

**SUBSTITUTE FOR
HOUSE BILL NO. 4625**

A bill to amend 1937 (Ex Sess) PA 4, entitled

"An act relative to continuing tenure of office of certificated teachers in public educational institutions; to provide for probationary periods; to regulate discharges or demotions; to provide for resignations and leaves of absence; to create a state tenure commission and to prescribe the powers and duties thereof; and to prescribe penalties for violation of the provisions of this act,"

by amending sections 1, 2, 3, and 3a of article II, sections 1, 2, and 3 of article III, and section 4 of article IV (MCL 38.81, 38.82, 38.83, 38.83a, 38.91, 38.92, 38.93, and 38.104), sections 1 and 2 of article II and section 2 of article III as amended and section 3a of article II and section 3 of article III as added by 1993 PA 59, section 1 of article III as amended by 1996 PA 282, and section 4 of article IV as amended by 1993 PA 60, and by adding sections 3b and 3c to article II, section 1a to article III, and section 1b to article IV; and to repeal acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

ARTICLE II

1
2 Sec. 1. (1) Subject to subsections (2) and (3), **SECTION 3B(2)**
3 **OF THIS ARTICLE, AND SECTION 1A OF ARTICLE III**, a teacher is in a
4 probationary period during his or her first 4-5 full school years
5 of employment.

6 (2) ~~A-SUBJECT TO SECTION 3B(2) OF THIS ARTICLE, A~~ teacher
7 under contract but not on continuing tenure as of the effective
8 date of the ~~amendatory act that added this subsection-2011~~
9 **AMENDATORY ACT THAT AMENDED THIS SUBSECTION** is in a probationary
10 period during his or her first 2-4 full school years of employment.

11 (3) A teacher on continuing tenure as of the effective date of
12 the ~~amendatory act that added this subsection-2011~~ **AMENDATORY ACT**
13 **THAT AMENDED THIS SUBSECTION** continues to be on continuing tenure
14 even if the teacher has not served for at least 4-5 full school
15 years of employment.

16 Sec. 2. ~~A-EXCEPT AS OTHERWISE PROVIDED IN SECTION 1A OF~~
17 **ARTICLE III, A** teacher shall not be required to serve more than 1
18 probationary period in any 1 school district or institution.
19 However, upon notice to the tenure commission, the controlling
20 board may grant a third year of probation to a teacher described in
21 section 1(2) of this article.

22 Sec. 3. (1) ~~At least 60 days before-BEFORE~~ the ~~close-END~~ of
23 each school year, the controlling board shall provide the
24 probationary teacher with a definite written statement as to
25 whether or not his **OR HER** work has been ~~satisfactory. Failure to~~
26 ~~submit a written statement shall be considered as conclusive~~

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1 ~~evidence that the teacher's work is satisfactory. Any~~ **EFFECTIVE.**

2 **SUBJECT TO SUBSECTION (2),** A probationary teacher or teacher not on
3 continuing contract shall be employed for the ensuing year unless
4 notified in writing [at least ~~60~~15 days before the ~~close~~END of the
5 school
year] that his OR HER services will be discontinued.

6 (2) A TEACHER WHO IS IN A PROBATIONARY PERIOD MAY BE DISMISSED
7 FROM HIS OR HER EMPLOYMENT BY THE CONTROLLING BOARD AT ANY TIME.

8 (3) IF A TEACHER WHO IS IN A PROBATIONARY PERIOD IS RATED AS
9 INEFFECTIVE ON 2 ANNUAL YEAR-END PERFORMANCE EVALUATIONS OVER A 2-
10 SCHOOL-YEAR PERIOD UNDER SECTION 1249 OF THE REVISED SCHOOL CODE,
11 1976 PA 451, MCL 380.1249, THE CONTROLLING BOARD SHALL DISMISS THE
12 TEACHER FROM HIS OR HER EMPLOYMENT.

