

**REPORT OF THE
JOINT SUBCOMMITTEE STUDYING**

REEMPLOYMENT OF TEACHERS

**TO THE GOVERNOR AND
THE GENERAL ASSEMBLY OF VIRGINIA**



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**Report of the
Joint Subcommittee Studying**

**Reemployment of Teachers
To
The Governor and the General Assembly of Virginia
Richmond, Virginia
December, 1983**

To: Honorable Charles S. Robb, Governor of Virginia
and
The General Assembly of Virginia

I. ORIGIN OF THE STUDY

During the 1983 Session of the General Assembly, Senate Joint Resolution No. 8 was approved establishing the Study of Reemployment of Teachers. Senate Joint Resolution No. 8 directed that the Joint Subcommittee examine the issues related to approval of local school board budgets and the rehiring of teachers to determine:

1. the appropriate dates by which governing bodies must complete their annual budgets for educational purposes;
2. the appropriate dates by which local school boards must decide on the reemployment of personnel;
3. the appropriate dates for school boards' receipt of resignations;
4. the appropriate authority for receiving and approving resignations; and
5. any other matters deemed appropriate.

The Subcommittee was required to consult with the Virginia School Boards Association, local school boards, the Virginia Education Association, teachers, the Virginia Association of Counties, the Virginia Municipal League, local governing bodies of counties and municipalities, the Virginia Association of School Administrators, school administrators and any other relevant parties.

The members appointed to serve on the Joint Subcommittee were: Senators Edward M. Holland of Arlington; Chairman, Charles J. Colgan of Manasses; and Elliot S. Schewel of Lynchburg; Delegates Benjamin J. Lambert, III, Vice-Chairman; George P. Beard, Jr. of Culpeper; Shirley F. Cooper of Yorktown; Nora A. Squyres of Falls Church; and Mary Sue Terry of Stuart.

II. OVERVIEW OF THE ISSUES

In the last two years, several difficult issues have arisen related to the reemployment of teachers. These issues appear simple on the surface; however, no issue is simple which involves the hiring, firing, reappointment or resignation of teachers.

One of the primary issues related to reemployment of teachers concerns conflicting deadlines in the Code of Virginia. Section 15.1-160 of the Code requires all local agencies to submit their budgets to their governing bodies by April 1 of each year. This date is not the problem. However, fifteen days later, school boards are required by the provisions of § 22.1-304 to notify all teachers of nonrenewal of contracts or all such contracts are automatically continued at the same salary levels. The school boards are required to provide these notices even though they have only submitted their budgets - no approval has been received. Fifteen to thirty days after these notices are required, the local governing bodies are required to approve the school budgets.

The conflict between these two dates creates a twilight zone of "nondecision." Many school boards notify all, most or many of their teachers of nonrenewal of contract on April 15 every

year. A few weeks later, most teachers are rehired. Some school boards have been in the habit of rehiring their teachers in a manner which is consistent with their budget requests. Recent Attorney General's Opinions appear to discredit this practice, however. These opinions appear to indicate that a school board does not have the authority to enter into commitments which exceed the funds available to it for that fiscal year unless the governing body has consented. These circumstances stimulate adversarial relationships between local school boards and local governing bodies. Such practices are certainly not consistent with good management.

Teachers also are faced with conflicts on April 15. Teachers are required by the Code to notify the school board of their intention not to return by April 15. Therefore, teachers must commit themselves to continuing contracts before knowing what the salaries for the coming year will be. This situation is compounded by the fact that § 22.1-304 has been interpreted to mean that the school board, and only the school board, has the authority to approve a teacher's resignation.

During the 1982 Session of the General Assembly, House Bill No. 430, patroned by Delegate Mary Sue Terry, and Senate Bill No. 418, patroned by Senator F. T. Gray, were introduced. These companion bills contained new paragraphs authorizing school boards to delegate the approval of resignations. Although the bills were not identical, they met an identical fate. The house bill was the subject of much debate in the Committee on Education; however, in the end, the bill was struck from the calendar at the request of its patron. Senator Gray's bill made it through the Senate, but never left the House Committee on Education. Copies of the bills are attached in Appendix D.

Most of the controversy surrounding these bills was centered on: 1. Who should be designated to approve the resignations? and 2. Should a "cooling-off" or grace period be provided during which the teacher could rescind the resignation? The school boards' representatives maintained that resignations should be effective on being submitted. The teachers and the VEA representatives alleged that teachers were being pressured into resigning and that such tactics made a grace period essential.

No discussion of these issues was presented to the Subcommittee; therefore, the Subcommittee's recommendations do not address the approval of resignations.

