Sponsored by:
Assemblyman JAY WEBBER
District 26 (Morris and Passaic)
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District 13 (Middlesex and Monmouth)

SYNOPSIS
“School Children First Act”; modifies evaluation of teachers and principals; revises tenure acquisition process and certain tenure charge procedures; establishes factors for determining compensation; requires mutual consent for teacher placement; and eliminates certain seniority rights.

CURRENT VERSION OF TEXT
As introduced.

(Sponsorship Updated As Of: 11/14/2011)
AN ACT concerning certain teaching staff members, supplementing
chapters 27, 28, and 29 of Title 18A of the New Jersey Statutes,
and revising various parts of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State
of New Jersey:

1. (New section) This act shall be known and may be cited as
the “School Children First Act.”

2. (New section) The services of all teaching staff members
employed in the positions of teacher, principal, other than
administrative principal, assistant principal, and vice-principal,
serving in any school district or under any board of education,
excepting those who are not the holders of proper certificates in full
force and effect, shall be under tenure during good behavior and
efficiency and they shall not be dismissed or reduced in
compensation except for inefficiency, incapacity, or conduct
unbecoming such teaching staff member or other just cause and
then only in the manner prescribed by subarticle B of article 2 of
chapter 6 of Title 18A of the New Jersey Statutes, after the
employee receives annual ratings of “effective” or “highly
effective” as defined by regulations promulgated in accordance with
the provisions of section 5 of P.L.  , c. (C. ) (pending before the
Legislature as this bill) in the most recent annual evaluation and in
the two years preceding the most recent annual evaluation.

For the purposes of P.L.  , c. (C. ) (pending before the
Legislature as this bill), tenure in any of the administrative or
supervisory positions enumerated herein shall accrue only by
employment in the administrative or supervisory position. Tenure
so accrued shall not extend to any other administrative or
supervisory position.

3. (New section) A teacher under tenure who receives an annual
rating of “ineffective” for one year, or an annual rating of “partially
effective” for two consecutive years, shall revert to non-tenure
status and may be subject to dismissal by either the board of
education or the school principal. A principal, assistant principal,
or vice-principal under tenure who receives an annual rating of
“ineffective” for one year, or an annual rating of “partially
effective” for two consecutive years, shall revert to non-tenure
status and may be subject to dismissal by the board of education or
the superintendent. A teaching staff member employed as a teacher,
principal, assistant principal, or vice-principal who reverts to non-
tenure status after receiving an annual rating of “ineffective” or two

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
consecutive annual ratings of “partially effective” shall revert to
tenure status following three consecutive annual ratings of
“effective” or “highly effective.”

4. (New section) Any teacher, principal, assistant principal, or
vice-principal under tenure on the effective date of this act shall
continue under tenure subject to the annual rating requirements set
forth in section 3 of P.L. , c. (C. ) (pending before the
Legislature as this bill).

5. (New section) a. Every board of education in this State shall,
beginning with the 2012-2013 school year and thereafter, cause
each teaching staff member employed by it in the positions of
teacher, principal, assistant principal, and vice-principal to be
observed in the performance of his duties at least twice during each
school year. The number of required observations may be reduced
proportionately when an individual teaching staff member’s term of
service is less than one academic year. Each observation may be
followed by a conference between that teaching staff member and
his superior or superiors. The purpose of this procedure is to
recommend as to reemployment, identify any deficiencies and
extend assistance for their correction, and improve professional
competence.

b. Regulations shall be promulgated pursuant to section 27 of
P.L. , c. (C. ) (pending before the Legislature as this bill)
pertaining to the evaluation of teaching staff members employed in
the positions of teacher, principal, assistant principal, and vice-
principal that shall be binding upon and supersede any district-
adopted evaluation criteria or process that may be inconsistent with
the regulations. The regulations shall provide for an educator
evaluation system for teaching staff members employed in the
positions of teacher, principal, assistant principal, and vice-
principal using multiple performance measures and shall at a
minimum include:

(1) four defined annual rating categories for teachers, principals,
assistant principals, and vice-principals: ineffective, partially
effective, effective, and highly effective;
(2) a provision requiring that at least 50% of the effectiveness
ratings be based on objective measures of student learning such as
standardized test scores or other quantifiable indicators;
(3) objective measures of student learning that use growth from
one year’s quantifiable measure to the next year’s quantifiable
measure;
(4) a provision that multiple measures of teaching staff practice
and student learning be used in rating teaching staff effectiveness
with specific measures and implementation processes;
(5) a requirement that teaching staff receive at least one final annual summative evaluation for the school year, and a conference with their superior or superiors following this evaluation;
(6) an opportunity for teaching staff to improve their effectiveness from routine evaluation feedback;
(7) guidelines for school districts regarding training on the evaluation system to support its implementation; and
(8) a performance framework, associated evaluation tools, and observation protocols with a process for a school district to obtain the approval of the commissioner to utilize other evaluation tools.

c. Each school district shall fully implement the educator evaluation system by the 2012-2013 school year, provided however that any evaluation system or process that is set out in any existing collective bargaining agreement need not conform to the educator evaluation system set forth in regulations until such time as the agreement expires. No collective bargaining agreement or other contract entered into by a school district after July 1, 2012 shall conflict with the educator evaluation system set forth in regulations.
d. Beginning in the 2012-2013 school year and thereafter, annual ratings of teaching staff members employed in the position of principal, assistant principal, and vice-principal shall not be subject to grievance or appeal. Annual ratings of teaching staff members employed in the position of teacher shall not be subject to grievance or appeal unless the grievance or appeal relates to a charge that the school district failed to adhere substantially to the approved educator evaluation system. Any such appeal initiated by a teacher shall be directed to the superintendent of schools within 30 days of receipt of the annual rating, and the superintendent shall consider the appeal pursuant to regulations promulgated pursuant to section 27 of P.L. , c. (C. ) (pending before the Legislature as this bill).
e. Beginning in the 2012-2013 school year and thereafter, each school district shall report on its website for each school the number of teachers rated in each evaluation category for the most recent school year. The Department of Education shall report on its website the number of teachers, principals, assistant principals, and vice-principals in each district rated in each evaluation category.

6. (New section) a. A board of education shall adopt a salary schedule or compensation policy for teaching staff members employed in the position of teacher, principal, assistant principal, or vice-principal in which the individual’s salary is determined primarily by:
   (1) the teaching staff member’s demonstrated effectiveness in advancing student learning, as determined by the staff member’s annual effectiveness rating;
   (2) the teaching staff member’s assignment to a failing school, as identified by the Commissioner of Education; and
(3) the teaching staff member teaching a subject area that the commissioner has designated as a difficult to staff subject area.

b. A board of education shall not adopt a salary schedule or compensation policy for teaching staff members employed in the position of teacher, principal, assistant principal, or vice-principal in which the individual’s years of employment is a primary determinant of the individual’s salary.

c. The salary schedule or compensation policy for teaching staff members employed in the position of teacher, principal, assistant principal, or vice-principal adopted by a board of education shall not provide additional compensation for academic credits earned or degrees attained unless:

(1) the commissioner has determined that attainment of the academic credit or degree will have a demonstrably positive effect on student achievement; and

(2) the teaching staff member is teaching or practicing in the subject area in which the academic credit or degree was attained.

d. Regulations shall be promulgated pursuant to section 27 of P.L. , c. (C. ) (pending before the Legislature as this bill) pertaining to the compensation of teaching staff members employed in the positions of teacher, principal, assistant principal, and vice-principal, and they shall be binding upon and supersede any district-adopted salary schedule or compensation policy that may be inconsistent with the regulations.

e. A school district shall adopt the salary schedule or compensation policy required pursuant to this section by the 2012-2013 school year, provided however that any salary schedule or compensation policy that is set out in any existing collective bargaining agreement need not conform to the requirements set forth in regulations until such time as the agreement expires. No collective bargaining agreement or other contract entered into by a school district after July 1, 2012 shall conflict with the salary schedule or compensation policy set forth in regulations.

7. N.J.S.18A:6-14 is amended to read as follows:

18A:6-14. Upon certification of any charge to the commissioner, the board may suspend the person against whom such charge is made, with or without pay[, but, if the determination of the charge by the Commissioner of Education is not made within 120 calendar days after certification of the charges, excluding all delays which are granted at the request of such person, then the full salary (except for said 120 days) of such person shall be paid beginning on the one hundred twenty-first day until such determination is made]. Should the charge be dismissed, the person shall be reinstated immediately with full pay from the first day of such suspension. Should the charge be dismissed and the suspension be continued during an appeal therefrom, then the full pay or salary of such person shall continue until the determination of the appeal.
However, the board of education shall deduct from said full pay or
salary any sums received by such employee or officers by way of
pay or salary from any substituted employment assumed during
such period of suspension. Should the charge be sustained on the
original hearing or an appeal therefrom, and should such person
appeal from the same, then the suspension may be continued unless
and until such determination is reversed, in which event he shall be
reinstated immediately with full pay as of the time of such
suspension.