13 Sec. 3a. ~~(1) If a probationary teacher is employed by a school~~
14 ~~district for at least 1 full school year, the~~ **THE** controlling board
15 of ~~the~~ **A** probationary teacher's employing school district shall
16 ensure that the teacher is provided with an individualized
17 development plan developed by appropriate administrative personnel
18 in consultation with the individual teacher and that the teacher is
19 provided with at least an annual year-end performance evaluation
20 each year **AND 1 OTHER PERFORMANCE EVALUATION** during the teacher's
21 probationary period. The annual year-end performance evaluation
22 shall be based on ~~, but is not limited to, at least 2 classroom~~
23 ~~observations held at least 60 days apart, unless a shorter interval~~
24 ~~between the 2 classroom observations is mutually agreed upon by the~~
25 ~~teacher and the administration,~~ and shall include at least an
26 assessment of the teacher's progress in meeting the goals of his or
27 her individualized development plan. ~~This subsection does not~~

1 ~~prevent a collective bargaining agreement between the controlling~~
2 ~~board and the teacher's bargaining representative under Act No. 336~~
3 ~~of the Public Acts of 1947, being sections 423.201 to 423.216 of~~
4 ~~the Michigan Compiled Laws, from providing for more performance~~
5 ~~evaluations or classroom observations in addition to those required~~
6 ~~under this subsection. Except as specifically stated in this~~
7 ~~subsection, this section does not require a particular method for~~
8 ~~conducting a performance evaluation or classroom observation or for~~
9 ~~providing an individualized development plan.~~ **THE CONTROLLING BOARD**
10 **SHALL DETERMINE THE FORMAT AND NUMBER OF THE CLASSROOM OBSERVATIONS**
11 **IN CONSULTATION WITH TEACHERS AND SCHOOL ADMINISTRATORS. A**
12 **PERFORMANCE EVALUATION SHALL BE CONDUCTED IN ACCORDANCE WITH**
13 **SECTION 1249 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1249.**
14 ~~—— (2) Failure of a school district to comply with subsection (1)~~
15 ~~with respect to an individual teacher in a particular school year~~
16 ~~is conclusive evidence that the teacher's performance for that~~
17 ~~school year was satisfactory.~~

18 **SEC. 3B. (1) EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (2), A**
19 **TEACHER SHALL NOT BE CONSIDERED TO HAVE SUCCESSFULLY COMPLETED THE**
20 **PROBATIONARY PERIOD UNLESS THE TEACHER HAS BEEN RATED AS EFFECTIVE**
21 **OR BETTER ON HIS OR HER 3 MOST RECENT ANNUAL YEAR-END PERFORMANCE**
22 **EVALUATIONS UNDER SECTION 1249 OF THE REVISED SCHOOL CODE, 1976 PA**
23 **451, MCL 380.1249, AND HAS COMPLETED 5 FULL SCHOOL YEARS OF**
24 **EMPLOYMENT IN A PROBATIONARY PERIOD.**

25 **(2) IF A TEACHER HAS BEEN RATED AS HIGHLY EFFECTIVE ON 3**
26 **CONSECUTIVE ANNUAL YEAR-END PERFORMANCE EVALUATIONS UNDER SECTION**
27 **1249 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1249, AND HAS**

1 COMPLETED AT LEAST 3 FULL SCHOOL YEARS OF EMPLOYMENT IN A
2 PROBATIONARY PERIOD, THE TEACHER SHALL BE CONSIDERED TO HAVE
3 SUCCESSFULLY COMPLETED THE PROBATIONARY PERIOD.

4 SEC. 3C. FOR A TEACHER WHO HAD CONTINUING TENURE AND WAS
5 PLACED IN AN ADDITIONAL PROBATIONARY PERIOD UNDER SECTION 1A OF
6 ARTICLE III, ALL OF THE FOLLOWING APPLY:

7 (A) THE TEACHER SHALL NOT BE CONSIDERED TO HAVE SUCCESSFULLY
8 COMPLETED THE ADDITIONAL PROBATIONARY PERIOD UNLESS THE TEACHER HAS
9 BEEN RATED AS EFFECTIVE OR BETTER ON HIS OR HER 2 MOST RECENT
10 ANNUAL YEAR-END PERFORMANCE EVALUATIONS UNDER SECTION 1249 OF THE
11 REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1249.

