

18A:6-18

LEGISLATIVE HISTORY CHECKLIST

NJSA 18A:6-18 (State colleges--tenured faculty-removal
--clarify procedures)

LAWS 1981 CHAPTER 181

Bill No. A1789

Sponsor(s) Burstein

Date Introduced June 12, 1980

Committee: Assembly Education

Senate Education

Amended during passage Yes ~~No~~ Amendments during passage
denoted by asterisks

Date of Passage: Assembly Feb. 19, 1981

Senate May 14, 1981

Date of approval June 19, 1981

Following statements are attached if available:

Sponsor statement Yes ~~No~~ (Below)

Committee Statement: Assembly Yes ~~No~~

Senate Yes ~~No~~

Fiscal Note ~~Yes~~ No

Veto Message ~~Yes~~ No

Message on signing Yes ~~No~~

Following were printed:

Reports ~~Yes~~ No

Hearings ~~Yes~~ No

Sponsor's statement:

This bill clarifies the procedures for removing tenured faculty members at State and county colleges. The bill permits a board of trustees to delegate the responsibility for evidentiary hearings to an administrative law judge or to a three member sub-committee of the whole board. The bill also provides for appeals to the chancellor to be made on the record rather than de novo.

(over)

6/22/81
EU

Rules and regulations for contested case hearings:

N.J.A.C. 9:2-6.1 et seq.

N.J.A.C. 1:1-1.1 et seq.

181

6-19-81

1981

[SECOND OFFICIAL COPY REPRINT]

ASSEMBLY, No. 1789

STATE OF NEW JERSEY

INTRODUCED JUNE 12, 1980

By Assemblyman BURSTEIN

Referred to Committee on Education

AN ACT concerning the dismissal and reduction of compensation of persons under tenure in schools and institutions of higher education and amending N. J. S. 18A:6-18.

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

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

2 18A:6-18. No professor, associate professor, assistant professor,
3 instructor, supervisor, registrar, teacher or other persons employed
4 in a teaching capacity, in any State college, county college or
5 industrial school who is under tenure during good behavior and
6 efficiency shall be dismissed or subject to reduction of salary, except
7 for inefficiency, incapacity, conduct unbecoming a teacher or other
8 just cause~~], and after written~~. *Written charge of the cause or*
9 *causes preferred against [him] an individual shall be signed by the*
10 *person or persons making the same and filed with the board of*
11 *trustees of said college or school [and after the charge has been*
12 *examined into and found true in fact by said board, upon*
13 *reasonable notice to the]. **[The board of trustees shall examine*
14 *into the charges and make such determinations of fact and law as*
15 *are necessary. The board of trustees may utilize an administrative*
16 *law judge, pursuant to P. L. 1978, c. 67 (C. 52:14F-1 et seq.), or a*
17 *subcommittee of three members of the board to conduct an evi-*
18 *dentiary hearing and make a report and recommendations on the*
19 *charges to the full board. The board shall consider the report of*
20 *the administrative law judge or the subcommittee in making its*
21 *decision on the charges]** **Upon determination that the matter*
22 *is a contested case, the board shall assign the matter for hearing*
23 *and initial decision either to a subcommittee of three of its members*

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

24 or to the Office of Administrative Law. A final decision shall be
25 rendered by the full board of trustees**. The person charged[,
26 who] may be represented by counsel at [the hearing] all times and
27 have compulsory process to compel the attendance of witnesses to
28 testify therein, as provided by law. Appeals from a decision of the
29 board of trustees shall be made *[on the record]* **[*in a meeting
30 de novo*]** **on the record** to the Chancellor of Higher
31 Education. **[The Board of Higher Education shall establish such
32 regulations as may be necessary for the conduct of hearings by
33 boards of trustees.]** **Contested case hearings shall be conducted
34 under rules and regulations established pursuant to "The Adminis-
35 trative Procedure Act," P. L. 1968, c. 410 (C. 52:14B-1 et seq.) and
36 P. L. 1978, c. 67 (C. 52:14F-1 et seq.).**

1 2. This act shall take effect immediately.

