

ASSEMBLY BILL NO. 432—ASSEMBLYMEN KIHUEN, SEGERBLOM, ANDERSON, BOBZIEN, BUCKLEY, CONKLIN, DENIS, GERHARDT, HORNE, KOIVISTO, MANENDO, MORTENSON, MUNFORD, OHRENSCHALL, PARKS, PIERCE AND WOMACK

MARCH 19, 2007

JOINT SPONSOR: SENATOR WIENER

Referred to Committee on Education

SUMMARY—Revises provisions governing the suspension and termination of certain educational personnel for failure to maintain a valid license. (BDR 34-1192)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

~

EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ***[omitted material]*** is material to be omitted.

AN ACT relating to education; requiring a school district to maintain an employee in his position of employment rather than suspend his employment for failure to maintain a valid license if the lapse of the employee's license occurs during a time that school is in session; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

1 Existing law prescribes the action that must be taken by a school district if the
2 license of a teacher or other person who is licensed pursuant to chapter 391 of NRS
3 fails to maintain his license in force. (NRS 391.301-391.309) A school district shall
4 immediately suspend without pay such a person from employment. If the person
5 does not reinstate his license within a prescribed time, the school district shall
6 terminate the person's employment. (NRS 391.302) This bill provides that if the
7 employee's license lapses during a time that school is in session, the school district
8 shall maintain the employee in his position of employment with pay. The school
9 district is still required to terminate the person's employment if the person does not
10 reinstate his license within a prescribed time.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

- 1 **Section 1.** NRS 391.302 is hereby amended to read as follows:
2 391.302 1. ~~[[~~ *Except as otherwise provided in this*
3 *subsection, if* an employee fails to maintain his license in force, the
4 school district that employs him shall ~~[-~~
5 ~~—(a) Immediately]~~ *immediately* suspend the employee without
6 pay. ~~[-~~ and
7 ~~—(b) Terminate]~~ *If the lapse of the employee's license occurs*
8 *during a time that school is in session, the school district shall*
9 *maintain the employee in his position of employment with pay.*
10 2. *If an employee fails to maintain his license in force, the*
11 *school district that employs him shall terminate* his employment if
12 he fails to reinstate his license within the time prescribed by
13 subsection 2 of NRS 391.305.
14 ~~[-]~~ 3. If an employee is suspended pursuant to this section
15 and, within 90 days after the date of suspension, is granted by the
16 Department or Commission an extension of time or any other relief
17 which has the effect of reinstating or continuing his license in force,
18 the suspension of the employee is ineffective and the school district
19 shall immediately reinstate the employee while his license remains
20 in force. The employee must be reinstated to the position he held at
21 the time of his suspension. If the employee thereafter fails again to
22 maintain his license in force, the school district shall ~~[again]~~
23 suspend the employee without pay and proceed in accordance with
24 NRS 391.305, 391.308 and 391.309. *The school district shall not*
25 *maintain such an employee in his position of employment even if*
26 *the lapse of the employee's license occurs during a time that*
27 *school is in session.*
28 **Sec. 2.** NRS 391.305 is hereby amended to read as follows:
29 391.305 1. If ~~[a school district is required to suspend an~~
30 ~~employee pursuant to NRS 391.302,]~~ *an employee fails to maintain*
31 *his license in force*, the superintendent of schools of the school
32 district *which employs him* shall provide written notice of the
33 ~~[suspension]~~ *lapse of the license* to the employee by personal
34 delivery or by certified mail. The notice must:
35 (a) Include a copy of the text of the provisions of NRS 391.301
36 to 391.309, inclusive;
37 (b) Inform the employee that his employment will be terminated
38 unless he reinstates his license within the time prescribed by
39 subsection 2;
40 (c) Set forth the date on which the period for reinstatement of
41 his license will expire;



(d) Advise the employee of his right to a hearing pursuant to NRS 391.308;

(e) Include a copy of the form upon which the employee may request a hearing; and

(f) Set forth the name and address of the person to whom a request for a hearing should be directed.

2. If an employee *is suspended from employment pursuant to NRS 391.302 and the employee* reinstates his license:

(a) Within 90 days after the date of the notice ~~{of suspension;}~~ *pursuant to subsection 1;* or

(b) Within any longer period authorized by the superintendent of schools of the school district or his designee pursuant to NRS 391.308,

↳ the school district shall immediately reinstate the employee to the position that he held at the time of his suspension.

3. If an employee fails to reinstate his license within the time prescribed by subsection 2, his employment shall be deemed to have terminated as of the date of ~~{his suspension pursuant to NRS 391.302;}~~ *the notice pursuant to subsection 1.* The superintendent of schools of the school district shall provide written notice of the termination to the employee by personal delivery or by certified mail. The failure of the employee to receive the notice required by this subsection does not render the termination ineffective.

Sec. 3. NRS 391.308 is hereby amended to read as follows:

391.308 1. An employee who ~~{is suspended by}~~ *receives notice from* a school district pursuant to *subsection 1 of* NRS ~~{391.302}~~ *391.305* is entitled to a hearing if he makes a timely request for a hearing, as set forth in this section. A request for a hearing must:

(a) Be received, within 15 days after the date of the notice ~~{of suspension;}~~ *pursuant to subsection 1 of NRS 391.305* by the person designated by the school district pursuant to paragraph (f) of subsection 1 of NRS 391.305;

(b) Set forth any facts which the employee believes are relevant; and

(c) Be accompanied by a copy of any documents which the employee believes are relevant.

2. If an employee *is suspended from employment pursuant to NRS 391.302 and the employee* fails to make a timely request for a hearing pursuant to this section, the right of the employee to reinstatement by the school district pursuant to subsection 2 of NRS 391.305 is not affected if he satisfies the requirements of that subsection.

3. If a timely request for a hearing is made, the superintendent of schools of the school district or his designee shall convene a



1 hearing to consider whether extenuating circumstances exist that
2 warrant an extension of the time prescribed by paragraph (a) of
3 subsection 2 of NRS 391.305 for reinstatement of his license.

4 4. A hearing required by this section must be held within 20
5 days after the date of *the* notice ~~{of suspension.}~~ *pursuant to*
6 *subsection 1 of NRS 391.305.* The employee and the school district
7 are each entitled to:

8 (a) Present evidence;

9 (b) Cross-examine witnesses; and

10 (c) Be represented by counsel or any other person.

11 5. Immediately upon conclusion of the hearing, the
12 superintendent of schools of the school district or his designee shall
13 issue a ruling. The ruling must:

14 (a) State whether the employee will be granted an extension of
15 time for reinstatement of his license;

16 (b) Set forth the factual basis for his determination; and

17 (c) State the date on which an extension, if any, will expire.

18 6. In addition to the requirements of subsection 5, the ruling
19 must be set forth in writing. Not later than 3 working days after the
20 conclusion of the hearing, a copy of the written ruling must be
21 mailed or personally delivered to the employee and the person who
22 represented the employee during the hearing, if any. The failure of
23 an employee to receive a copy of the written ruling does not render
24 the ruling ineffective.

25 7. If an employee is granted an extension of time pursuant to
26 this section, that extension is effective only for the purposes of the
27 employment relationship between the school district and the
28 employee and is not binding on the Department or Commission.

29 **Sec. 4.** This act becomes effective on July 1, 2007.