12 (B) IF THE TEACHER FAILS TO ACHIEVE A RATING AS EFFECTIVE OR
13 BETTER ON 2 CONSECUTIVE ANNUAL YEAR-END PERFORMANCE EVALUATIONS
14 UNDER SECTION 1249 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL
15 380.1249, DURING HIS OR HER ADDITIONAL PROBATIONARY PERIOD, THE
16 CONTROLLING BOARD SHALL DISMISS THE TEACHER FROM HIS OR HER
17 EMPLOYMENT.

18 (C) THE TEACHER'S ADDITIONAL PROBATIONARY PERIOD SHALL NOT
19 EXCEED 5 FULL SCHOOL YEARS OF EMPLOYMENT. IF A TEACHER DOES NOT
20 SUCCESSFULLY COMPLETE THE ADDITIONAL PROBATIONARY PERIOD BY THE END
21 OF THIS 5-FULL-SCHOOL-YEAR PERIOD, THE CONTROLLING BOARD SHALL
22 DISMISS THE TEACHER FROM HIS OR HER EMPLOYMENT.

23 (D) A CONTROLLING BOARD SHALL NOT PLACE THE TEACHER IN AN
24 ADDITIONAL PROBATIONARY PERIOD MORE THAN ONCE.

25 ARTICLE III

26 Sec. 1. (1) After the satisfactory completion of the
27 probationary period, a teacher IS CONSIDERED TO BE ON CONTINUING

1 **TENURE UNDER THIS ACT. SUBJECT TO SECTIONS 1A AND 1B OF THIS**
2 **ARTICLE, A TEACHER ON CONTINUING TENURE** shall be employed
3 continuously by the controlling board under which the probationary
4 period has been completed ~~—~~and shall not be dismissed or demoted
5 except as specified in this act. **CONTINUING TENURE IS HELD ONLY IN**
6 **ACCORDANCE WITH THIS ACT.**

7 (2) If a teacher employed in a program operated by a
8 consortium of school districts was previously on continuing tenure
9 in a school district that participates in the consortium, the
10 teacher shall be considered to be on continuing tenure only in that
11 school district.

12 (3) If a teacher employed in a program operated by a
13 consortium of school districts was not previously on continuing
14 tenure in a school district that participates in the consortium and
15 satisfactorily completes the probationary period, the teacher shall
16 be considered to be on continuing tenure only in the school
17 district that is the fiscal agent for the consortium. However, if
18 there is a written agreement between the teacher and another
19 participating school district that provides that the teacher will
20 have continuing tenure in that school district, the teacher shall
21 be considered to be on continuing tenure only in that school
22 district and shall not be considered to be on continuing tenure in
23 the school district that is the fiscal agent for the consortium.

24 (4) If a teacher employed in a public school academy
25 established under the revised school code, ~~Act No. 451 of the~~
26 ~~Public Acts of 1976, being sections 380.1 to 380.1852 of the~~
27 ~~Michigan Compiled Laws 1976 PA 451, MCL 380.1 TO 380.1852,~~ is on

1 leave of absence from a school district and was on continuing
2 tenure in the school district at the time he or she began the leave
3 of absence, the teacher retains continuing tenure in that school
4 district during the period he or she is employed in the public
5 school academy.

6 (5) If a teacher satisfactorily completes the probationary
7 period as an adult education teacher, the teacher shall be
8 considered to be on continuing tenure in the school district only
9 for adult education and shall not by virtue of completing the
10 probationary period as an adult education teacher be considered to
11 be on continuing tenure in the school district for elementary and
12 secondary education.

