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MEMORANDUM

To: Chairman Highland and Members of the House Committee on Education
From: Tamera Lawrence, Assistant Revisor of Statutes
Date: February 9, 2016
Subject: HB 2531: Due Process for Certain Postsecondary Teachers

House Bill 2531 repeals all but one statute in the act relating to teacher due process procedure for contract termination, K.S.A. 72-5436 et seq. Currently, the act allows a teacher with three or more consecutive years of teaching who has been offered a fourth contract at a technical college, community college or the institute of technology at Washburn to request and have a hearing on the termination or nonrenewal. The act also provides for the procedures for such hearing. HB 2531 would eliminate the due process procedures for contract termination for all teachers or instructors in any technical or community college and the institute of technology at Washburn.

Remaining Statutes

K.S.A. 72-5437

K.S.A. 72-5437 would remain in law. It requires notice of termination or nonrenewal, allows changing of contract terms and provides certain definitions. Teaching contracts are automatically continued for the next succeeding school year. If the school board decides not to renew, written notice must be provided to the teacher and served on or before the third Friday in May of the year in which the contract is non-renewed. The statute applies to teachers at any technical college, community college, the institute of technology at Washburn and any K-12 teacher required to hold a certificate to teach in any school district.

Repealed Statutes

K.S.A. 72-5436

K.S.A. 72-5436 provides definitions for the terms “teacher” and “board.” “Teacher” means any teacher or instructor at any technical college, the institute of technology at Washburn or community college. It does not include persons employed in an administrative capacity.

K.S.A. 72-5438

K.S.A. 72-5438 requires the written notice to include a statement of the reasons for termination or nonrenewal and a statement that the teacher may have the matter heard by a hearing officer upon written request filed within 15 days. It also provides for the selection of a qualified hearing officer.

K.S.A. 72-5439

K.S.A. 72-5439 requires a requested hearing to commence within 45 days after a hearing officer is selected and requires certain due process procedures.

K.S.A. 72-5440

K.S.A. 72-5440 requires daily compensation and mileage for witnesses subpoenaed to appear at a hearing and compensation, subsistence, mileage and certain other expenses for the hearing officer. It also requires testimony to be recorded and each party to pay their own attorney fees. The board is required to pay any other costs of the hearing not specifically allocated in statute.

K.S.A. 72-5441

K.S.A. 72-5441 provides certain requirements for testimony presented by deposition or affidavit.

K.S.A. 72-5442

K.S.A. 75-5442 provides the powers of the hearing officer. It states that rules of evidence are not binding on the hearing. It also provides the burden of proof and admissibility of evidence standards.

K.S.A. 72-5443

K.S.A. 72-5443 requires the hearing officer to issue an opinion within 30 days after the close of the hearing, unless otherwise agreed to by both parties. The decision of the hearing officer is final, subject to appeal to the district court.

K.S.A. 72-5444

K.S.A. 72-5444 states that nothing in the act shall be construed to create any right not subject to amendment or nullification by the legislature. Nothing in the act, any amendment or repeal of the act shall be construed to impair an existing contractual right.

K.S.A. 72-5445

K.S.A. 72-5445 limits application of the act to teachers with at least three consecutive years of employment and offered a contract for a fourth year.

K.S.A. 72-5446

K.S.A. 72-5446 provides the procedure for determination of any allegation that the teacher's contract has been nonrenewed by reason of the teacher having exercised a constitutional right.

K.S.A. 72-5447

K.S.A. 72-5447 states that the act shall be severable and if any provision is held invalid or unconstitutional, the remainder of the act should not be held invalid or unconstitutional.