



LEGISLATIVE HISTORY CHECKLIST

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LAWS OF: 1998

CHAPTER:42

NJSA: 52:14B-10.1 et al

"Tenure Hearings -- expedited -- Teachers"

BILL NO: S87(Substituted for A377/A2032 - ACS)

SPONSOR(S): Palaia and Inverso

DATE INTRODUCED: Pre-filed

COMMITTEE:

ASSEMBLY: Education; Appropriations

SENATE: Education

AMENDED DURING PASSAGE:Yes

DATE OF PASSAGE:

ASSEMBLY: June 29, 1998

SENATE: June 29, 1998

DATE OF APPROVAL: June 30, 1998

THE FOLLOWING ARE ATTACHED IF AVAILABLE:

FINAL TEXT OF BILL: 2nd reprint

(Amendments during passage denoted by superscript numbers)

S87

SPONSORS STATEMENT: *Yes* (Begins on page 3 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

6-4-98

6-15-98

SENATE: *Yes*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *Yes*

Assembly Committee Substitute for A377 and A2032

TEXT OF SUBSTITUTE: *Yes*

COMMITTEE STATEMENT:

ASSEMBLY: *Yes*

[6-4-98](#)

[6-15-98](#)

(Identical to Assembly Statement of 6-15-98 for S87)

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

A377

SPONSORS STATEMENT: *Yes* (Begins on page 3 of original bill)
(Bill and Sponsor's statement identical to S87)

COMMITTEE STATEMENT:

ASSEMBLY: *No*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

A2032

SPONSORS STATEMENT: *Yes* (Begins on page 3 of original bill)

COMMITTEE STATEMENT:

ASSEMBLY: *No*

SENATE: *No*

FLOOR AMENDMENT STATEMENTS: *No*

LEGISLATIVE FISCAL ESTIMATE: *No*

VETO MESSAGE: *No*

GOVERNOR'S PRESS RELEASE ON SIGNING: *No*

THE FOLLOWING WERE PRINTED:

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(609) 278-2640 ext. 102 or refdesk@njstatelib.org*

REPORTS: *No*

HEARINGS: *No*

NEWSPAPER ARTICLES:

"Legislature passes bill tackling education, tenure," 6-30-98, Atlantic City Press, p. C5.

"Legislature oks speedy firing of tenured teachers," 6-30-98, Bergen Record, p. A5.

[Second Reprint]
SENATE, No. 87

STATE OF NEW JERSEY
208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Senator JOSEPH A. PALAIA

District 11 (Monmouth)

Senator PETER A. INVERSO

District 14 (Mercer and Middlesex)

Co-Sponsored by:

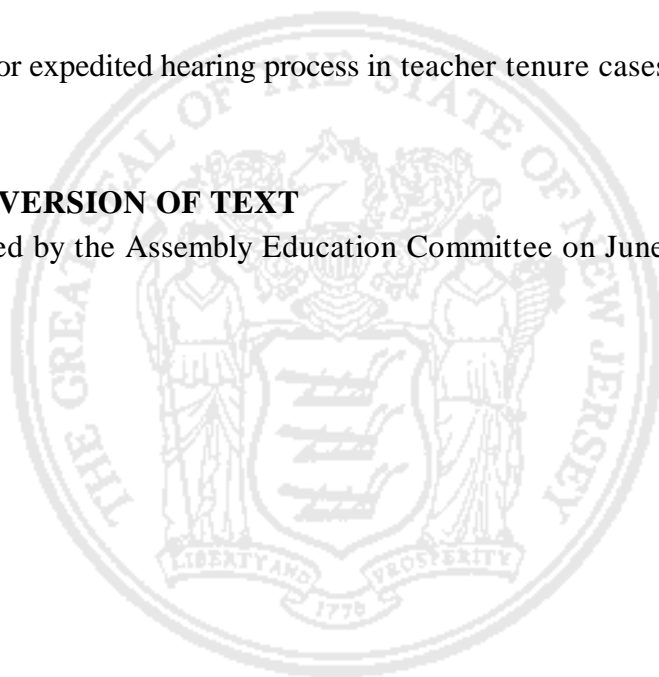
Senators Turner, Bark, Assemblymen Romano, Garcia, Luongo, Wolfe, Wisniewski, Assemblywoman Weinberg, Assemblymen Zisa, Thompson, Malone, Rooney, Zecker, Blee and Gusciora

SYNOPSIS

Provides for expedited hearing process in teacher tenure cases; appropriates \$228,596.

CURRENT VERSION OF TEXT

As reported by the Assembly Education Committee on June 4, 1998, with amendments.



(Sponsorship Updated As Of: 6/30/1998)

1 AN ACT concerning certain administrative hearings, supplementing
 2 ²[P.L.1978, c.67 (C.52:14F-1 et seq.),]² P.L.1968, c.410
 3 (C.52:14B-1 et seq.), ²[chapter 6 of Title 18A of the New Jersey
 4 Statutes and]² amending N.J.S.18A:6-16 ²[and N.J.S.18A:6-28]
 5 ,and making an appropriation² .

6
 7 **BE IT ENACTED** by the Senate and General Assembly of the State
 8 of New Jersey:

9
 10 ²[1. (New section) a. The Director of the Office of
 11 Administrative Law shall, within 12 months after the effective date of
 12 this act, establish within the Office of Administrative Law an education
 13 unit consisting of administrative law judges having special expertise in
 14 education law. The number of administrative law judges in the unit
 15 shall be proportional to the number and complexity of education cases
 16 referred to the office.