(cf: P.L.1971, c.435, s.2)

8. N.J.S.18A:6-16 is amended to read as follows:

18A:6-16. Upon receipt of such a charge and certification, or of
a charge lawfully made to the commissioner, the commissioner or
the person appointed to act in the commissioner's behalf in the
proceedings shall examine the charges and certification. The
individual against whom the charges are certified shall have 15
days to submit a written response to the charges to the
commissioner. Upon a showing of good cause, the commissioner
may grant an extension of time. The commissioner shall render a
determination on the sufficiency of charges as set forth below
within 15 days immediately following the period provided for a
written response to the charges.

If, following receipt of the written response to the charges, the
commissioner is of the opinion that they are not sufficient to
warrant dismissal or reduction in salary of the person charged, he
shall dismiss the same and notify said person accordingly. If,
however, he shall determine that such charge is sufficient to warrant
dismissal or reduction in salary of the person charged, he shall
within 10 days of making that determination refer the case to the
Office of Administrative Law for further proceedings, except that
when a motion for summary decision has been made prior to that
time, the commissioner may retain the matter for purposes of
deciding the motion. The administrative law judge shall issue an
initial decision to the commissioner within 30 calendar days after
the case has been received by the Office of Administrative Law.

(cf: P.L.1998, c.42, s.2)

9. N.J.S.18A:6-31.1 is amended to read as follows:

18A:6-31.1. Whenever any district is divided into two or more
districts those persons having tenure, in office, position or
employment in such district in positions other than teacher,
principal, assistant principal, or vice-principal, shall continue to
have tenure in the district which comprises the territory in which
they were serving at the time of the division; the persons having
tenure in office, position or employment in such district in positions
other than teacher, principal, assistant principal, or vice-principal,
whose services were not exclusively confined to the territory
comprising any one of the districts as so divided, at the time of the
division, shall be employed, if their services are so required, in the
district having the highest number of pupils in average daily
attendance during the second academic year preceding the academic
year in which the new district is created as certified by the
department and those persons having tenure in office, position or
employment in the original district in positions other than teacher,
principal, assistant principal, or vice-principal, who are not
employed by the board of education of either district shall retain the
seniority and tenure rights acquired in the original district and shall
be employed in accordance therewith as vacancies occur in either
the original district or the new district before any other persons are
so employed in similar offices, positions or employment.


10. N.J.S.18A:6-31.2 is amended to read as follows:
18A:6-31.2. The tenure, seniority and pension rights of all
persons, who had office, position or employment in the original
district at the time of said division in positions other than teacher,
principal, assistant principal, or vice-principal, and who are
employed in either district after such division shall continue with
the same force and effect as though such division had not occurred
and any future continuation of service in either district shall be
deemed to be a continuation of the service rendered prior to said
division and any period of service rendered in the original district
shall be credited toward the acquisition of tenure, seniority and
pension rights in the original or new district, as the case may be.

(cf: N.J.S.18A:6-31.2)

11. Section 2 of P.L.1995, c.294 (C.18A:6-31.4) is amended to
read as follows:
2. Whenever a new school district is created, the terms and
conditions of employment, whether established through a collective
bargaining agreement or past practice, of the largest constituent
school district which is affected, replaced or displaced by, or forms
part of the new school district, shall apply until a successor
agreement is negotiated with the majority representative of the new
school district. As used in this section, the term largest constituent
school district means that school district which employs the largest
number of teaching staff members.