III. DISCUSSION

The Joint Subcommittee wishes to state clearly that it understands the frustrations and stresses imposed on local governing bodies, local school boards and teachers by conflicting dates in the Code of Virginia. In many jurisdictions, local governing bodies have worked diligently to comply with the law and approve the school budgets by the required dates. In other jurisdictions, the school budgets have not been approved in a timely manner. However, there are frequently mitigating circumstances for these delays.

In this economic climate, local governing bodies are faced with difficult decisions. Also, local governing bodies do not, in many instances, have a clear picture of their projected revenues until well after the May deadlines. Further, local governing bodies, who are responsible for raising the money, must appropriate large percentages of this money for schools over which they have little or no control.

The fact remains, however, that school boards and teachers are placed in an untenable situation when the education budgets are not approved on time. Some school systems have been playing a guessing game by estimating the number of teachers which can be rehired and planning to use substitutes for unfilled positions rather than incurring the possibility of liability for unemployment compensation.

Other school systems have been notifying most or all of their teachers that they will not be rehired in April and then rehiring their staffs a few weeks or months later. Another way of addressing this problem, which has been used by some school systems, is to leave the contract terms blank while tendering the contract by the required date. None of these approaches appears satisfactory.

The school boards and the teachers both feel that some mechanism must be created to

enforce the budget dates in the Code . Local governing bodies, on the other hand, say that they do not know the totals of all state money by May and that merely knowing the estimates of the state funds for education does not provide them with a broad enough picture to deal comfortably with school budgets.

The school boards also noted that many local governing bodies revise the school board budgets during the course of the year or appropriate the money on a monthly or quarterly basis. Monthly or quarterly revisions of the budget are inappropriate, in the eyes of the local school boards, as this interferes with the school boards' supervision of the schools and holds the school board "hostage" to monthly or quarterly actions by the local governing body.

IV. RECOMMENDATIONS :

The Joint Subcommittee recommends:

1. that all local governments be required to approve, or commit by the legislative process to the appropriations for, an annual budget for educational purposes by the proper date;
2. that the Superintendent of Public Instruction be required to submit the estimates of state funds for education within seven days of adjournment of the General Assembly;
3. that, in order to enforce the May education budget deadlines, lack of action by a governing body on the education budget will commit the governing body to the budget as submitted by the school board, if the school board's budget has been timely submitted; and
4. that transfer of appropriated funds may be made on the same periodic basis as the governing body makes such transfers to its other agencies; however, the school board budgets should not be reviewed or revised on such a basis.

Respectfully submitted,
Edward M. Holland, Chairman
Benjamin J. Lambert, III
George P. Beard, Jr.
Charles J. Colgan
Shirley F. Cooper
Nora A. Squyres

APPENDIX A

SENATE JOINT RESOLUTION NO. 8

Requesting the Senate Committees on Education and Health and Local Government, and the House Committees on Education and Counties, Cities and Towns to study reemployment of teachers.

Agreed to by the Senate, January 25, 1983

Agreed to by the House of Delegates, February 24, 1983

WHEREAS, currently the preparation and approval of an annual budget for educational purposes by a county's governing body is to be completed by May 1 or within thirty days of the receipt by the county of the estimates of state funds, whichever shall later occur; and

WHEREAS, the governing body of a municipality is required to prepare and approve an annual budget for educational purposes by May 15 or within thirty days of the receipt by the municipality of the estimates of state funds, whichever shall later occur; and

WHEREAS, local school board decisions on reemployment of personnel must be made by April 15; and

WHEREAS, the conflict between these dates requires local school boards to make budgetary decisions relative to approximately eighty-five percent of their budgets without knowing the budgetary restraints within which they must operate; and

WHEREAS, consequently, school divisions frequently must terminate many teachers from their payrolls and then rehire them within thirty to forty-five days, provided that their proposed school board budget is approved; and

WHEREAS, presently teachers must notify school boards prior to April 15 if they do not intend to return to their positions for the following school year; and

WHEREAS, this causes teachers to commit themselves to reemployment before they know what their salaries will be for the coming year; and

WHEREAS, these circumstances create a situation which is not a commendable personnel practice or good business; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, that the Senate Committees on Education and Health and Local Government, and the House Committees on Education and Counties, Cities and Towns are hereby requested to establish a joint subcommittee to study reemployment of teachers.

This joint subcommittee shall consist of eight members. The Senate Privileges and Elections Committee shall appoint two members from the Senate Education and Health Committee and one member from the Senate Local Government Committee; the Speaker of the House of Delegates shall appoint three members from the House Education Committee and two members from the House Counties, Cities, and Towns Committee.

This joint subcommittee shall study the issues to determine:

- 1) the appropriate dates by which governing bodies must complete their annual budgets for educational purposes;
- 2) the appropriate dates by which local school boards must decide on the reemployment of personnel;
- 3) the appropriate dates for school boards' receipt of resignations;
- 4) the appropriate authority for receiving and approving resignations; and
- 5) any other matters deemed appropriate.