17 b. Upon the establishment of the education unit, all contested
 18 cases, as defined in section 2 of P.L.1968, c.410 (C.52:14B-2), except
 19 those cases in which criminal charges are also filed, arising under the
 20 Tenure Employees Hearing Law, article 2 of chapter 6 of Title 18A of
 21 the New Jersey Statutes, referred to the Office of Administrative Law
 22 shall be assigned to and adjudicated by the administrative law judges
 23 in the education unit.]²

24
 25 ²[2.] 1.² (New section) Any statute ^{2,2} rule or regulation to the
 26 contrary notwithstanding, all contested cases ²[assigned to the
 27 education unit pursuant to section 1 of this act] ,as defined in section
 28 2 of P.L.1968, c.410 (C.52:14B-2), except those cases in which
 29 criminal charges are also filed, arising under the Tenure Employees
 30 Hearing Law, article 2 of chapter 6 of Title 18A of the New Jersey
 31 Statutes, and referred to the Office of Administrative Law² shall be
 32 adjudicated pursuant to the "Administrative Procedure Act," P.L.1968,
 33 c.410 (C.52:14B-1 et seq.), in an expeditious and timely manner
 34 except as follows:

35 a. The discovery process shall begin immediately upon the ¹notice
 36 of the¹ referral of the case to the Office of Administrative Law and
 37 ¹[shall be completed within 30 days of that referral] a discovery
 38 request shall be initiated by transmitting the request to a receiving
 39 party within 30 days of receipt of the notice of referral. Answers to
 40 a discovery request shall be made within 30 days of the receipt of the

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

Matter underlined thus is new matter.

Matter enclosed in superscript numerals has been adopted as follows:

¹ Senate SED committee amendments adopted March 23, 1998.

² Assembly AED committee amendments adopted June 4, 1998.

1 request, except that if the discovery is available only by motion, the
 2 answer shall be due within 30 days of receipt of an order granting the
 3 motion. Additional discovery shall be permitted by motion or upon the
 4 consent of the parties, but shall be filed with the administrative law
 5 judge within 10 days of the filing of the answers to interrogatories.
 6 The administrative law judge may extend discovery time by no more
 7 than 30 days for disputes over sufficiency, completion or other just
 8 cause¹.

9 b. The pre-hearing conference shall be held within ¹~~[20]~~ ¹30 days
 10 of the referral of the case to the Office of Administrative Law.

11 c. The hearing shall be held within ¹~~[45]~~ ¹30 days after the
 12 ¹~~[pre-hearing conference, and no later than 65 days from the referral~~
 13 ~~of the case to the Office of Administrative Law]~~ end of the discovery
 14 period¹.

15 d. Transcripts if ordered by the parties shall be provided within
 16 15 days of the conclusion of the hearing and all briefs shall be
 17 submitted to the Administrative Law Judge within 30 days of the
 18 conclusion of the hearing or receipt of the transcripts by the parties,
 19 whichever is later.

20
 21 ¹~~[3. (New section) Notwithstanding the provisions of section 10~~
 22 ~~of P.L.1968, c.410 (C.52:14B-10) or any other law, rule or regulation~~
 23 ~~to the contrary, if a case is adjudicated by the education unit pursuant~~
 24 ~~to section 1 of P.L. ,c. (C.) (now pending before the Legislature~~
 25 ~~as this bill), the Commissioner of Education, upon a review of the~~
 26 ~~record submitted by the administrative law judge, shall adopt, reject~~
 27 ~~or modify the recommended report and decision no later than 30 days~~
 28 ~~after receipt of the recommendations.]~~¹

29
 30 ¹~~[4.]~~ ²~~[3.]~~ ² N.J.S.18A:6-16 is amended to read as follows:

31 18A:6-16. Upon receipt of such a charge and certification, or of a
 32 charge lawfully made to ~~[him]~~ the commissioner, the commissioner or
 33 the person appointed to act in ~~[his]~~ the commissioner's behalf in the
 34 proceedings shall examine the charges and certification ~~[and if he]~~.
 35 The individual against whom the charges are certified shall have
 36 15 days to submit a written response to the charges to the
 37 commissioner. ¹Upon a showing of good cause, the commissioner
 38 may grant an extension of time. ¹ The commissioner shall render a
 39 determination on the ¹~~[matter]~~ ¹sufficiency of charges as set forth
 40 below¹ within 15 days immediately following the ¹~~[15-day]~~ ¹period
 41 provided for a written response to the charges.

42 If, following receipt of the written response to the charges, the
 43 commissioner is of the opinion that they are not sufficient to warrant
 44 dismissal or reduction in salary of the person charged, he shall dismiss
 45 the same and notify said person accordingly. If, however, he shall

1 determine that such charge is sufficient to warrant dismissal or
2 reduction in salary of the person charged, he shall [conduct a hearing
3 thereon within a 60-day period after the receipt thereof upon
4 reasonable notice to all parties in interest] within 10 days of making
5 that determination refer the case to the Office of Administrative Law
6 for further proceedings ², except that when a motion for summary
7 decision has been made prior to that time, the commissioner may retain
8 the matter for purposes of deciding the motion² .

9 (cf: N.J.S.18A:6-16)

10
11 ²3. There is appropriated from the General Fund to the Office of
12 Administrative Law \$228,596 for the creation of two additional
13 administrative law judge positions and one additional judicial
14 secretarial position to effectuate the provisions of this act.²

15
16 ¹[5. N.J.S.18A:6-28 is amended to read as follows:

17 18A:6-28. An appeal to the State board shall be taken in the
18 manner prescribed by rules of the board, within 30 days after the
19 decision appealed from is filed, and the board shall have power to hear
20 and determine any such appeal. The board shall render its decision on
21 a tenure appeal within 60 days after it is filed.

22 (cf: P.L.1994, c.48, s.53)]¹

23
24 ¹[6.] 4.¹ This act shall take effect immediately.

SENATE, No. 87

STATE OF NEW JERSEY 208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Senator JOSEPH A. PALAIA

District 11 (Monmouth)

Senator PETER A. INVERSO

District 14 (Mercer and Middlesex)

Co-Sponsored by:

Senator Turner

SYNOPSIS

Provides for expedited hearing process in teacher tenure cases.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 2/27/1998)

S87 PALAIA, INVERSO

2

1 AN ACT concerning certain administrative hearings, supplementing
2 P.L.1978, c.67 (C.52:14F-1 et seq.), P.L.1968, c.410 (C.52:14B-1
3 et seq.), chapter 6 of Title 18A of the New Jersey Statutes and
4 amending N.J.S.18A:6-16 and N.J.S.18A:6-28.

5

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

8

9 1. (New section) a. The Director of the Office of Administrative
10 Law shall, within 12 months after the effective date of this act,
11 establish within the Office of Administrative Law an education unit
12 consisting of administrative law judges having special expertise in
13 education law. The number of administrative law judges in the unit
14 shall be proportional to the number and complexity of education cases
15 referred to the office.