In the event that there is an employee bargaining unit in a
constituent school district with the next largest number of
employees and with a majority representative of the unit, which is
not so represented in the largest school district, the terms and
conditions of employment for all employees holding positions in
that unit in the new school district shall apply provided that the
terms and conditions of employment shall only apply to the new
school district's employees in that bargaining unit, a new collective
bargaining agreement shall be negotiated with the majority
representative of the new school district.
(cf: P.L.1995, c.294, s.2)

12. Section 3 of P.L.1995, c.294 (C.18A:6-31.5) is amended to
read as follows:
3. Whenever a new school district is created, the tenure and
seniority rights of all employees from the affected, constituent,
replaced or displaced districts which form or are a part of, or are
affected, replaced or displaced by the new school district, except for
employees who are superintendents or in the positions of teacher,
principal, assistant principal, or vice-principal, shall be recognized
and preserved by the new school district and all periods of
employment in any of the school districts shall count toward
acquisition of tenure and seniority in the new school district. All
statutory and contractual rights to tenure, seniority, accumulated
sick leave, leave of absence, and pension of an employee, other than
an employee who is a superintendent or in the positions of teacher,
principal, assistant principal, or vice-principal, which have been
acquired through employment in any of the districts shall be
recognized by the new school district.
(cf: P.L.1995, c.294, s.3)

13. Section 4 of P.L.1995, c.294 (C.18A:6-31.6) is amended to
read as follows:
4. Following consideration of the tenure and seniority rights of
employees provided pursuant to section 3 of this act or pursuant to
any other section of law, a new school district shall fill all vacancies
and available positions other than teacher, principal, assistant
principal, and vice-principal from a pool of qualified employees
prior to interviewing applicants or hiring new employees. The pool
of qualified employees shall consist of all employees of the
constituent, affected, displaced or replaced school districts in
positions other than teacher, principal, assistant principal, and vice-
principal, who would otherwise be entitled to continued
employment in that district in the following school year but are not
entitled to continued employment in the new school district because
of tenure or seniority status. [During] For positions other than
teacher, principal, assistant principal, and vice-principal, during the
school year in which the new district is established, a new school
district shall not hire an employee for a particular position until all
employees in the labor pool qualified to fill the position have been
offered employment by the new school district.
(cf: P.L.1995, c.294, s.4)

14. N.J.S.18A:13-49 is amended to read as follows:
18A:13-49. All [principals, teachers and] employees in the
employ of any dissolving local district in positions other than
teacher, principal, assistant principal, and vice-principal shall be
transferred to and continue in their respective employments in the
employ of the regional school district and their rights to tenure,
pension and accumulated leave of absence accorded under the laws
of the state shall not be affected by their transfer to the employ of
the regional school district.

15. Section 14 of P.L.1975, c.360 (C.18A:13-64) is amended to
read as follows:

14. All employees of the regional district in positions other than
teacher, principal, assistant principal, and vice-principal, shall
continue in their respective positions in the withdrawing district, or
in each of the constituent districts in the event of a dissolution, and
all of their rights of tenure, seniority, pension, leave of absence and
other similar benefits shall be recognized and preserved and any
periods of prior employment in the regional district shall count
toward the acquisition of tenure to the same extent as if all such
employment had been under the withdrawing district or in any of
the constituent districts in the event of a dissolution. In the event of
a withdrawal, any tenured employee in a school located in the
withdrawing district in positions other than teacher, principal,
assistant principal, and vice-principal, who desires to remain in the
employ of the regional district, and whose seniority under existing
tenure laws so permits, may apply for and shall be granted a
transfer to a position other than teacher, principal, assistant
principal, and vice-principal with the regional district for which he
is certified which is vacant, held by a tenured employee with less
seniority or by an employee without tenure; applications for such
transfers shall be made within 45 days of the date of the special
school election at which the withdrawal was approved.
(cf: P.L.1993, c.255, s.13)

read as follows:

15. All employees of the all purpose regional district in
positions other than teacher, principal, assistant principal, and vice-
principal shall continue in their respective positions in the new
district and all of their rights of tenure, seniority, pension, leave of
absence and other similar benefits shall be recognized and
preserved and any periods of prior employment in the all purpose
regional district shall count toward the acquisition of tenure to the
same extent as if the employment had been under the new district.
Any tenured employee in a school located in the new district in a
position other than teacher, principal, assistant principal, and vice-
principal who desires to remain in the employ of the all purpose
regional district, and whose seniority under existing tenure laws so
permits, may apply for and shall be granted a transfer to a position
other than teacher, principal, assistant principal, or vice-principal
with the all purpose regional district for which he is certified which
is vacant, held by a tenured employee with less seniority or by an
employee without tenure. Applications for these transfers shall be
made within 45 days of the date of the special school election at
which the withdrawal was approved.
(cf: P.L.1989, c.90, s.15)