13 (6) If a teacher satisfactorily completes the probationary
14 period as an elementary or secondary education teacher, the teacher
15 shall be considered to be on continuing tenure in the school
16 district only for elementary and secondary education and shall not
17 by virtue of completing the probationary period as an elementary or
18 secondary education teacher be considered to be on continuing
19 tenure in the school district for adult education.

20 (7) If the controlling board provides in a contract of
21 employment of a teacher employed other than as a classroom teacher,
22 including but not limited to, a superintendent, assistant
23 superintendent, principal, department head or director of
24 curriculum, made with the teacher after the completion of the
25 probationary period, that the teacher shall not be considered to be
26 granted continuing tenure in that other capacity by virtue of the
27 contract of employment, then the teacher shall not be granted

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1 tenure in that other capacity, but shall be considered to have been
 2 granted continuing tenure as an active classroom teacher in the
 3 school district. Upon the termination of such a contract of
 4 employment, if the controlling board does not reemploy the teacher
 5 under contract in the capacity covered by the contract, the teacher
 6 shall be continuously employed by the controlling board as an
 7 active classroom teacher. Failure of a controlling board to
 8 reemploy a teacher in any such capacity upon the termination of any
 9 such contract of employment described in this subsection shall not
 10 be considered to be a demotion under this act. The salary in the
 11 position to which the teacher is assigned shall be the same as if
 12 the teacher had been continuously employed ~~in the newly assigned~~
 13 ~~position. Failure of a controlling board to so provide in any such~~
 14 ~~contract of employment of a teacher in a capacity other than a~~
 15 ~~classroom teacher shall be considered to constitute the employment~~
 16 ~~of the teacher on continuing contract in the other capacity and~~
 17 ~~subject to this act.~~ **AS AN ACTIVE CLASSROOM TEACHER.**

18 (8) Continuing tenure does not apply to an annual assignment
 19 of extra duty for extra pay.

20 **SEC. 1A. (1) IF A TEACHER WHO IS ON CONTINUING TENURE IS RATED**
 21 **AS INEFFECTIVE ON [2 CONSECUTIVE ANNUAL YEAR-END PERFORMANCE EVALUATIONS]**
 22 **UNDER**
 23 **SECTION 1249 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1249,**
 24 **THEN THE CONTROLLING BOARD SHALL REQUIRE THE TEACHER TO SERVE AN**
 25 **ADDITIONAL PROBATIONARY PERIOD UNDER ARTICLE II.**

26 **(2) IF A TEACHER WHO IS ON CONTINUING TENURE IS RATED AS**
 27 **MINIMALLY EFFECTIVE ON [2 CONSECUTIVE ANNUAL YEAR-END PERFORMANCE**
EVALUATIONS]
UNDER SECTION 1249 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL

1 380.1249, THEN THE CONTROLLING BOARD MAY REQUIRE THE TEACHER TO
 2 SERVE AN ADDITIONAL PROBATIONARY PERIOD UNDER ARTICLE II.

3 (3) A TEACHER WHO IS PLACED IN AN ADDITIONAL PROBATIONARY
 4 PERIOD UNDER SUBSECTION (1) OR (2) IS A PROBATIONARY TEACHER DURING
 5 THAT ADDITIONAL PROBATIONARY PERIOD FOR ALL PURPOSES UNDER THIS ACT
 6 AND SHALL NOT BE CONSIDERED TO BE ON CONTINUING TENURE DURING THAT
 7 ADDITIONAL PROBATIONARY PERIOD FOR ANY PURPOSE UNDER THIS ACT.