ASSEMBLY EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1789

with Assembly committee amendments

STATE OF NEW JERSEY

DATED: OCTOBER 16, 1980

PROVISIONS:

Assembly Bill No. 1789 Aca permits a board of trustees at a State or county college, when attempting to remove a tenured faculty member, to delegate the responsibility for evidentiary hearings to an administrative law judge or to a three-member subcommittee of the whole board. As amended an appeal will be given a de novo hearing before the chancellor.

BACKGROUND:

Currently, statutes require the whole board of trustees to hold the evidentiary hearings in the event charges are brought against a faculty member. Assembly Bill No. 1789 permits the board to appoint either a three-member subcommittee of the board or utilize an administrative law judge.

COMMITTEE AMENDMENT:

As originally drafted, any appeal to the chancellor by the faculty member would have been made "on the record." This means that if the faculty member should wish to appeal to the chancellor he or she would have been required to use the facts established by the three-member subcommittee or the administrative law judge. As amended Assembly Bill No. 1789 permits an appeal to proceed with a fresh start unencumbered by the facts and evidence gathered under the jurisdiction of either the subcommittee of the board of trustees or the administrative law judge.

LAW LIBRARY COPY
DO NOT REMOVE

SENATE EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 1789

[OFFICIAL COPY REPRINT]
with Senate committee amendment

STATE OF NEW JERSEY

DATED: APRIL 27, 1981

PROVISIONS:

Assembly Bill No. 1789 (Official Copy Reprint) (Senate committee amendment) permits a board of trustees at a State or county college, when attempting to remove a tenured faculty member, to delegate the responsibility for evidentiary hearings to an administrative law judge or to a three-member subcommittee of the whole board. As amended an appeal will be on the record before the chancellor.

BACKGROUND:

Currently, statutes require the whole board of trustees to hold the evidentiary hearings in the event charges are brought against a faculty member. Assembly Bill No. 1789 (Official Copy Reprint) (Senate committee amendment) permits the board to appoint either a three-member subcommittee of the board or utilize an administrative law judge.

COMMITTEE AMENDMENTS:

The committee amendments resulted from communications from the Office of Administrative Law. It was pointed out that rules and regulations for the conduct of hearings are already in place under the "Administrative Procedures Act" (P. L. 1978, c. 67). Therefore it was unnecessary for the State Board of Higher Education to adopt new rules.

Also, the requirement that the Chancellor of Higher Education hold a de novo hearing on an appeal could result in a second full hearing before an Administrative Law Judge, possibly before the same judge. It was also pointed out that appeals are normally heard on the record.

The other amendment is intended to clarify the language. These amendments do not change the substance of the bill. The Department of Higher Education supports the amendments. The Council of New Jersey State College Locals opposes the amendments and also the bill. The council would prefer a hearing before the full board, and an appeal de novo to the chancellor.

A-1789, sponsored by Assemblyman Albert Burstein, which revises and clarifies the procedures for the removal or discipline of tenured faculty members at State or county colleges.

Under the bill, the Board of Trustees of a college could refer cases to an Administrative Law Judge or a subcommittee of three trustees for initial determination. A final decision would then be made by the full Board of Trustees. The Chancellor of Higher Education would hear appeals.

The measure will remove any doubt about the legality of using subcommittees of the trustee boards and will promote speed and efficiency in reaching personnel decisions.

A-3395, sponsored by Assembly Speaker Christopher J. Jackman (D-Hudson), which amends the State Lottery Law to exempt rules governing the lottery games from the jurisdiction of the Administrative Procedures Act.

The change applies only to the rules governing the games themselves; all other rules of the Lottery Commission would still be subject to the act.

A-1463, sponsored by Assemblywoman Hazel Gluck (R-Ocean), which permits a county or municipal consumer affairs office to keep any fines or penalties awarded in a successful consumer fraud prosecution which it has undertaken. Under prior law, the money went to the General State Fund.

In addition, the bill removes the prohibition on a municipality establishing a consumer affairs office if one already exists in the county in which the municipality is located, thus indirectly permitting both municipal and county offices.

S-654, sponsored by Senator Brian Kennedy (R-Monmouth), which amends the law granting property tax exemptions for disabled veterans and their widows to provide that the widow of a veteran who was killed in action who has not remarried and is a resident of the State may receive a property tax exemption on her primary place of residence.

A-267, sponsored by Assemblyman Vincent O. Pellechia (D-Passaic), which reduces the vesting period in six State-administered pension systems from 15 years to 10 years