17. Section 1 of P.L.1975, c.132 (C.18A:27-3.1) is amended to
read as follows:
1. Every board of education in this State shall cause each
nontenure teaching staff member employed by it in a position other
than teacher, principal, assistant principal, or vice-principal to be
observed and evaluated in the performance of her or his duties at
least three times during each school year but not less than once
during each semester. Said evaluations are to take place before
April 30 each year. The evaluations may cover that period between
April 30 of one year and April 30 of the succeeding year excepting
in the case of the first year of employment where the three
evaluations must have been completed prior to April 30. The
number of required observations and evaluations may be reduced
proportionately when an individual teaching staff member’s term of
service is less than one academic year. Each evaluation shall be
followed by a conference between that teaching staff member and
his or her superior or superiors. The purpose of this procedure is to
recommend as to reemployment, identify any deficiencies, extend
assistance for their correction and improve professional
competence.
(cf: P.L.1993, c.100, s.1)

18. Section 1 of P.L. 1995, c.125 (C.18A:27-4.1) is amended to
read as follows:
1. Notwithstanding the provisions of any law, rule or regulation
to the contrary,
   a. (1) A board of education shall appoint, transfer or remove a
certificated or non-certificated officer or employee [only] upon the
recommendation of the chief school administrator and by a recorded
roll call majority vote of the full membership of the board. The
board shall not withhold its approval for arbitrary and capricious
reasons.
   (2) A teacher shall not be assigned to the instructional staff of a
school without the mutual consent of the teacher and the school
principal for the assignment.
   (3) In the event that a principal does not consent to the placement
of a teacher under tenure, the teacher may continue to receive salary
and benefits while the teacher and the school district search for an
alternative assignment in the district. If a mutually agreeable
placement is not achieved within 12 months of the date on which
the initial assignment is approved by the board of education, the board may place the teacher on permanent unpaid leave. A teacher on permanent unpaid leave shall not receive salary, benefits, or credit towards salary or benefits.

b. A board of education shall renew the employment contract of a certificated or non-certificated officer or employee only upon the recommendation of the chief school administrator and by a recorded roll call majority vote of the full membership of the board. The board shall not withhold its approval for arbitrary and capricious reasons. A nontenured officer or employee who is not recommended for renewal by the chief school administrator shall be deemed nonrenewed. Prior to notifying the officer or employee of the nonrenewal, the chief school administrator shall notify the board of the recommendation not to renew the officer's or employee's contract and the reasons for the recommendation. An officer or employee whose employment contract is not renewed shall have the right to a written statement of reasons for nonrenewal pursuant to section 2 of P.L.1975, c.132 (C.18A:27-3.2) and to an informal appearance before the board. The purpose of the appearance shall be to permit the staff member to convince the members of the board to offer reemployment. The chief school administrator shall notify the officer or employee of the nonrenewal pursuant to the provisions of section 1 of P.L.1971, c.436 (C.18A:27-10).

c. The provisions of this section shall not apply to the appointment, transfer, removal, renewal or nonrenewal of a person who is a treasurer of school moneys, election officer, board auditor, board attorney or board secretary, except a board secretary who performs business administration functions.

19. N.J.S.18A:28-5 is amended to read as follows:

18A:28-5. The services of all teaching staff members employed in the positions of [teacher, principal, other than administrative principal, assistant principal, vice-principal,] assistant superintendent, and all school nurses including school nurse supervisors, head school nurses, chief school nurses, school nurse coordinators, and any other nurse performing school nursing services, school athletic trainer and such other employees as are in positions which require them to hold appropriate certificates issued by the board of examiners, serving in any school district or under any board of education, excepting those who are not the holders of proper certificates in full force and effect and school business administrators shared by two or more school districts, shall be under tenure during good behavior and efficiency and they shall not be dismissed or reduced in compensation except for inefficiency, incapacity, or conduct unbecoming such a teaching staff member or other just cause and then only in the manner prescribed by
subarticle B of article 2 of chapter 6 of this Title, after employment in such district or by such board for:

(a) Three consecutive calendar years, or any shorter period which may be fixed by the employing board for such purpose; or

(b) Three consecutive academic years, together with employment at the beginning of the next succeeding academic year; or

(c) The equivalent of more than three academic years within a period of any four consecutive academic years.

For purposes of this chapter, tenure in any of the administrative or supervisory positions enumerated herein shall accrue only by employment in that administrative or supervisory position. Tenure so accrued shall not extend to any other administrative or supervisory position and nothing herein shall limit or restrict tenure rights which were or may be acquired pursuant to N.J.S.18A:28-6 in a position in which the individual actually served.

