

1 **State of Arkansas**
2 **78th General Assembly**
3 **Regular Session, 1991**
4 **By: Representative Tullis**

A Bill

HOUSE BILL

For An Act To Be Entitled

8 "AN ACT TO ESTABLISH THE PROCEDURE FOR DISMISSAL OF
9 SUPERINTENDENTS EMPLOYED IN THE PUBLIC SCHOOLS OF THIS
10 STATE; AND FOR OTHER PURPOSES."

11

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

13

14 SECTION 1. This act shall be referred to and may be cited as "The
15 School Superintendents Fair Dismissal Act of 1991."

16

17 SECTION 2. Definitions.

18 (a) As used in this act, unless the context otherwise requires:

19 (1) "Superintendent" means the chief executive officer in an
20 Arkansas public school district who is required to hold a teaching certificate
21 from the Department of Education as a condition of employment.

22 (2) "Probationary superintendent" means a superintendent who has
23 not completed three (3) successive years of employment in the school district
24 in which the superintendent is currently employed. A superintendent employed
25 in a school district in this state for three (3) years shall be deemed to have
26 completed the probationary period; however, an employing school district may,
27 by a majority vote of its directors, provide for one (1) additional year of
28 probationary status.

29 (b) A superintendent who has completed three (3) successive years of
30 employment in the school district in which the superintendent is employed on
31 July 1, 1991, or a superintendent who has been given credit for a prior
32 service in another district as authorized by subdivision (a) (2) of this
33 section, is deemed to have completed the required probationary period.

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35 SECTION 3. Construction.

1 This act is not a superintendent tenure law in that it does not confer
2 lifetime appointment nor prevent discharge of superintendents for any cause
3 which is not arbitrary, capricious, or discriminatory. A nonrenewal,
4 termination, suspension, or other disciplinary action by a school board shall
5 be void unless the school board strictly complies with all provisions of this
6 act and the school board's applicable personnel policies.

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8 SECTION 4. Evaluation - Effect.

9 (a) Each superintendent employed by the board of directors of a school
10 district must be evaluated in writing annually.

11 (b) Evaluation criteria and procedures shall be established in the
12 manner prescribed herein.

13 (c) Whenever a majority of the members of a board of directors charged
14 with the supervision of a superintendent believes or has reason to believe
15 that a superintendent is having difficulties or problems meeting the
16 expectations of the board and the board believes or has reason to believe the
17 problems could lead to termination or nonrenewal of contract, the board
18 through its president shall bring the problems and difficulties to the
19 attention of the superintendent involved in writing and shall document the
20 efforts which have been undertaken to assist the superintendent to correct
21 whatever appears to be the cause for potential termination or nonrenewal.

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23 SECTION 5. Superintendent personnel file.

24 (a) The board of directors shall maintain a personnel file for the
25 superintendent which shall be available to the superintendent for inspection
26 and copying at the superintendent's expense during normal office hours.

27 (b) The superintendent may submit for inclusion in the file written
28 information in response to any of the material contained therein.

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30 SECTION 6. Automatic contract renewal - Notice of nonrenewal.

31 (a) Every contract of employment made between a superintendent and the
32 board of directors of a school district shall be renewed in writing on the
33 same terms and for the same salary, unless increased or decreased by law, for
34 the next school year succeeding the date of termination fixed therein, which
35 renewal may be made by an endorsement on the existing contract instrument,

1 unless by May 1 of the contract year, the superintendent is notified by the
2 board through its president that the board of directors is recommending that
3 the superintendent's contract not be renewed or, unless during the period of
4 the contract or within ten (10) days after the end of the school year, the
5 superintendent shall deliver or mail by registered mail to the board of
6 directors his or her resignation as superintendent, or unless such contract is
7 superseded by another contract between the parties.

8 (b) Termination, nonrenewal, or suspension shall be only upon the
9 recommendation of a majority of the directors of a school district. A notice
10 of nonrenewal shall be mailed by registered or certified mail to the
11 superintendent at the superintendent's residence address as reflected in the
12 superintendent's personnel file. The notice of recommended nonrenewal of a
13 superintendent shall include a simple but complete statement of the reasons
14 for such recommendation.

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16 SECTION 7. Notice of termination recommendation.

17 (a) The superintendent may be terminated during the term of any
18 contract for any cause which is not arbitrary, capricious, or discriminatory.

19 (b) The board of directors through its president shall notify the
20 superintendent of the termination recommendation.

21 (c) The notice shall include a simple but complete statement of the
22 grounds for the recommendation of termination and shall be sent by registered
23 or certified mail to the superintendent at the superintendent's residence
24 address as reflected in the superintendent's personnel file.

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26 SECTION 8. Suspension.

27 (a) Whenever a majority of the board has reason to believe that cause
28 exists for the termination of the superintendent and that immediate suspension
29 of the superintendent is necessary, the board may suspend the superintendent
30 without notice or a hearing.

