

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
SENATE SUBSTITUTE FOR
SENATE COMMITTEE SUBSTITUTE FOR

SENATE BILL NO. 125

97TH GENERAL ASSEMBLY

2013

0665S.04T

AN ACT

To repeal sections 161.092, 162.081, 162.083, 168.221, and 168.291, RSMo, and to enact in lieu thereof five new sections relating to duties of boards of education.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 161.092, 162.081, 162.083, 168.221, and 168.291, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 161.092, 162.081, 162.083, 162.1300, and 168.221, to read as follows:

161.092. The state board of education shall:

(1) Adopt rules governing its own proceedings and formulate policies for the guidance of the commissioner of education and the department of elementary and secondary education;

(2) Carry out the educational policies of the state relating to public schools that are provided by law and supervise instruction in the public schools;

(3) Direct the investment of all moneys received by the state to be applied to the capital of any permanent fund established for the support of public education within the jurisdiction of the department of elementary and secondary education and see that the funds are applied to the branches of educational interest of the state that by grant, gift, devise or law they were originally intended, and if necessary institute suit for and collect the funds and return them to their legitimate channels;

(4) Cause to be assembled information which will reflect continuously the condition and management of the public schools of the state;

(5) Require of county clerks or treasurers, boards of education or other

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

17 school officers, recorders and treasurers of cities, towns and villages, copies of all
18 records required to be made by them and all other information in relation to the
19 funds and condition of schools and the management thereof that is deemed
20 necessary;

21 (6) Provide blanks suitable for use by officials in reporting the information
22 required by the board;

23 (7) When conditions demand, cause the laws relating to schools to be
24 published in a separate volume, with pertinent notes and comments, for the
25 guidance of those charged with the execution of the laws;

26 (8) Grant, without fee except as provided in section 168.021, certificates
27 of qualification and licenses to teach in any of the public schools of the state,
28 establish requirements therefor, formulate regulations governing the issuance
29 thereof, and cause the certificates to be revoked for the reasons and in the
30 manner provided in section 168.071;

31 (9) Classify the public schools of the state, subject to limitations provided
32 by law **and subdivision (14) of this section**, establish requirements for the
33 schools of each class, and formulate rules governing the inspection and
34 accreditation of schools preparatory to classification, with such requirements
35 taking effect not less than two years from the date of adoption of the proposed
36 rule by the state board of education, provided that this condition shall not apply
37 to any requirement for which a time line for adoption is mandated in either
38 federal or state law;

39 (10) Make an annual report on or before the first Wednesday after the
40 first day of January to the general assembly or, when it is not in session, to the
41 governor for publication and transmission to the general assembly. The report
42 shall be for the last preceding school year, and shall include:

43 (a) A statement of the number of public schools in the state, the number
44 of pupils attending the schools, their sex, and the branches taught;

45 (b) A statement of the number of teachers employed, their sex, their
46 professional training, and their average salary;

47 (c) A statement of the receipts and disbursements of public school funds
48 of every description, their sources, and the purposes for which they were
49 disbursed;

50 (d) Suggestions for the improvement of public schools; and

51 (e) Any other information relative to the educational interests of the state
52 that the law requires or the board deems important;

53 (11) Make an annual report to the general assembly and the governor

54 concerning coordination with other agencies and departments of government that
55 support family literacy programs and other services which influence educational
56 attainment of children of all ages;

57 (12) Require from the chief officer of each division of the department of
58 elementary and secondary education, on or before the thirty-first day of August
59 of each year, reports containing information the board deems important and
60 desires for publication;

61 (13) Cause fifty copies of its annual report to be reserved for the use of
62 each division of the state department of elementary and secondary education, and
63 ten copies for preservation in the state library;

64 (14) **Promulgate rules under which the board shall classify the public**
65 **schools of the state; provided that the appropriate scoring guides,**
66 **instruments, and procedures used in determining the accreditation status**
67 **of a district shall be subject to a public meeting upon notice in a newspaper**
68 **of general circulation in each of the three most populous cities in the state**
69 **and also a newspaper that is a certified minority business enterprise or**
70 **woman-owned business enterprise in each of the two most populous cities**
71 **in the state, and notice to each district board of education, each**
72 **superintendent of a school district, and to the speaker of the house of**
73 **representatives, the president pro tem of the senate, and the members of**
74 **the joint committee on education, at least fourteen days in advance of the**
75 **meeting, which shall be conducted by the department of elementary and**
76 **secondary education not less than ninety days prior to their application in**
77 **accreditation, with all comments received to be reported to the state board**
78 **of education;**

79 (15) Have other powers and duties prescribed by law.