The joint subcommittee shall consult with the Virginia School Boards Association, local school boards, the Virginia Education Association, teachers, the Virginia Association of Counties, the Virginia Municipal League, local governing bodies of counties and municipalities, the Virginia Association of School Administrators, school administrators and any other relevant parties. The Department of Education is hereby requested to provide technical assistance as needed.

The joint subcommittee is requested to complete its study in time to submit recommendations to the 1984 Session of the General Assembly.

The cost of this study shall not exceed \$7,680.

APPENDIX B

§ 22.1-93. Approval of annual budget for school purposes. Notwithstanding any other provision of law, including but not limited to chapter 4 (§ 15.1-159.8 et seq.) of Title 15.1 of the Code of Virginia, the governing body of a county shall prepare and approve an annual budget for educational purposes by May first or within thirty days of the receipt by the county of the estimates of State funds, whichever shall later occur, and the governing body of a municipality shall prepare and approve an annual budget for educational purposes by May fifteen or within thirty days of the receipt by the municipality of the estimates of State funds, whichever shall later occur.

The Superintendent of Public Instruction shall, no later than the fifteenth day following final adjournment of the Virginia General Assembly in each session, submit estimates to be used for budgetary purposes relative to the Basic School Aid Formula to each school division and to the local governing body of each county, city and town that operates a separate school division. Such estimates shall be for each year of the next biennium or for the then next fiscal year.

§ 22.1-94. Appropriations by county, city or town governing body for public schools. A governing body may make appropriations to a school board from the funds derived from local levies and from any other funds available, for operation, capital outlay and debt service in the public schools. Such appropriations shall be not less than the cost apportioned to the governing body for maintaining an educational program meeting the standards of quality for the several school divisions prescribed as provided by law. The amount appropriated by the governing body for public schools shall relate to its total only or to such major classifications as may be prescribed by the Board of Education. The appropriations may be made on the same periodic basis as the governing body makes appropriations to other departments and agencies.

APPENDIX C

SENATE BILL NO. HOUSE BILL NO.

A BILL to amend and reenact §§ 22.1-93 and 22.1-94 of the Code of Virginia, relating to annual budgets for school purposes.

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-93 and 22.1-94 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-93. Approval of annual budget for school purposes.—Notwithstanding any other provision of law, including but not limited to ~~chapter~~ *Chapter 4* (§ 15.1-159.8 et seq.) of Title 15.1 of the Code of Virginia, the governing body of a county shall ~~prepare and~~ approve, *or commit by the legislative process to the appropriations for*, an annual budget for educational purposes by May ~~first~~ *1* or within thirty days of the receipt by the county of the estimates of ~~State~~ *state* funds, whichever shall later occur, and the governing body of a municipality shall ~~prepare and~~ approve, *or commit by the legislative process to the appropriations for*, an annual budget for educational purposes by May ~~fifteen~~ *15* or within thirty days of the receipt by the municipality of the estimates of ~~State~~ *state* funds, whichever shall later occur.

If the school board budget has been submitted by the date required in §§ 15.1-160 and 22.1-92 and the local governing body does not approve, or commit by the legislative process to the appropriations for, an annual budget for educational purposes by the date required in this section or within thirty days of the receipt by the governing body of the estimates of state funds, whichever shall later occur, the governing body shall be deemed to have approved, or committed by the legislative process to appropriations for, such annual budget in the same form and for the same amount as such budget was submitted to the local governing body by the school board.

The Superintendent of Public Instruction shall, no later than the ~~fifteenth~~ *seventh* day following final adjournment of the Virginia General Assembly in each session, submit estimates to be used for budgetary purposes relative to the Basic School Aid Formula to each school division and to the local governing body of each county, city and town that operates a separate school division. Such estimates shall be for each year of the next biennium or for the then next fiscal year.

§ 22.1-94. Appropriations by county, city or town governing body for public schools.—A governing body may make appropriations to a school board from the funds derived from local levies and from any other funds available, for operation, capital outlay and debt service in the public schools. Such appropriations shall be not less than the cost apportioned to the governing body for maintaining an educational program meeting the standards of quality for the several school divisions prescribed as provided by law. The amount appropriated by the governing body for public schools shall relate to its total only or to such major classifications as may be prescribed by the Board of Education. The ~~appropriations transfer of appropriated funds~~ may be made on the same periodic basis as the governing body makes *such transfer of* appropriations to other departments and agencies ; *however, school board budgets shall not be reviewed or revised on a monthly, quarterly or semi-annual basis, but shall remain in the same form as approved by the governing body on the date required by § 22.1-93 .*

HOUSE BILL NO. 430

House Amendments in [] - February 18, 1982

A BILL to amend and reenact § 22.1-304 of the Code of Virginia, relating to reemployment of teachers.