16 b. Upon the establishment of the education unit, all contested
17 cases, as defined in section 2 of P.L.1968, c.410 (C.52:14B-2), except
18 those cases in which criminal charges are also filed, arising under the
19 Tenure Employees Hearing Law, article 2 of chapter 6 of Title 18A of
20 the New Jersey Statutes, referred to the Office of Administrative Law
21 shall be assigned to and adjudicated by the administrative law judges
22 in the education unit.

23

24 2. (New section) Any statute rule or regulation to the contrary
25 notwithstanding, all contested cases assigned to the education unit
26 pursuant to section 1 of this act shall be adjudicated pursuant to the
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
28 in an expeditious and timely manner except as follows:

29 a. The discovery process shall begin immediately upon the referral
30 of the case to the Office of Administrative Law and shall be completed
31 within 30 days of that referral.

32 b. The pre-hearing conference shall be held within 20 days of the
33 referral of the case to the Office of Administrative Law.

34 c. The hearing shall be held within 45 days after the pre-hearing
35 conference, and no later than 65 days from the referral of the case to
36 the Office of Administrative Law.

37 d. Transcripts if ordered by the parties shall be provided within 15
38 days of the conclusion of the hearing and all briefs shall be submitted
39 to the Administrative Law Judge within 30 days of the conclusion of
40 the hearing or receipt of the transcripts by the parties, whichever is
41 later.

42

43 3. (New section) Notwithstanding the provisions of section 10 of

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

Matter underlined thus is new matter.

S87 PALAIA, INVERSO

3

1 P.L.1968, c.410 (C.52:14B-10) or any other law, rule or regulation to
2 the contrary, if a case is adjudicated by the education unit pursuant to
3 section 1 of P.L. ,c. (C.)(now pending before the Legislature as
4 this bill), the Commissioner of Education, upon a review of the record
5 submitted by the administrative law judge, shall adopt, reject or modify
6 the recommended report and decision no later than 30 days after
7 receipt of the recommendations.

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

10 18A:6-16. Upon receipt of such a charge and certification, or of a
11 charge lawfully made to **[him] the commissioner**, the commissioner or
12 the person appointed to act in **[his] the commissioner's** behalf in the
13 proceedings shall examine the charges and certification **[and if he]**.
14 The individual against whom the charges are certified shall have 15
15 days to submit a written response to the charges to the commissioner.
16 The commissioner shall render a determination on the matter within 15
17 days immediately following the 15 day period provided for a written
18 response to the charges.

19 If, following receipt of the written response to the charges, the
20 commissioner is of the opinion that they are not sufficient to warrant
21 dismissal or reduction in salary of the person charged, he shall dismiss
22 the same and notify said person accordingly. If, however, he shall
23 determine that such charge is sufficient to warrant dismissal or
24 reduction in salary of the person charged, he shall **[conduct a hearing**
25 **thereon within a 60-day period after the receipt thereof upon**
26 **reasonable notice to all parties in interest]** within 10 days of making
27 that determination refer the case to the Office of Administrative Law
28 for further proceedings.

29 (cf: N.J.S.18A:6-16)

30
31 5. N.J.S.18A:6-28 is amended to read as follows:

32 18A:6-28. An appeal to the State board shall be taken in the
33 manner prescribed by rules of the board, within 30 days after the
34 decision appealed from is filed, and the board shall have power to hear
35 and determine any such appeal. The board shall render its decision on
36 a tenure appeal within 60 days after it is filed.

37 (cf: P.L.1994, c.48, s.53)

38
39 6. This act shall take effect immediately.

40
41
42 STATEMENT

43
44 This bill streamlines the hearing process under the current tenure
45 hearing laws by establishing a special, education hearing unit within
46 the Office of Administrative Law (OAL) and by establishing time lines

S87 PALAIA, INVERSO

1 designed to expedite the process.

2 Under the bill, the Commissioner of Education would refer a case
3 to the OAL within 10 days of determining that there should be further
4 proceedings, and the case would be assigned to the education unit,
5 except for a case in which criminal charges were also filed. Discovery
6 would begin on the date of that referral and must be completed within
7 30 days. The pre-hearing conference would be held within 20 days of
8 the referral and the hearing itself no longer than 45 days thereafter.
9 Transcripts ordered by the parties are to be provided within 15 days
10 of the conclusion of the hearing, and all briefs would be submitted
11 within 30 days of the conclusion of the hearing or receipt of the
12 transcripts, whichever is later. The administrative law judge would
13 have 45 days to render a decision after the hearing, as at present;
14 however, the commissioner would have only 30 days, rather than
15 45 days, to review and act upon that decision. The bill also requires
16 the State board to act within 60 days in the event that the
17 commissioner's decision is appealed to that board.

18 The current system for the filing and processing of tenure charges
19 can take two years; the system proposed in this bill would take
20 between 6 and 7 months from the filing of written charges to final
21 decision.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

[First Reprint]

SENATE, No. 87

with committee amendments

STATE OF NEW JERSEY

DATED: JUNE 4, 1998

The Assembly Education Committee favorably reports Senate Bill No. 87 (1R) with committee amendments.

As amended by committee, this bill streamlines the hearing process under the current tenure hearing laws by establishing time lines designed to expedite the process.

Under the bill, the Commissioner of Education would refer a case to the Office of Administrative Law (OAL) within 10 days of determining that there should be further proceedings, except for a case in which criminal charges were also filed. The person against whom the charges are certified would have 15 days to submit a written response to the charges, but the commissioner could grant an extension of time upon a showing of good cause. The commissioner would render a determination within 15 days following the period provided for that written response.

Discovery would begin on the date of the notice of the referral to OAL and must be completed within 30 days. A discovery request would be initiated by transmitting the request to a receiving party within 30 days of receipt of the notice of referral. Answers to a discovery request would be made within 30 days of the receipt of the request, except that if the discovery is available only by motion, the answer would be due within 30 days of receipt of an order granting the motion. Additional discovery would be permitted by motion or upon the consent of the parties, but would be filed with the administrative law judge within 10 days of the filing of the answers to interrogatories. The administrative law judge may extend discovery time by no more than 30 days for disputes over sufficiency, completion or other just cause. The pre-hearing conference would be held within 30 days of the referral and the hearing itself no longer than 30 days after the end of the discovery period. Transcripts ordered by the parties are to be provided within 15 days of the conclusion of the hearing, and all briefs would be submitted within 30 days of the conclusion of the hearing or receipt of the transcripts, whichever is later. The administrative law judge would have 45 days to render a decision after the hearing, as at

present.