162.081. 1. Whenever any school district in this state fails or refuses in any
2 school year to provide for the minimum school term required by section 163.021 or is
3 classified unaccredited [for two successive school years by the state board of
4 education, its corporate organization shall lapse. The corporate organization of any
5 school district that is classified as unaccredited shall lapse on June thirtieth of the
6 second full school year of such unaccredited classification after the school year during
7 which the unaccredited classification is initially assigned. The territory theretofore
8 embraced within any district that lapses pursuant to this section or any portion
9 thereof may be attached to any district for school purposes by the state board of
10 education; but no school district, except a district classified as unaccredited pursuant
11 to section 163.023 and section 160.538 shall lapse where provision is lawfully made
12 for the attendance of the pupils of the district at another school district that is
13 classified as provisionally accredited or accredited by the state board of education],

14 **the state board of education shall, upon a district's initial classification or**
15 **reclassification as unaccredited:**

16 **(1) Review the governance of the district to establish the conditions**
17 **under which the existing school board shall continue to govern; or**

18 **(2) Determine the date the district shall lapse and determine an**
19 **alternative governing structure for the district.**

20 2. [Prior to or] **If** at the time any school district in this state shall [lapse, but
21 after the school district has been] **be** classified as unaccredited, the department of
22 elementary and secondary education shall conduct [a] **at least two public [hearing]**
23 **hearings** at a location in the unaccredited school district **regarding the**
24 **accreditation status of the school district. The hearings shall provide an**
25 **opportunity to convene community resources that may be useful or**
26 **necessary in supporting the school district as it attempts to return to**
27 **accredited status, continues under revised governance, or plans for**
28 **continuity of educational services and resources upon its attachment to a**
29 **neighboring district. The department may request the attendance of**
30 **stakeholders and district officials to review the district's plan to return to**
31 **accredited status, if any; offer technical assistance; and facilitate and**
32 **coordinate community resources. Such hearings shall be conducted at least**
33 **twice annually for every year in which the district remains unaccredited**
34 **or provisionally accredited. [The purpose of the hearing shall be to:**

35 **(1) Review any plan by the district to return to accredited status; or**

36 **(2) Offer any technical assistance that can be provided to the district.**

37 3. Except as otherwise provided in section 162.1100, in a metropolitan school
38 district or an urban school district containing most or all of a city with a population
39 greater than three hundred fifty thousand inhabitants and in any other school district
40 if the local board of education does not anticipate a return to accredited status, the
41 state board of education may appoint a special administrative board to supervise the
42 financial operations, maintain and preserve the financial assets or, if warranted,
43 continue operation of the educational programs within the district or what provisions
44 might otherwise be made in the best interest of the education of the children of the
45 district. The special administrative board shall consist of two persons who are
46 residents of the school district, who shall serve without compensation, and a
47 professional administrator, who shall chair the board and shall be compensated, as
48 determined by the state board of education, in whole or in part with funds from the
49 district.

50 4.] **3. Upon [lapse of the district] classification of a district as**
51 **unaccredited, the state board of education may:**

52 **(1) Allow continued governance by the existing school district board**

53 of education under terms and conditions established by the state board of
54 education; or

55 (2) Lapse the corporate organization of the unaccredited district
56 and:

57 (a) Appoint a special administrative board, [if such a board has not already
58 been appointed, and authorize the special administrative board to retain the authority
59 granted to a board of education] for the operation of all or part of the district. The
60 number of members of the special administrative board shall not be less
61 than five, the majority of whom shall be residents of the district. The
62 members of the special administrative board shall reflect the population
63 characteristics of the district and shall collectively possess strong
64 experience in school governance, management and finance, and
65 leadership. Within fourteen days after the appointment by the state board
66 of education, the special administrative board shall organize by the election
67 of a president, vice president, secretary and a treasurer, with their duties
68 and organization as enumerated in section 162.301. The special
69 administrative board shall appoint a superintendent of schools to serve as
70 the chief executive officer of the school district and to have all powers and
71 duties of any other general superintendent of schools in a seven-director
72 school district. Any special administrative board appointed under this
73 section shall be responsible for the operation of the district until such time
74 that the district is classified by the state board of education as
75 provisionally accredited for at least two successive academic years, after
76 which time the state board of education may provide for a transition
77 pursuant to section 162.083; or

78 [(2)] (b) Determine an alternative governing structure for the
79 district including, at a minimum:

80 a. A rationale for the decision to use an alternative form of
81 governance and in the absence of the district's achievement of full
82 accreditation, the state board of education shall review and recertify the
83 alternative form of governance every three years;

84 b. A method for the residents of the district to provide public
85 comment after a stated period of time or upon achievement of specified
86 academic objectives;

87 c. Expectations for progress on academic achievement, which shall
88 include an anticipated time line for the district to reach full accreditation;
89 and

90 d. Annual reports to the general assembly and the governor on the
91 progress towards accreditation of any district that has been declared

92 **unaccredited and is placed under an alternative form of governance,**
93 **including a review of the effectiveness of the alternative governance; or**

94 **(c)** Attach the territory of the lapsed district to another district or districts
95 for school purposes; or

96 **[(3)] (d)** Establish one or more school districts within the territory of the
97 lapsed district, with a governance structure [consistent with the laws applicable to
98 districts of a similar size] **specified by the state board of education**, with the
99 option of permitting a district to remain intact for the purposes of assessing,
100 collecting, and distributing property taxes, to be distributed equitably on a weighted
101 average daily attendance basis, but to be divided for operational purposes, which shall
102 take effect sixty days after the adjournment of the regular session of the general
103 assembly next following the state board's decision unless a statute or concurrent
104 resolution is enacted to nullify the state board's decision prior to such effective
105 date. [The special administrative board may retain the authority granted to a board
106 of education for the operation of the lapsed school district under the laws of the state
107 in effect at the time of the lapse.

108 **5.] 4. If a district remains under continued governance by the school**
109 **board under subdivision (1) of subsection 3 of this section and either has**
110 **been unaccredited for three consecutive school years and failed to attain**
111 **accredited status after the third school year or has been unaccredited for**
112 **two consecutive school years and the state board of education determines**
113 **its academic progress is not consistent with attaining accredited status**
114 **after the third school year, then the state board of education shall proceed**
115 **under subdivision (2) of subsection 3 of this section in the following school**
116 **year.**

117 **5. A special administrative board appointed under this section shall**
118 **retain the authority granted to a board of education for the operation of**
119 **the lapsed school district under the laws of the state in effect at the time**
120 **of the lapse and may enter into contracts with accredited school districts**
121 **or other education service providers in order to deliver high quality**
122 **educational programs to the residents of the district. If a student**
123 **graduates while attending a school building in the district that is operated**
124 **under a contract with an accredited school district as specified under this**
125 **subsection, the student shall receive his or her diploma from the accredited**
126 **school district.** The authority of the special administrative board shall expire at the
127 end of the third full school year following its appointment, unless extended by the
128 state board of education. If the lapsed district is reassigned, the special
129 administrative board shall provide an accounting of all funds, assets and liabilities of
130 the lapsed district and transfer such funds, assets, and liabilities of the lapsed district

131 as determined by the state board of education. **Neither the special**
132 **administrative board nor its members or employees shall be deemed to be**
133 **the state or a state agency for any purpose, including section 105.711, et**
134 **seq. The state of Missouri, its agencies and employees, shall be absolutely**
135 **immune from liability for any and all acts or omissions relating to or in any**
136 **way involving the lapsed district, the special administrative board, its**
137 **members or employees. Such immunities, and immunity doctrines as exist**
138 **or may hereafter exist benefitting boards of education, their members and**
139 **their employees shall be available to the special administrative board, its**
140 **members and employees.**

141 6. [Upon recommendation of the special administrative board, the state board
142 of education may assign the funds, assets and liabilities of the lapsed district to
143 another district or districts. Upon assignment, all authority of the special
144 administrative board shall transfer to the assigned districts.