(cf: P.L.1999, c.87, s.3)

20. N.J.S.18A:28-6 is amended to read as follows:

18A:28-6. Any teaching staff member, other than a teacher, principal, assistant principal, or vice-principal, under tenure or eligible to obtain tenure under this chapter, who is transferred or promoted with his consent to another position covered by this chapter on or after July 1, 1962, shall not obtain tenure in the new position until after:

(a) the expiration of a period of employment of two consecutive calendar years in the new position unless a shorter period is fixed by the employing board for such purpose; or

(b) employment for two academic years in the new position together with employment in the new position at the beginning of the next succeeding academic year; or

(c) employment in the new position within a period of any three consecutive academic years, for the equivalent of more than two academic years;

provided that the period of employment in such new position shall be included in determining the tenure and seniority rights in the former position held by such teaching staff member, and in the event the employment in such new position is terminated before tenure is obtained therein, if he then has tenure in the district or under said board of education, such teaching staff member shall be returned to his former position at the salary which he would have received had the transfer or promotion not occurred together with any increase to which he would have been entitled during the period of such transfer or promotion.

Any teaching staff member in the position of teacher, principal, assistant principal, or vice-principal under tenure or eligible to obtain tenure under this chapter, who is transferred or promoted with his consent to another position covered by this chapter on or after July 1, 2012, shall not obtain tenure in the new position until
the teaching staff member receives an annual rating of “effective”
or “highly effective,” as defined by regulations promulgated in
accordance with the provisions of section 5 of P.L. , c. (C. )
pending before the Legislature as this bill), in the most recent
annual evaluation and in the two years preceding the most recent
annual evaluation while in the new position.
(cf: N.J.S.18A:28-6)

21. N.J.S.18A:28-6.1 is amended to read as follows:

18A:28-6.1. Whenever, heretofore or hereafter, any board of
education in any school district in this state shall discontinue any
high school, junior high school, elementary school or any one or
more of the grades from kindergarten through grade 12 in the
district and shall, by agreement with another board of education,
send the pupils in such schools or grades to such other district, all
teaching staff members in positions other than teacher, principal,
assistant principal, and vice-principal, who are assigned for a
majority of their time in such school, grade or grades and who have
tenure of office at the time such schools or grades are discontinued
shall be employed by the board of education of such other district in
the same or nearest equivalent position; provided that any such
teaching staff member may elect to remain in the employ of the
former district in any position other than teacher, principal, assistant
principal, and vice-principal, to which he may be entitled by virtue
of his tenure and seniority rights by giving notice of said election to
the boards of education in each of the school districts at least three
months prior to the date on which such school, grade, or grades are
to be discontinued. Teaching staff members other than teachers,
principal, assistant principals, and vice-principals, so employed in
such other district shall have their rights to tenure, seniority,
pension and accumulated leave of absence, accorded under the laws
of this state, recognized and preserved by the board of education of
that district. Any periods of prior employment in such sending
district shall count toward the acquisition of tenure in the other
district to the same extent as if all such prior employment had been
in such other district.
(cf: N.J.S.18A:28-6.1)

22. N.J.S.18A:28-9 is amended to read as follows:

18A:28-9. Nothing in this title or any other law relating to
tenure of service shall be held to limit the right of any board of
education to reduce the number of teaching staff members,
employed in the district whenever, in the judgment of the board, it
is advisable to abolish any such positions for reasons of economy
or because of reduction in the number of pupils or of change in the
administrative or supervisory organization of the district or for
efficiencies found through the consolidation or sharing of services
between school districts or because a school has been identified as
failing by the commissioner or for other good cause upon
compliance with the provisions of this article.

23. N.J.S.18A:28-10 is amended to read as follows:

18A:28-10. **[Dismissals]** In the case of teaching staff members
in positions other than teacher, principal, assistant principal, or
vice-principal, dismissals resulting from any such reduction shall
not be made by reason of residence, age, sex, marriage, race,
religion or political affiliation but shall be made on the basis of
seniority according to standards to be established by the
commissioner with the approval of the state board.