The bill appropriates \$228,596 to fund three positions in OAL to ensure the timely handling of tenure cases.

The current system for the filing and processing of tenure charges can take two years; the system proposed in this bill would take between 6 and 7 months from the filing of written charges to final decision.

The committee amended the bill to remove the requirement for the establishment of a special, education hearing unit and to provide for an appropriation of \$228,596 to fund two administrative law judge positions and one secretarial position to effectuate the bill's provisions. The amendments also clarify that the commissioner may retain a matter in those cases in which a motion for summary decision has been made.

As reported by committee, this bill is identical to the Assembly Committee Substitute for Assembly Bill Nos. 377 and 2032.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

[Second Reprint]

SENATE, No. 87

STATE OF NEW JERSEY

DATED: JUNE 15, 1998

The Assembly Appropriations Committee reports favorably Senate Bill No. 87 (2R).

Senate Bill No. 87 (2R) streamlines the hearing process under the current tenure hearing laws by establishing time lines designed to expedite the process.

The bill requires the Commissioner of Education to refer a case to the Office of Administrative Law within 10 days of determining that there should be further proceedings, except for a case in which criminal charges were also filed. The person against whom the charges are certified is given 15 days to submit a written response to the charges, but the commissioner may grant an extension of time upon a showing of good cause. The commissioner shall render a determination within 15 days following the period provided for that written response.

The bill requires that once the case is referred to the Office of Administrative Law, discovery begins on the date of the notice of the referral and must be completed within 30 days thereafter. A discovery request is initiated by transmitting the request to a receiving party within 30 days of receipt of the notice of referral of the case. Answers to a discovery request must be made within 30 days of the receipt of the request, except that if the discovery is available only by motion, the answer is due within 30 days of receipt of an order granting the motion. Additional discovery is permitted by motion or upon the consent of the parties, but must be filed with the administrative law judge within 10 days of the filing of the answers to interrogatories.

The bill allows the administrative law judge to extend discovery time by no more than 30 days for disputes over sufficiency, completion or other just cause. The pre-hearing conference must be held within 30 days of the referral and the hearing itself no longer than 30 days after the end of the discovery period. Transcripts ordered by the parties must be provided within 15 days of the conclusion of the hearing, and all briefs must be submitted within 30 days of the conclusion of the hearing or receipt of the transcripts, whichever is later. The administrative law judge has 45 days to render a decision after the hearing (under current law).

As reported by the committee, this bill is identical to Assembly Bill Nos. 377/2032 ACS as reported by the committee.

FISCAL IMPACT: The Assembly Appropriations Committee reports favorably Assembly Bill No. 87 (2R).

The bill appropriates \$228,596 to fund two administrative law judge positions and one secretarial position to effectuate the bill's provisions.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 87

with committee amendments

STATE OF NEW JERSEY

DATED: MARCH 23, 1998

The Senate Education Committee reports favorably Senate Bill No. 87 with Senate committee amendments.

This bill streamlines the hearing process under the current tenure hearing laws by establishing a special, education hearing unit within the Office of Administrative Law (OAL) and by establishing time lines designed to expedite the process.

Under the bill, the Commissioner of Education would refer a case to the OAL within 10 days of determining that there should be further proceedings, and the case would be assigned to the education unit, except for a case in which criminal charges were also filed. The person against whom the charges are certified would have 15 days to submit a written response to the charges, but the commissioner could grant an extension of time upon a showing of good cause. The commissioner would render a determination within 15 days following the period provided for that written response.

Discovery would begin on the date of the notice of the referral to OAL and must be completed within 30 days. A discovery request would be initiated by transmitting the request to a receiving party within 30 days of receipt of the notice of referral. Answers to a discovery request would be made within 30 days of the receipt of the request, except that if the discovery is available only by motion, the answer would be due within 30 days of receipt of an order granting the motion. Additional discovery would be permitted by motion or upon the consent of the parties, but would be filed with the administrative law judge within 10 days of the filing of the answers to interrogatories. The administrative law judge may extend discovery time by no more than 30 days for disputes over sufficiency, completion or other just cause. The pre-hearing conference would be held within 30 days of the referral and the hearing itself no longer than 30 days after the end of the discovery period. Transcripts ordered by the parties are to be provided within 15 days of the conclusion of the hearing, and all briefs would be submitted within 30 days of the conclusion of the hearing or receipt of the transcripts, whichever is later. The administrative law judge would have 45 days to render a decision after the hearing, as at

present.

The current system for the filing and processing of tenure charges can take two years; the system proposed in this bill would take between 6 and 7 months from the filing of written charges to final decision.

Committee amendments were adopted which: 1) add additional time lines to the discovery process; 2) shorten the pre-hearing and hearing time lines; 3) permit the commissioner to grant an extension of time for a written response from the individual against whom charges are brought; 4) delete section 3 which placed a time line of 30 days for the commissioner to respond to the decision of the administrative law judge and section 5 which imposed a time line of 60 days on the State Board of Education to render a decision on a tenure appeal.

This bill was pre-filed for introduction in the 1998 session pending technical review. As reported, the bill includes the changes required by technical review, which has been performed.

LEGISLATIVE FISCAL ESTIMATE

[First Reprint]

SENATE, No. 87

STATE OF NEW JERSEY

208th LEGISLATURE

DATED: JUNE 24, 1998

Senate Bill No. 87 (1R) of 1998 would streamline the hearing process under the current tenure hearing laws from two years to approximately seven months from the filing of written charges to a final decision. This bill establishes a special hearing unit within the Office of Administrative Law (OAL) and establishes time lines to expedite the hearing process. Under the bill, the Commissioner of Education would refer a case to the OAL within 10 days of determining that there should be further proceedings, and the case would be assigned to the education unit, except for cases in which criminal charges are also filed. The individual against whom the charges are certified would have 15 days to submit a written response to the charges. The commissioner could grant an extension of time upon a showing of good cause. The commissioner would have 15 days to render a decision following the period provided for the written response. Discovery would begin upon the notice of the referral of the case to OAL and must be completed within 30 days. The pre-hearing conference would be held within 30 days of the referral and the hearing itself would be held no longer than 30 days after the end of the discovery period. The Administrative Law Judge would have 45 days to render a decision after the hearing.