8 Sec. 2. ~~If~~ EXCEPT IF THE TEACHER IS PLACED IN AN ADDITIONAL
 9 PROBATIONARY PERIOD UNDER SECTION 1A OF THIS ARTICLE, IF a teacher
 10 on continuing tenure is employed by another controlling board, the
 11 teacher is not subject to another probationary period of more than
 12 2 years beginning with the date of employment, and may at the
 13 option of the controlling board be placed immediately on continuing
 14 tenure. A notice provided under section 3 of article 2-II shall be
 15 given not later than 60 days before the completion of the
 16 probationary period. If a teacher on continuing tenure becomes an
 17 employee of another controlling board as a result of school
 18 district annexation, consolidation or other form of school district
 19 reorganization, the teacher shall be placed on continuing tenure
 20 within 30 days unless the controlling board, by a 2/3 vote on an
 21 individual basis, places the teacher on not more than 2 years'
 22 probation. However, if such a teacher is under contract but not on
 23 continuing tenure with the employing board as of ~~the effective date~~
 24 ~~of the amendatory act that added this sentence~~ JUNE 11, 1993, the
 25 teacher is not subject to another probationary period of more than
 26 1 year beginning with the date of employment.

27 Sec. 3. ~~(1)~~ The controlling board of the school district

1 employing a teacher on continuing tenure shall ensure that the
2 teacher is provided with a ~~a~~ **AN ANNUAL YEAR-END** performance
3 evaluation ~~at least once every 3 years and, if~~ **IN ACCORDANCE WITH**
4 **SECTION 1249 OF THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1249.**
5 **IF** the teacher has received a ~~less than satisfactory~~ **A RATING OF**
6 **INEFFECTIVE ON AN ANNUAL YEAR-END** performance evaluation, the
7 school district shall provide the teacher with an individualized
8 development plan developed by appropriate administrative personnel
9 in consultation with the individual teacher. **THE INDIVIDUALIZED**
10 **DEVELOPMENT PLAN SHALL REQUIRE THE TEACHER TO MAKE PROGRESS TOWARD**
11 **INDIVIDUAL DEVELOPMENT GOALS WITHIN A SPECIFIED TIME PERIOD, NOT TO**
12 **EXCEED 180 DAYS.** The **ANNUAL YEAR-END** performance evaluation shall
13 be based on ~~, but is not limited to, at least 2~~ **MULTIPLE** classroom
14 observations conducted during the period covered by the evaluation
15 and ~~, if the teacher has an individualized development plan,~~ shall
16 include, **IN ADDITION TO THE FACTORS REQUIRED UNDER SECTION 1249 OF**
17 **THE REVISED SCHOOL CODE, 1976 PA 451, MCL 380.1249,** at least an
18 assessment of the teacher's progress in meeting the goals of his or
19 her individualized development plan. ~~This section does not prevent~~
20 ~~a collective bargaining agreement between the controlling board and~~
21 ~~the teacher's bargaining representative under Act No. 336 of the~~
22 ~~Public Acts of 1947, being sections 423.201 to 423.216 of the~~
23 ~~Michigan Compiled Laws, from providing for more performance~~
24 ~~evaluations or classroom observations in addition to those required~~
25 ~~under this section. Except as specifically stated in this~~
26 ~~subsection, this section does not require a particular method for~~
27 ~~conducting a performance evaluation or classroom observation or for~~

1 ~~providing an individualized development plan.~~ THE CONTROLLING BOARD
2 SHALL DETERMINE THE FORMAT AND NUMBER OF THE CLASSROOM OBSERVATIONS
3 IN CONSULTATION WITH TEACHERS AND SCHOOL ADMINISTRATORS.

4 ~~—— (2) Failure of a school district to comply with subsection (1)~~
5 ~~with respect to an individual teacher in a particular 3-year period~~
6 ~~is conclusive evidence that the teacher's performance for that~~
7 ~~period was satisfactory.~~