In the case of teaching staff members in the position of teacher,
principal, assistant principal, and vice-principal, dismissals
resulting from any such reduction shall not be made by reason of
residence, age, sex, marriage, race, religion, or political affiliation,
but shall be made on the basis of effectiveness as determined by the
evaluation system established through regulations promulgated in
accordance with the provisions of section 5 of P.L. 1940, c. (C. )
(cf: N.J.S.18A:28-10)

24. N.J.S.18A:28-11 is amended to read as follows:

18A:28-11. In the case of **[any such reduction]** teaching staff
members in positions other than teacher, principal, assistant
principal, and vice-principal, the board of education shall determine
in any such reduction the seniority of the persons affected
according to such standards and shall notify each such person as to
his seniority status, and the board may request the commissioner for
an advisory opinion with respect to the applicability of the
standards to particular situations, which request shall be referred to
a panel consisting of the executive county superintendent of the
county, the secretary of the state board of examiners and an
assistant commissioner of education designated by the
commissioner and an advisory opinion shall be furnished by said
panel. No determination of such panel shall be binding upon the
board of education or any other party in interest or upon the
commissioner or the state board if any controversy or dispute arises
as a result of such determination and an appeal is taken therefrom
pursuant to the provisions of this title.

25. Section 1 of P.L.1985, c.217 (C.18A:28-11.1) is amended to
read as follows:

1. In computing length of service for seniority purposes, every
teaching staff member in a position other than teacher, principal,
assistant principal, and vice-principal who, after July 1, 1940, has
served or hereafter shall serve, in the active military or naval
service of the United States or of this State, including active service
in the women's army corps, the women's reserve of the naval
reserve, or any similar organization authorized by the United States
to serve with the army or navy, in time of war or an emergency, or
for or during any period of training, or pursuant to or in connection
with the operation of any system of selective service, or who was a
member of the American Merchant Marine during World War II
and is declared by the United States Department of Defense to be
eligible for federal veterans' benefits, shall be entitled to receive
equivalent years of employment or seniority credit for that service
as if the member had been employed for the same period of time in
some publicly owned and operated college, school or institution of
learning in this or any other state or territory of the United States,
except that the period of that service shall not be credited toward
more than four years of employment or seniority credit. Any
military or naval service shall be credited towards this employment
or seniority credit including service that occurred prior to the
member's employment as a teaching staff member.
(cf: P.L.1991, c.389, s.2)

26. N.J.S.18A:28-12 is amended to read as follows:

18A:28-12. If any teaching staff member in a position other than
teacher, principal, assistant principal, and vice-principal shall be
dismissed as a result of such reduction, such person shall be and
remain upon a preferred eligible list in the order of seniority for
reemployment whenever a vacancy occurs in a position for which
such person shall be qualified and he shall be reemployed by the
body causing dismissal, if and when such vacancy occurs and in
determining seniority, and in computing length of service for
reemployment, full recognition shall be given to previous years of
service, and the time of service by any such person in or with the
military or naval forces of the United States or of this State,
subsequent to September 1, 1940, and the time of service of any
member of the American Merchant Marine during World War II
who is declared by the United States Department of Defense to be
eligible for federal veterans' benefits, shall be credited to him as
though he had been regularly employed in such a position within
the district during the time of such military or naval service, except
that the period of that service shall not be credited toward more than
four years of employment or seniority credit.
(cf: P.L.1991, c.389, s.3)

27. Notwithstanding any provision of P.L.1968, c.410
(C.52:14B-1 et seq.) to the contrary, the Commissioner of
Education shall adopt, immediately upon filing with the Office of
Administrative Law, such rules and regulations as the commissioner
deems necessary to effectuate the provisions of P.L. , c. (C.)
(pending before the Legislature as this bill) which shall be effective
for a period not to exceed 12 months. The regulations shall thereafter be amended, adopted, or readopted by the State Board of Education in accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

28. The following sections are repealed:
   Section 5 of P.L.1995, c.294 (C.18A:6-31.7);
   N.J.S.18A:8-34;
   Section 1 of P.L.1972, c.64 (C.18A:29-4.2).