The OAL has informally advised the Office of Legislative Services (OLS) that the creation of a separate education unit would be duplicative and costly and that the OAL could readjust its priorities to process the education cases within the time lines mandated by this bill. This, however, would lengthen the hearing process for other types of pending cases. Therefore, in order to avoid that consequence, the OAL suggests that a minimum of one and possibly two additional judges be hired at a salary of \$80,000 each. Thus, the State could incur additional costs of between \$80,000-\$160,000, plus fringe benefits of approximately 21 percent or \$17,000-\$34,000, the first year following the bill's enactment.

According to the OAL, although the total number of education cases filed decreased from 485 to 413 or approximately 15 percent

from 1996 to 1997, the number of education tenure cases filed increased by approximately 21 percent from 62 to 75 during the same period. As of May 1998, of the 5,435 open cases, 463 are education cases and 75 of those cases are education tenure cases.

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67.

ASSEMBLY COMMITTEE SUBSTITUTE FOR
ASSEMBLY, Nos. 377 and 2032

STATE OF NEW JERSEY
208th LEGISLATURE

ADOPTED JUNE 4, 1998

Sponsored by:

Assemblyman LOUIS A. ROMANO

District 33 (Hudson)

Assemblyman RAUL "RUDY" GARCIA

District 33 (Hudson)

Assemblyman GERALD J. LUONGO

District 4 (Camden and Gloucester)

Assemblyman DAVID W. WOLFE

District 10 (Monmouth and Ocean)

Co-Sponsored by:

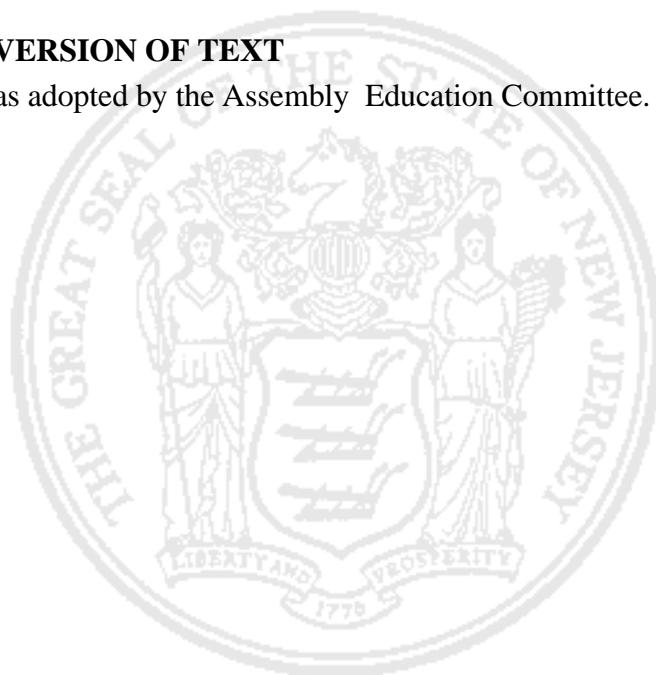
**Assemblyman Wisniewski, Assemblywoman Weinberg, Assemblymen Zisa, Thompson,
Malone, Rooney, Zecker, Blee and Gusciora**

SYNOPSIS

Provides for expedited hearing process in teacher tenure cases; appropriates \$228,596.

CURRENT VERSION OF TEXT

Substitute as adopted by the Assembly Education Committee.



(Sponsorship Updated As Of: 6/30/1998)

1 AN ACT concerning certain administrative hearings, supplementing P.L.1968,
2 c.410 (C.52:14B-1et seq.), amending N.J.S.18A:6-16, and making an
3 appropriation.
4

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

7
8 1. (New section) Any statute, rule or regulation to the contrary
9 notwithstanding, all contested cases, as defined in section 2 of P.L.1968, c.410
10 (C.52:14B-2), except those cases in which criminal charges are also filed,
11 arising under the Tenure Employees Hearing Law, article 2 of chapter 6 of Title
12 18A of the New Jersey Statutes, and referred to the Office of Administrative
13 Law shall be adjudicated pursuant to the "Administrative Procedure Act,"
14 P.L.1968, c.410 (C.52:14B-1 et seq.), in an expeditious and timely manner
15 except as follows:

16 a. The discovery process shall begin immediately upon the notice of the
17 referral of the case to the Office of Administrative Law and a discovery request
18 shall be initiated by transmitting the request to a receiving party within 30 days
19 of receipt of the notice of referral. Answers to a discovery request shall be
20 made within 30 days of the receipt of the request, except that if the discovery
21 is available only by motion, the answer shall be due within 30 days of receipt of
22 an order granting the motion. Additional discovery shall be permitted by
23 motion or upon the consent of the parties, but shall be filed with the
24 administrative law judge within 10 days of the filing of the answers to
25 interrogatories. The administrative law judge may extend discovery time by no
26 more than 30 days for disputes over sufficiency, completion or other just cause.

27 b. The pre-hearing conference shall be held within 30 days of the referral of
28 the case to the Office of Administrative Law.

29 c. The hearing shall be held within 30 days after the end of the discovery
30 period.

31 d. Transcripts if ordered by the parties shall be provided within 15 days of
32 the conclusion of the hearing and all briefs shall be submitted to the
33 Administrative Law Judge within 30 days of the conclusion of the hearing or
34 receipt of the transcripts by the parties, whichever is later.
35

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

37 18A:6-16. Upon receipt of such a charge and certification, or of a charge
38 lawfully made to **[him]** the commissioner, the commissioner or the person
39 appointed to act in **[his]** the commissioner's behalf in the proceedings shall
40 examine the charges and certification **[and if he]**. The individual against
41 whom the charges are certified shall have 15 days to submit a written
42 response to the charges to the commissioner. Upon a showing of good
43 cause, the commissioner may grant an extension of time. The

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.

1 commissioner shall render a determination on the sufficiency of charges as
2 set forth below within 15 days immediately following the period provided
3 for a written response to the charges.