8 ARTICLE IV

9 SEC. 1B. IF A TEACHER ON CONTINUING TENURE HOLDS A PARTICULAR
10 TEACHING CERTIFICATE, ENDORSEMENT ON THE TEACHING CERTIFICATE, OR
11 GRADE LEVEL CERTIFICATION INCLUDED IN THE TEACHING CERTIFICATE AT
12 THE TIME HE OR SHE ACHIEVES CONTINUING TENURE AND SUBSEQUENTLY
13 ALLOWS TO LAPSE OR NULLIFIES THAT TEACHING CERTIFICATE, ENDORSEMENT
14 ON THE TEACHING CERTIFICATE, OR GRADE LEVEL CERTIFICATION INCLUDED
15 IN THE TEACHING CERTIFICATE, THE CONTROLLING BOARD MAY DISMISS THE
16 TEACHER FROM HIS OR HER EMPLOYMENT IF EITHER OF THE FOLLOWING
17 CIRCUMSTANCES EXISTS:

18 (A) THE CONTROLLING BOARD DOES NOT HAVE AVAILABLE A TEACHING
19 POSITION FOR WHICH THE TEACHER CURRENTLY HOLDS A VALID TEACHING
20 CERTIFICATE, ENDORSEMENT ON THE TEACHING CERTIFICATE, OR GRADE
21 LEVEL CERTIFICATION INCLUDED IN THE TEACHING CERTIFICATE.

22 (B) THE POSITION TO WHICH THE OFFICIALS OF THE CONTROLLING
23 BOARD WANT TO ASSIGN THE TEACHER IS A POSITION THAT REQUIRES A
24 VALID TEACHING CERTIFICATE, ENDORSEMENT ON THE TEACHING
25 CERTIFICATE, OR GRADE LEVEL CERTIFICATION INCLUDED IN THE TEACHING
26 CERTIFICATE THAT THE TEACHER HAS ALLOWED TO LAPSE OR HAS NULLIFIED.

27 Sec. 4. (1) A teacher on continuing tenure may contest the

1 controlling board's decision to proceed upon the charges against
2 the teacher by filing a claim of appeal with the tenure commission
3 and serving a copy of the claim of appeal on the controlling board
4 not later than 20 days after receipt of the controlling board's
5 decision. The controlling board shall file its answer with the
6 tenure commission and serve a copy of the answer on the teacher not
7 later than 10 days after service of the claim of appeal. If the
8 teacher does not contest the controlling board's decision in the
9 time and manner specified in this subsection, the discharge or
10 demotion specified in the charges takes effect and the teacher
11 shall be considered to have waived any right to contest the
12 discharge or demotion under this act.

13 (2) An administrative law judge described in subsection (3)
14 shall furnish to each party without undue delay a notice of hearing
15 fixing the date and place of the hearing. The hearing date shall
16 not be less than 10 days after the date the notice of hearing is
17 furnished and shall not be more than 60 days after service of the
18 controlling board's answer unless the tenure commission grants a
19 delay for good cause shown by the teacher or controlling board.

20 (3) The hearing shall be conducted by an administrative law
21 judge who is an attorney licensed to practice law in this state and
22 is employed by the department of education. An administrative law
23 judge who conducts hearings under this section shall not advise the
24 tenure commission or otherwise participate in a tenure commission
25 review of an administrative law judge's preliminary decision and
26 order under this section.

27 (4) Except as otherwise provided in this section, the hearing

1 shall be conducted in accordance with chapter 4 of the
2 administrative procedures act of 1969, ~~Act No. 306 of the Public~~
3 ~~Acts of 1969, being sections 24.271 to 24.287 of the Michigan~~
4 ~~Compiled Laws, 1969 PA 306, MCL 24.271 TO 24.287,~~ and in accordance
5 with rules promulgated by the tenure commission.

6 (5) The hearing and tenure commission review shall be
7 conducted in accordance with the following:

8 (a) The hearing shall be public or private at the option of
9 the teacher.

10 (b) The hearing shall be held at a convenient place in the
11 county in which all or a portion of the school district is located
12 or, if mutually agreed by the parties, at the tenure commission
13 offices in Lansing. The administrative law judge's necessary travel
14 expenses associated with conducting the hearing outside Lansing
15 shall be borne equally by the tenure commission and the controlling
16 board.