29. This act shall take effect in the 2012-2013 school year, except that sections 5 and 6 shall take effect immediately.

**STATEMENT**

This bill requires that regulations be promulgated to provide for an educator evaluation system for teachers, principals, assistant principals, and vice-principals in public schools. The evaluation system would be used in making personnel decisions including compensation and the awarding and rescission of tenure. The evaluation system will use multiple performance measures and will at a minimum include:

- four defined annual rating categories: ineffective, partially effective, effective, and highly effective;
- a requirement that at least 50% of the effectiveness ratings be based on objective measures of student learning such as standardized test scores or other quantifiable indicators;
- objective measures of student learning that use growth from one year’s quantifiable measure to the next year’s quantifiable measure;
- a requirement that multiple measures of teaching staff practice and student learning be used in rating teaching staff effectiveness with specific measures and implementation processes;
- a requirement that teaching staff receive at least one final annual summative evaluation for the school year, and a conference with their superior or superiors following this evaluation;
- an opportunity for teaching staff to improve their effectiveness from routine evaluation feedback;
- guidelines for districts regarding training on the evaluation system to support its implementation; and
- a performance framework, associated evaluation tools, and observation protocols with a process for a school district to obtain the approval of the commissioner to utilize other evaluation tools.

The bill authorizes the Commissioner of Education to promulgate regulations that will be effective for a period not to exceed 12 months. The State Board of Education will then
promulgate regulations in accordance with the “Administrative
Procedure Act.”

The bill requires each school district to fully implement the
teacher evaluation system by the 2012-2013 school year. Beginning
in that school year, all teaching staff members in positions of
teacher, principal, assistant principal, and vice-principal will gain
tenure only if the person receives an annual rating of “effective” or
“highly effective,” as defined in the new teacher evaluation system,
in the employee’s most recent annual evaluation and in the annual
evaluations in the preceding two years. The process for initially
acquiring tenure remains the same as under current law for other
teaching staff members. The annual rating of a teacher under the
educator evaluation system will not be subject to grievance or
appeal unless it relates to a charge that the district failed to adhere
substantially to the approved evaluation process. An appeal in this
case will be directed to the superintendent of schools. Principals,
assistant principals, and vice-principals are not permitted to grieve
or appeal their annual ratings.

Under current law, a teaching staff member who has obtained
tenure or is eligible to obtain tenure who is transferred or promoted
with his consent to another position, acquires tenure in that new
position after two academic years in that position together with
employment in the new position at the beginning of the next
succeeding academic year. This bill provides that for a teacher,
principal, assistant principal, and vice-principal, the employee will
acquire tenure in this new position in the same way as initial tenure
is acquired: an annual rating of “effective” or “highly effective” in
the most recent annual evaluation and in the annual evaluations in
the preceding two years.

The bill also provides that a tenured teacher, principal, assistant
principal, or vice-principal will revert to non-tenure status if the
person receives an annual rating of “ineffective” for one year or an
annual rating of “partially effective” for two consecutive years. In
addition, a teacher with these ratings may be dismissed by either the
board of education or the school principal; a principal, assistant
principal, or a vice-principal with these ratings may be dismissed by
the board of education or the superintendent of schools. In order to
regain tenure status, a person will be required to receive three
consecutive annual ratings of “effective” or “highly effective.”

The bill provides that all teachers, principals, assistant principals,
and vice-principals who have tenure on July 1, 2012, the date for
the implementation of the educator evaluation system, will continue
to be under tenure. All tenured employees, however, will be subject
to revocation of tenure for “ineffective” or “partially effective”
evaluation ratings.

The bill requires school districts to adopt a salary schedule or
compensation policy for all teachers, principals, assistant principals,
and vice-principals that is consistent with regulations promulgated
in accordance with the provisions of the bill. The regulations will establish the individual’s annual evaluation, assignment to a failing school, and teaching in a difficult to staff subject area as the primary factors that determine an individual’s compensation, and years of experience cannot be a primary determinant of an individual’s compensation. A district would only be allowed to provide additional compensation for education attainment if the commissioner has determined that the additional education will have a positive effect on student achievement and the teaching staff member is teaching or practicing in the subject area in the additional academic credit or degree was attained.

The bill stipulates that a teacher will not be assigned to the instructional staff of a school without the mutual consent of the teacher and principal of the school. If a principal does not consent to the placement of a teacher who is under tenure, the teacher may continue to receive compensation as the teacher and district continue to search for a mutually agreeable placement. If such as placement is not found after 12 months, the teacher may be placed on permanent unpaid leave.

The bill also:

• stipulates that, in the case of a teacher, principal, assistant principal, or vice-principal, any dismissals resulting from a reduction in force must be made on the basis of effectiveness as determined by the evaluation system established under the bill, rather than based on seniority;
• requires an initial Office of Administrative Law determination within 30 days of referral of tenure cases; and
• eliminates the reinstatement of salary after 120 days if Commissioner of Education’s determination on tenure charges has not been made.