4 If, following receipt of the written response to the charges, the
5 commissioner is of the opinion that they are not sufficient to warrant
6 dismissal or reduction in salary of the person charged, he shall dismiss the
7 same and notify said person accordingly. If, however, he shall determine
8 that such charge is sufficient to warrant dismissal or reduction in salary of
9 the person charged, he shall [conduct a hearing thereon within a 60-day
10 period after the receipt thereof upon reasonable notice to all parties in
11 interest] within 10 days of making that determination refer the case to the
12 Office of Administrative Law for further proceedings, except that when a
13 motion for summary decision has been made prior to that time, the
14 commissioner may retain the matter for purposes of deciding the motion.
15 (cf: N.J.S.18A:6-16)

16

17 3. There is appropriated from the General Fund to the Office of
18 Administrative Law \$228,596 for the creation of two additional
19 administrative law judge positions and one additional judicial secretarial
20 position to effectuate the provisions of this act.

21

22 4. This act shall take effect immediately.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 377 and 2032**

STATE OF NEW JERSEY

DATED: JUNE 4, 1998

The Assembly Education Committee favorably reports a Assembly Committee Substitute for Assembly Bill Nos. 377 and 2032.

This committee substitute streamlines the hearing process under the current tenure hearing laws by establishing time lines designed to expedite the process.

Under the substitute, the Commissioner of Education would refer a case to the Office of Administrative Law (OAL) within 10 days of determining that there should be further proceedings, and the case would be assigned to the education unit, except for a case in which criminal charges were also filed. The person against whom the charges are certified would have 15 days to submit a written response to the charges, but the commissioner could grant an extension of time upon a showing of good cause. The commissioner would render a determination within 15 days following the period provided for that written response.

Discovery would begin on the date of the notice of the referral to OAL and must be completed within 30 days. A discovery request would be initiated by transmitting the request to a receiving party within 30 days of receipt of the notice of referral. Answers to a discovery request would be made within 30 days of the receipt of the request, except that if the discovery is available only by motion, the answer would be due within 30 days of receipt of an order granting the motion. Additional discovery would be permitted by motion or upon the consent of the parties, but would be filed with the administrative law judge within 10 days of the filing of the answers to interrogatories. The administrative law judge may extend discovery time by no more than 30 days for disputes over sufficiency, completion or other just cause. The pre-hearing conference would be held within 30 days of the referral and the hearing itself no longer than 30 days after the end of the discovery period. Transcripts ordered by the parties are to be provided within 15 days of the conclusion of the hearing, and all briefs would be submitted within 30 days of the conclusion of the hearing or receipt of the transcripts, whichever is later. The administrative law judge would have 45 days to render a decision after the hearing, as at present.

The substitute appropriates \$228,596 to fund three positions in OAL to ensure the timely handling of tenure cases.

The current system for the filing and processing of tenure charges can take two years; the system proposed in this substitute would take between 6 and 7 months from the filing of written charges to final decision.

As reported by committee, this substitute is identical to Senate Bill No. 87(1R) with Assembly committee amendments.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, Nos. 377 and 2032**

STATE OF NEW JERSEY

DATED: JUNE 15, 1998

The Assembly Appropriations Committee reports favorably Assembly Bill Nos. 377/2032 ACS.

Assembly Bill No. 377/2032 ACS streamlines the hearing process under the current tenure hearing laws by establishing time lines designed to expedite the process.

The bill requires the Commissioner of Education to refer a case to the Office of Administrative Law within 10 days of determining that there should be further proceedings, except for a case in which criminal charges were also filed. The person against whom the charges are certified is given 15 days to submit a written response to the charges, but the commissioner may grant an extension of time upon a showing of good cause. The commissioner shall render a determination within 15 days following the period provided for that written response.

The bill requires that once the case is referred to the Office of Administrative Law, discovery begins on the date of the notice of the referral and must be completed within 30 days thereafter. A discovery request is initiated by transmitting the request to a receiving party within 30 days of receipt of the notice of referral of the case. Answers to a discovery request must be made within 30 days of the receipt of the request, except that if the discovery is available only by motion, the answer is due within 30 days of receipt of an order granting the motion. Additional discovery is permitted by motion or upon the consent of the parties, but must be filed with the administrative law judge within 10 days of the filing of the answers to interrogatories.

The bill allows the administrative law judge to extend discovery time by no more than 30 days for disputes over sufficiency, completion or other just cause. The pre-hearing conference must be held within 30 days of the referral and the hearing itself no longer than 30 days after the end of the discovery period. Transcripts ordered by the parties must provided within 15 days of the conclusion of the hearing, and all briefs must be submitted within 30 days of the conclusion of the hearing or receipt of the transcripts, whichever is later. The administrative law judge has 45 days to render a decision after the hearing (under current law).

As reported by the committee, this bill is identical to Senate Bill No. 87 (2R) as reported by the committee .

FISCAL IMPACT:

The bill appropriates \$228,596 to fund two administrative law judge positions and one secretarial position to effectuate the bill's provisions.

ASSEMBLY, No. 377

STATE OF NEW JERSEY 208th LEGISLATURE

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

Sponsored by:

Assemblyman LOUIS A. ROMANO

District 33 (Hudson)

Assemblyman RAUL "RUDY" GARCIA

District 33 (Hudson)

Co-Sponsored by:

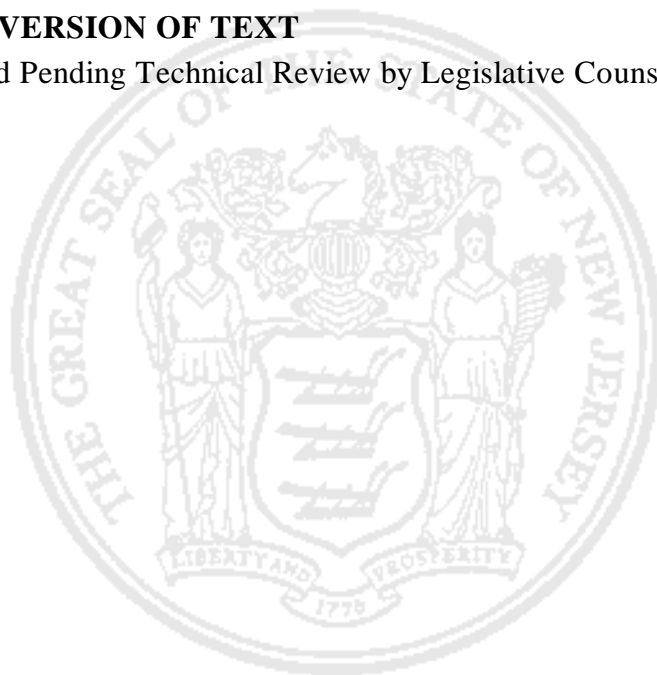
Assemblyman Wisniewski, Assemblywoman Weinberg, Assemblymen Wolfe and Zisa

SYNOPSIS

Provides for expedited hearing process in teacher tenure cases.