17 (c) Both the teacher and the controlling board may be
18 represented by legal counsel.

19 (d) Testimony at the hearing shall be on oath or affirmation.

20 (e) A stenographer shall make a full record of the proceedings
21 of the hearing. The cost of employing the stenographer and of
22 providing the record shall be borne equally by the tenure
23 commission and the controlling board.

24 (f) The administrative law judge may subpoena witnesses and
25 documentary evidence on his or her own motion, and shall do so at
26 the request of the controlling board or the teacher. If a person
27 refuses to appear and testify in answer to a subpoena issued by the

1 administrative law judge, the party on whose behalf the subpoena
2 was issued may file a petition in the circuit court for the county
3 in which the hearing is held for an order requiring compliance.
4 Failure to obey such an order of the court may be punished by the
5 court as contempt.

6 (g) The hearing shall be concluded not later than ~~90~~60 days
7 after the teacher's claim of appeal was filed with the tenure
8 commission.

9 (h) The administrative law judge shall make the necessary
10 orders to ensure that the case is submitted for decision not later
11 than 50 days after the hearing is concluded.

12 (i) Not later than 60 days after submission of the case for
13 decision, the administrative law judge shall serve a preliminary
14 decision and order in writing upon each party or the party's
15 attorney and the tenure commission. The preliminary decision and
16 order shall grant, deny, or modify the discharge or demotion
17 specified in the charges.

18 (j) Not later than 20 days after service of the preliminary
19 decision and order, a party may file with the tenure commission a
20 statement of exceptions to the preliminary decision and order or to
21 any part of the record or proceedings, including, but not limited
22 to, rulings on motions or objections, along with a written brief in
23 support of the exceptions. The party shall serve a copy of the
24 statement of exceptions and brief upon each of the other parties
25 within the time limit for filing the exceptions and brief. If there
26 are no exceptions timely filed, the preliminary decision and order
27 becomes the tenure commission's final decision and order.

1 (k) Not later than 10 days after being served with the other
2 party's exceptions and brief, a party may file a statement of
3 cross-exceptions responding to the other party's exceptions or a
4 statement in support of the preliminary decision and order with the
5 tenure commission, along with a written brief in support of the
6 cross-exceptions or of the preliminary decision and order. The
7 party shall serve a copy of the statement of cross-exceptions or of
8 the statement in support of the preliminary decision and order and
9 a copy of the brief on each of the other parties.

10 (l) A matter that is not included in a statement of exceptions
11 filed under subdivision (j) or in a statement of cross-exceptions
12 filed under subdivision (k) is considered waived and cannot be
13 heard before the tenure commission or on appeal to the court of
14 appeals.

15 (m) If exceptions are filed, the tenure commission, after
16 review of the record and the exceptions, may adopt ~~, modify,~~ or
17 reverse the preliminary decision and order. The tenure commission
18 shall not hear any additional evidence and its review shall be
19 limited to consideration of the issues raised in the exceptions
20 based solely on the evidence contained in the record from the
21 hearing. The tenure commission shall issue its final decision and
22 order not later than 60 days after the exceptions are filed.

23 (6) After giving the party notice and an opportunity to
24 comply, the administrative law judge or the tenure commission may
25 dismiss an appeal or deny a discharge or demotion for a party's
26 lack of progress or for a party's repeated failure to comply with
27 the procedures specified in this section or the tenure commission's

1 rules.

2 (7) A party aggrieved by a final decision and order of the
3 tenure commission may appeal the decision and order to the court of
4 appeals in accordance with the Michigan court rules within 20 days
5 after the date of the decision and order.

6 Enacting section 1. Section 5 of article IV of 1937 (Ex Sess)
7 PA 4, MCL 38.105, is repealed.

8 Enacting section 2. This amendatory act does not take effect
9 unless all of the following bills of the 96th Legislature are
10 enacted into law:

11 (a) House Bill No. 4626.

12 (b) House Bill No. 4627.

13 (c) House Bill No. 4628.