems
9 and recognizes the need to recruit and retain qualified
10 teachers. The legislature therefore urges that each school
11 board of trustees of this state ensure, through formally
12 adopted policies, that channels of communication exist
13 between the board, the supervisory personnel, and teachers
14 employed within its school system and urges that all actions
15 of the board of trustees concerning nonrenewal of a
16 teacher's contract be taken with consideration and dignity,
17 giving maximum consideration to basic fairness and decency.

18 (2) Whenever the trustees of a district resolve to
19 recommend the nonrenewal of a teacher's contract, the
20 trustees shall notify the teacher in writing by April 1 of:

21 (a) the time, which shall be at least 7 days following
22 notification, and the place of a hearing before the trustees
23 for the purpose of discussing and acting upon the
24 recommendation for nonrenewal; and

25 (b) the reasons for the proposed nonrenewal, which



1 must be related to the professional ability, competence, or
2 qualifications of the teacher or to the necessities of the
3 district, such as lack of funds calling for a reduction of
4 teaching staff.

5 (3) The hearing must be a closed meeting of the board
6 of trustees unless both the trustees and the teacher agree
7 that it will be open to other persons or the public.

8 (4) At the hearing, the teacher may:

9 (a) produce evidence, including witnesses, necessary
10 to evaluate the reasons for nonrenewal; and

11 (b) be represented by one or two representatives of
12 his own choosing.

13 (5) The trustees shall give an explanation and shall
14 discuss at the meeting their reasons for the recommendation
15 for nonrenewal.

16 (6) Final notice of the determination to renew or not
17 to renew a contract must be given to the teacher in writing
18 by April 15, as provided in [section 1].

19 (7) The determination not to renew a contract if made
20 in good faith is final and binding on all parties, subject
21 to appeal to district court.

22 (8) No cause of action for libel or slander may lie
23 for any statement expressed either orally or in writing at
24 any meeting of the board of trustees held for the purposes
25 provided for in this section.

1 Section 3. Section 20-3-210, MCA, is amended to read:

2 "20-3-210. Controversy appeals and hearings. (1)
3 Except as provided under 20-3-211, the county superintendent
4 shall hear and decide all matters of controversy arising in
5 his county as a result of decisions of the trustees of a
6 district in the county. When appeals are made ~~under 20-4-204~~
7 ~~relating--to-the-termination-of-services-of-a-tenure-teacher~~
8 ~~or~~ under 20-4-207 relating to the dismissal of a teacher
9 under contract, the county superintendent may appoint a
10 qualified attorney at law to act as a legal adviser who
11 shall assist the superintendent in preparing findings of
12 fact and conclusions of law. Subsequently, either the
13 teacher or trustees may appeal to the superintendent of
14 public instruction under the provisions for appeal of
15 controversies in this title. Furthermore, he shall hear and
16 decide all controversies arising under:

17 (a) section 20-5-304 or 20-5-311 relating to the
18 approval of tuition applications; or

19 (b) any other provision of this title for which a
20 procedure for resolving controversies is not expressly
21 prescribed.

22 (2) The county superintendent shall hear the appeal
23 and take testimony in order to determine the facts related
24 to the controversy and may administer oaths to the witnesses
25 that testify at the hearing. He shall prepare a written

1 transcript of the hearing proceedings. The decision on the
2 matter of controversy which is made by the county
3 superintendent shall be based upon the facts established at
4 such hearing.

5 (3) The decision of the county superintendent may be
6 appealed to the superintendent of public instruction, and if
7 it is appealed, the county superintendent shall supply a
8 transcript of the hearing and any other documents entered as
9 testimony at the hearing to the superintendent of public
10 instruction.

11 (4) Cost incurred by the office of the county
12 superintendent shall be paid from the general fund budget of
13 the county in which the controversy is initiated."

14 Section 4. Section 20-7-456, MCA, is amended to read:

15 "20-7-456. Tenure Renewal of teachers employed by
16 cooperatives. ~~{1}--Teachers--who--have--tenure--rights--with--a~~
17 ~~district--and--are--employed--by--a--cooperative--of--which--their~~
18 ~~district--is--a--member--do--not--lose--their--tenure--with--the~~
19 ~~district--~~

20 ~~{2}--Nontenured--teachers~~ Teachers employed by a
21 cooperative acquire--tenure are subject to renewal or
22 nonrenewal of employment with a cooperative in the same
23 manner as prescribed in ~~20-4-203~~ [sections 1 and 2], and the
24 provisions of ~~20-4-204--through 20-4-207~~ are applicable to
25 teachers employed by a cooperative.

1 ~~{3}--Tenure-for-a-teacher-employed-by-a-cooperative--is~~
2 ~~acquired--only--with--the--cooperative--and--not--with--a--member~~
3 ~~school-district-of-a-cooperative--~~

4 ~~{4}--For-the-purposes-of-tenure-of-a--teacher--employed~~
5 ~~by--a--cooperative,--special--education-cooperative-contract~~
6 ~~renewals-may-not-be-used-to--limit--the--teacher's--progress~~
7 ~~toward-tenure-status--"~~

8 NEW SECTION. Section 5. Repealer. Sections 20-4-203
9 through 20-4-206, MCA, are repealed.

10 NEW SECTION. Section 6. Codification instruction.
11 Sections 1 and 2 are intended to be codified as an integral
12 part of Title 20.

-End-