CURRENT VERSION OF TEXT

Introduced Pending Technical Review by Legislative Counsel.



(Sponsorship Updated As Of: 4/17/1998)

1 AN ACT concerning certain administrative hearings, supplementing
2 P.L.1978, c.67 (C.52:14F-1 et seq.), P.L.1968, c.410 (C.52:14B-1
3 et seq.), chapter 6 of Title 18A of the New Jersey Statutes and
4 amending N.J.S.18A:6-16 and N.J.S.18A:6-28.

5

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

8

9 1. (New section) a. The Director of the Office of Administrative
10 Law shall, within 12 months after the effective date of this act,
11 establish within the Office of Administrative Law an education unit
12 consisting of administrative law judges having special expertise in
13 education law. The number of administrative law judges in the unit
14 shall be proportional to the number and complexity of education cases
15 referred to the office.

16 b. Upon the establishment of the education unit, all contested
17 cases, as defined in section 2 of P.L.1968, c.410 (C.52:14B-2), except
18 those cases in which criminal charges are also filed, arising under the
19 Tenure Employees Hearing Law, article 2 of chapter 6 of Title 18A of
20 the New Jersey Statutes, referred to the Office of Administrative Law
21 shall be assigned to and adjudicated by the administrative law judges
22 in the education unit.

23

24 2. (New section) Any statute rule or regulation to the contrary
25 notwithstanding, all contested cases assigned to the education unit
26 pursuant to section 1 of this act shall be adjudicated pursuant to the
27 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.)
28 in an expeditious and timely manner except as follows:

29 a. The discovery process shall begin immediately upon the referral
30 of the case to the Office of Administrative Law and shall be completed
31 within 30 days of that referral.

32 b. The pre-hearing conference shall be held within 20 days of the
33 referral of the case to the Office of Administrative Law.

34 c. The hearing shall be held within 45 days after the pre-hearing
35 conference, and no later than 65 days from the referral of the case to
36 the Office of Administrative Law.

37 d. Transcripts if ordered by the parties shall be provided within 15
38 days of the conclusion of the hearing and all briefs shall be submitted
39 to the Administrative Law Judge within 30 days of the conclusion of
40 the hearing or receipt of the transcripts by the parties, whichever is
41 later.

42

43 3. (New section) Notwithstanding the provisions of section 10 of

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Matter underlined thus is new matter.

1 P.L.1968, c. 410 (C. 52:14B-10) or any other law, rule or regulation
2 to the contrary, if a case is adjudicated by the education unit pursuant
3 to section 1 of P.L. ,c. (C.)(now pending before the Legislature
4 as this bill), the Commissioner of Education, upon a review of the
5 record submitted by the administrative law judge, shall adopt, reject
6 or modify the recommended report and decision no later than 30 days
7 after receipt of the recommendations.

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

10 18A:6-16. Upon receipt of such a charge and certification, or of a
11 charge lawfully made to him, the commissioner or the person
12 appointed to act in his behalf in the proceedings shall examine the
13 charges and certification **[and if he]**. The individual against whom the
14 charges are certified shall have 15 days to submit a written response
15 to the charges to the commissioner. If, following receipt of the
16 written response to the charges, the commissioner is of the opinion
17 that they are not sufficient to warrant dismissal or reduction in salary
18 of the person charged, he shall dismiss the same and notify said
19 person accordingly. If, however, he shall determine that such charge
20 is sufficient to warrant dismissal or reduction in salary of the person
21 charged, he shall **[conduct a hearing thereon within a 60-day period**
22 **after the receipt thereof upon reasonable notice to all parties in**
23 **interest] within 10 days of making that determination refer the case to**
24 **the Office of Administrative Law for further proceedings.**

25 (cf: N.J.S.18A:6-16)

26
27 5. N.J.S.18A:6-28 is amended to read as follows:

28 18A:6-28. An appeal to the State board shall be taken in the
29 manner prescribed by rules of the board, within 30 days after the
30 decision appealed from is filed, and the board shall have power to hear
31 and determine any such appeal. The board shall render its decision on
32 a tenure appeal within 60 days after it is filed.

33 (cf: P.L.1994, c.48, s.53)

34
35 6. This act shall take effect immediately.

36
37
38 STATEMENT

39
40 This bill streamlines the hearing process under the current tenure
41 hearing laws by establishing a special, education hearing unit within
42 the Office of Administrative Law (OAL) and by establishing time lines
43 designed to expedite the process. Under the bill, the Commissioner of
44 Education would refer a case to the OAL within 10 days of
45 determining that it should be adjudicated, and the case would be
46 assigned to the education unit, except for a case in which criminal

1 charges were also filed. Discovery would begin on the date of that
2 referral and must be completed within 30 days. The pre-hearing
3 conference would be held within 20 days of the referral and the
4 hearing itself no longer than 45 days thereafter. Transcripts ordered
5 by the parties are to be provided within 15 days of the conclusion of
6 the hearing, and all briefs would be submitted within 30 days of the
7 conclusion of the hearing or receipt of the transcripts, whichever is
8 later. The administrative law judge would have 45 days to render a
9 decision after the hearing, as at present; however, the commissioner
10 would have only 30 days, rather than 45 days, to review and act upon
11 that decision. The bill also requires the State board to act within 60
12 days in the event that the commissioner's decision is appealed to that
13 board.

14 The current system for the filing and processing of tenure charges
15 can take two years. The system proposed in the bill would take
16 between 6 and 7 months from the filing of written charges to final
17 decision.