31 (b) The board through its president shall notify the superintendent in
32 writing within two (2) school days of the suspension.

33 (c) The written notice shall include a simple but complete statement of
34 the grounds for suspension or recommended termination and shall state that a
35 hearing before the board of directors is available to the superintendent upon

1 request, provided the request is made in writing within the time provided in
2 Section 9.

3 (d) The hearing shall be scheduled by the president of the board and
4 the superintendent and shall be held within the time provided in Section 9
5 after a request for the hearing unless the superintendent and the board agree
6 to a later time.

7 (e) If sufficient grounds for termination or suspension are found, the
8 board may terminate the superintendent or continue the suspension for a
9 definite period of time.

10 (f) The salary of a suspended superintendent shall cease as of the date
11 the board sustains the suspension.

12 (g) If sufficient grounds for termination or suspension are not found,
13 the superintendent shall be reinstated without loss of compensation.

14

15 SECTION 9. Hearing.

16 (a) A superintendent who receives a notice of recommended termination
17 or nonrenewal may file a written request with the board of directors of the
18 district for a hearing.

19 (b) Written request for a hearing shall be sent by certified or
20 registered mail to the president of the board or may be delivered in person by
21 the superintendent, within thirty (30) days after the written notice of
22 proposed termination or nonrenewal is received by the superintendent.

23 (c) Upon receipt of a request for a hearing, the board shall grant a
24 hearing in accordance with the following provisions:

25 (1) The hearing shall take place not less than five (5) nor more
26 than ten (10) days after the written request has been served on the board,
27 except that the superintendent and board may, in writing, agree to a
28 postponement of the hearing to a later date;

29 (2) The hearing shall be private unless the superintendent or the
30 board shall request that the hearing be public;

31 (3) The superintendent and the board may be represented by
32 representatives of their choosing;

33 (4) It shall not be necessary that a full record of the
34 proceedings at the hearing be made and preserved unless:

35 (A) The board shall elect to make and preserve a record of

1 the hearing at its own expense, in which event a copy shall be furnished the
2 superintendent, upon request, without cost to the superintendent;

3 (B) A written request is filed with the board by the
4 superintendent at least twenty-four (24) hours prior to the time set for the
5 hearing, in which event the board shall make and preserve, at its own expense,
6 a record of the hearing, and shall furnish a transcript to the superintendent
7 without cost.

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9 SECTION 10. Board action on termination or nonrenewal - Appeal.

10 (a) Upon conclusion of its hearing with respect to the termination or
11 nonrenewal of a contract of a superintendent who has been employed by the
12 school district for less than three (3) continuous years, the board shall take
13 action with respect to the termination or nonrenewal of such contract. The
14 board's decision with regard to nonrenewal of a probationary superintendent
15 shall be final.

16 (b) Any superintendent who has been employed continuously by the school
17 district three (3) or more years or who may have achieved nonprobationary
18 status pursuant to Section 2 may be terminated or the board may refuse to
19 renew the contract of the superintendent for any cause which is not arbitrary,
20 capricious, or discriminatory or for violating the reasonable rules and
21 regulations promulgated by the board. Upon completion of such hearing, the
22 board, within ten (10) days after the holding of the hearing, shall:

23 (1) Uphold the decision to terminate or not renew the
24 superintendent's contract; or

25 (2) Reject or modify the decision to terminate or not renew the
26 contract of the superintendent; or

27 (3) Vote to continue the contract of such superintendent under
28 such restrictions, limitations, or assurances as the board may deem to be in
29 the best interest of the school district. The decision shall be reached by
30 the board within ten (10) days from the date of the hearing, and a copy shall
31 be furnished in writing to the superintendent, either by personally delivering
32 it to the superintendent or by addressing it to the superintendent's last
33 known address by registered or certified mail.

34 (c) Subsequent to any hearing granted a superintendent by this act, the
35 board, by majority vote, shall make specific written conclusions with regard

1 to the truth of each reason given the superintendent in support of the
2 recommended termination or nonrenewal.

3 (d) The exclusive remedy for any nonprobationary superintendent
4 aggrieved by the decision made by the board shall be an appeal therefrom to
5 the circuit court of the county in which the school district is located,
6 within seventy-five (75) days of the date of written notice of the action of
7 the board. Additional testimony and evidence may be introduced on appeal to
8 show facts and circumstances showing that the termination or nonrenewal was
9 lawful or unlawful.

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11 SECTION 11. All provisions of this act of a general and permanent
12 nature are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas
13 Code Revision Commission shall incorporate the same in the Code.

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15 SECTION 12. If any provision of this act or the application thereof to
16 any person or circumstance is held invalid, such invalidity shall not affect
17 other provisions or applications of the act which can be given effect without
18 the invalid provision or application, and to this end the provisions of this
19 act are declared to be severable.

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21 SECTION 13. All laws and parts of laws in conflict with this act are
22 hereby repealed.

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