Patrons—Terry, Van Landingham, and Lambert

Referred to the Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-304 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-304. Reemployment of teacher who has not achieved continuing contract status; effect of continuing contract; resignation of teacher; reduction in number of teachers.—If a teacher who has not achieved continuing contract status receives notice of reemployment, he must accept or reject in writing within ~~fifteen~~ 15 days of receipt of such notice. Except as provided in § 22.1-305, written notice of nonrenewal of the contract must be given by the school board on or before April ~~fifteenth~~ 15 of each year. If no such notice is given a teacher by April ~~fifteenth~~ 15, the teacher shall be entitled to a contract for the ensuing year in accordance with local salary stipulations including increments.

Teachers employed after completing the probationary period shall be entitled to continuing contracts during good behavior and competent service and prior to the age at which they are eligible or required to retire except as hereinafter provided. Written notice of noncontinuation of the contract by either party must be given by April ~~fifteenth~~ 15 of each year; otherwise the contract continues in effect for the ensuing year in conformity with local salary stipulations including increments.

A teacher may resign after April ~~fifteenth~~ 15 of any school year with the approval of the local school board. *The school board may adopt a resolution authorizing the division superintendent or his designee [, who shall not be a principal or assistant principal,] to approve teachers' resignations. [No such resignation shall be approved until five working days have elapsed from the submission thereof. A teacher may withdraw any such resignation during such five-working-day period.]* However, the division superintendent or his designee shall report all approved resignations to the school board at its next meeting. *If the division superintendent or his designee determines that a resignation should be declined, he shall defer action on the resignation to the board.* The teacher shall request release from contract at least two weeks in advance of intended date of resignation. Such request shall be in writing and shall set forth the cause of resignation.

In the event that the board declines to grant the request for release on the grounds of insufficient or unjustifiable cause, and the teacher breaches such contract, the certificate of the teacher may be revoked under regulations prescribed by the Board of Education.

As soon after April ~~fifteenth~~ 15, as the school budget shall have been approved by the appropriating body, the school board shall furnish each teacher a statement confirming continuation of employment, setting forth assignment and salary.

Nothing in the continuing contract shall be construed to authorize the school board to contract for any financial obligation beyond the period for which funds have been made available with which to meet such obligation.

A school board may reduce the number of teachers, whether or not such teachers have reached continuing contract status, because of decrease in enrollment or abolition of particular subjects.

SENATE BILL NO. 418

Offered February 1, 1982

A BILL to amend and reenact § 22.1-304 of the Code of Virginia, relating to reemployment of teachers.

Patron—Gray, F. T.

Referred to the Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That § 22.1-304 of the Code of Virginia is amended and reenacted as follows:

§ 22.1-304. Reemployment of teacher who has not achieved continuing contract status; effect of continuing contract; resignation of teacher; reduction in number of teachers.—If a teacher who has not achieved continuing contract status receives notice of reemployment, he must accept or reject in writing within ~~fifteen~~ 15 days of receipt of such notice. Except as provided in § 22.1-305, written notice of nonrenewal of the contract must be given by the school board on or before April ~~fifteenth~~ 15 of each year. If no such notice is given a teacher by April ~~fifteenth~~ 15, the teacher shall be entitled to a contract for the ensuing year in accordance with local salary stipulations including increments.

Teachers employed after completing the probationary period shall be entitled to continuing contracts during good behavior and competent service and prior to the age at which they are eligible or required to retire except as hereinafter provided. Written notice of noncontinuation of the contract by either party must be given by April ~~fifteenth~~ 15 of each year; otherwise the contract continues in effect for the ensuing year in conformity with local salary stipulations including increments.

A teacher may resign after April ~~fifteenth~~ 15 of any school year with the approval of the local school board. The teacher shall request release from contract at least two weeks in advance of intended date of resignation. Such request shall be in writing and shall set forth the cause of resignation. *The school board may adopt a resolution authorizing the division superintendent or his designee to approve teachers' resignations. However, the division superintendent or his designee shall report all approved resignations to the school board at its next meeting. If the division superintendent or his designee determines that a resignation should be declined, he shall defer action on the resignation to the board.*

In the event that the board declines to grant the request for release on the grounds of insufficient or unjustifiable cause, and the teacher breaches such contract, the certificate of the teacher may be revoked under regulations prescribed by the Board of Education.

As soon after April ~~fifteenth~~ 15, as the school budget shall have been approved by the appropriating body, the school board shall furnish each teacher a statement confirming continuation of employment, setting forth assignment and salary.

Nothing in the continuing contract shall be construed to authorize the school board to contract for any financial obligation beyond the period for which funds have been made available with which to meet such obligation.

A school board may reduce the number of teachers, whether or not such teachers have reached continuing contract status, because of decrease in enrollment or abolition of particular subjects.