ASSEMBLY, No. 2032

STATE OF NEW JERSEY 208TH LEGISLATURE

INTRODUCED MAY 18, 1998

Sponsored by:

Assemblyman GERALD J. LUONGO

District 4 (Camden and Gloucester)

Assemblyman DAVID W. WOLFE

District 10 (Monmouth and Ocean)

Co-Sponsored by:

Assemblyman Thompson

SYNOPSIS

Provides for expedited hearing process in teacher tenure cases.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/2/1998)

1 AN ACT concerning certain administrative hearings, supplementing
2 P.L.1978, c.67 (C.52:14F-1 et seq.) and P.L.1968, c.410
3 (C.52:14B-1 et seq.) and amending N.J.S.18A:6-16.

4
5 **BE IT ENACTED** by the Senate and General Assembly of the State
6 of New Jersey:

7
8 1. (New section) a. The Director of the Office of Administrative
9 Law shall, within 12 months after the effective date of this act,
10 establish within the Office of Administrative Law an education unit
11 consisting of administrative law judges having special expertise in
12 education law. The number of administrative law judges in the unit
13 shall be proportional to the number and complexity of education cases
14 referred to the office.

15 b. Upon the establishment of the education unit, all contested
16 cases, as defined in section 2 of P.L.1968, c.410 (C.52:14B-2), except
17 those cases in which criminal charges are also filed, arising under the
18 Tenure Employees Hearing Law, article 2 of chapter 6 of Title 18A of
19 the New Jersey Statutes, referred to the Office of Administrative Law
20 shall be assigned to and adjudicated by the administrative law judges
21 in the education unit.

22
23 2. (New section) Any statute rule or regulation to the contrary
24 notwithstanding, all contested cases assigned to the education unit
25 pursuant to section 1 of this act shall be adjudicated pursuant to the
26 "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et
27 seq.), in an expeditious and timely manner except as follows:

28 a. The discovery process shall begin immediately upon the notice
29 of the referral of the case to the Office of Administrative Law and a
30 discovery request shall be initiated by transmitting the request to a
31 receiving party within 30 days of receipt of the notice of referral.
32 Answers to a discovery request shall be made within 30 days of the
33 receipt of the request, except that if the discovery is available only by
34 motion, the answer shall be due within 30 days of receipt of an order
35 granting the motion. Additional discovery shall be permitted by
36 motion or upon the consent of the parties, but shall be filed with the
37 administrative law judge within 10 days of the filing of the answers to
38 interrogatories. The administrative law judge may extend discovery
39 time by no more than 30 days for disputes over sufficiency, completion
40 or other just cause.

41 b. The pre-hearing conference shall be held within 30 days of the
42 referral of the case to the Office of Administrative Law.

43 c. The hearing shall be held within 30 days after the end of the

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

Matter underlined thus is new matter.

1 discovery period.

2 d. Transcripts if ordered by the parties shall be provided within
3 15 days of the conclusion of the hearing and all briefs shall be
4 submitted to the Administrative Law Judge within 30 days of the
5 conclusion of the hearing or receipt of the transcripts by the parties,
6 whichever is later.

7

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

9 18A:6-16. Upon receipt of such a charge and certification, or of a
10 charge lawfully made to ~~him~~ the commissioner, the commissioner or
11 the person appointed to act in ~~his~~ the commissioner's behalf in the
12 proceedings shall examine the charges and certification ~~and if he~~.
13 The individual against whom the charges are certified shall have
14 15 days to submit a written response to the charges to the
15 commissioner. Upon a showing of good cause, the commissioner may
16 grant an extension of time. The commissioner shall render a
17 determination on the sufficiency of charges as set forth below within
18 15 days immediately following the period provided for a written
19 response to the charges.

20 If, following receipt of the written response to the charges, the
21 commissioner is of the opinion that they are not sufficient to warrant
22 dismissal or reduction in salary of the person charged, he shall dismiss
23 the same and notify said person accordingly. If, however, he shall
24 determine that such charge is sufficient to warrant dismissal or
25 reduction in salary of the person charged, he shall ~~conduct a hearing~~
26 thereon within 60-day period after the receipt thereof upon reasonable
27 notice to all parties in interest within 10 days of making that
28 determination refer the case to the Office of Administrative Law for
29 further proceedings.

30 (cf: N.J.S.18A:6-16)

31

32 4. This act shall take effect immediately.

33

34

35

STATEMENT

36

37 This bill streamlines the hearing process under the current tenure
38 hearing laws by establishing a special, education hearing unit within
39 the Office of Administrative Law (OAL) and by establishing time lines
40 designed to expedite the process.

41 Under the bill, the Commissioner of Education would refer a case
42 to the OAL within 10 days of determining that there should be further
43 proceedings, and the case would be assigned to the education unit,
44 except for a case in which criminal charges were also filed. The
45 person against whom the charges are certified would have 15 days to
46 submit a written response to the charges, but the commissioner could

1 grant an extension of time upon a showing of good cause. The
2 commissioner would render a determination within 15 days following
3 the period provided for that written response.

4 Discovery would begin on the date of the notice of the referral to
5 OAL and must be completed within 30 days. A discovery request
6 would be initiated by transmitting the request to a receiving party
7 within 30 days of receipt of the notice of referral. Answers to a
8 discovery request would be made within 30 days of the receipt of the
9 request, except that if the discovery is available only by motion, the
10 answer would be due within 30 days of receipt of an order granting the
11 motion. Additional discovery would be permitted by motion or upon
12 the consent of the parties, but would be filed with the administrative
13 law judge within 10 days of the filing of the answers to interrogatories.
14 The administrative law judge may extend discovery time by no more
15 than 30 days for disputes over sufficiency, completion or other just
16 cause. The pre-hearing conference would be held within 30 days of the
17 referral and the hearing itself no longer than 30 days after the end of
18 the discovery period. Transcripts ordered by the parties are to be
19 provided within 15 days of the conclusion of the hearing, and all briefs
20 would be submitted within 30 days of the conclusion of the hearing or
21 receipt of the transcripts, whichever is later. The administrative law
22 judge would have 45 days to render a decision after the hearing, as at
23 present.

24 The current system for the filing and processing of tenure charges
25 can take two years; the system proposed in this bill would take
26 between 6 and 7 months from the filing of written charges to final
27 decision.