145 7.] Neither the special administrative board nor any district or other entity
146 assigned territory, assets or funds from a lapsed district shall be considered a
147 successor entity for the purpose of employment contracts, unemployment
148 compensation payment pursuant to section 288.110, or any other purpose.

149 [8.] 7. If additional teachers are needed by a district as a result of increased
150 enrollment due to the annexation of territory of a lapsed or dissolved district, such
151 district shall grant an employment interview to any permanent teacher of the lapsed
152 or dissolved district upon the request of such permanent teacher.

153 [9. (1) The governing body of a school district, upon an initial declaration by
154 the state board of education that such district is provisionally accredited, may, and,
155 upon an initial declaration by the state board of education that such district is
156 unaccredited, shall develop a plan to be submitted to the voters of the school district
157 to divide the school district if the district cannot attain accreditation within three
158 years of the initial declaration that such district is unaccredited. In the case of such
159 a district being declared unaccredited, such plan shall be presented to the voters of
160 the district before the district lapses. In the case of such a district being declared
161 provisionally accredited, such plan may be presented before the close of the current
162 accreditation cycle.

163 (2) The plan may provide that the school district shall remain intact for the
164 purposes of assessing, collecting and distributing taxes for support of the schools, and
165 the governing body of the district shall develop a plan for the distribution of such
166 taxes equitably on a per-pupil basis if the district selects this option.

167 (3) The makeup of the new districts shall be racially balanced as far as the
168 proportions of students allow.

169 (4) If a majority of the district's voters approve the plan, the state board of

170 education shall cooperate with the local board of education to implement the plan,
171 which may include use of the provisions of this section to provide an orderly transition
172 to new school districts and achievement of accredited status for such districts.

173 10.] 8. In the event that a school district with an enrollment in excess of five
174 thousand pupils lapses, no school district shall have all or any part of such lapsed
175 school district attached without the approval of the board of the receiving school
176 district.

162.083. 1. The state board of education may appoint additional members to
2 any special administrative board appointed under section 162.081.

3 2. The state board of education may set a final term of office for any member
4 of a special administrative board, after which a successor member shall be elected by
5 the voters of the district.

6 (1) All final terms of office for members of the special administrative board
7 established under this section shall expire on June thirtieth.

8 (2) The election of a successor member shall occur on the general municipal
9 election day immediately prior to the expiration of the final term of office.

10 (3) The election shall be conducted in a manner consistent with the election
11 laws applicable to the school district.

12 3. Nothing in this section shall be construed as barring an otherwise qualified
13 member of the special administrative board from standing for an elected term on the
14 board.

15 4. [If the state board of education appoints a successor member to replace the
16 chair of the special administrative board, the serving members of the special
17 administrative board shall be authorized to appoint a superintendent of schools and
18 contract for his or her services.

19 5.] On a date set by the state board of education, any district operating under
20 the governance of a special administrative board shall return to local governance, and
21 continue operation as a school district as otherwise authorized by law.

**162.1300. If a change in school district boundary lines occurs under
2 section 162.223, 162.431, 162.441, or 162.451, or by action of the state board
3 of education under section 162.081, including attachment of a school
4 district's territory to another district or dissolution, such that a school
5 district receives additional students as a result of such change, the
6 statewide assessment scores and all other performance data for those
7 students whom the district received shall not be used for three years when
8 calculating the performance of the receiving district for three school years
9 for purposes of the Missouri school improvement program.**

168.221. 1. The first five years of employment of all teachers entering the
2 employment of the metropolitan school district shall be deemed a period of

3 probation during which period all appointments of teachers shall expire at the
4 end of each school year. During the probationary period any probationary teacher
5 whose work is unsatisfactory shall be furnished by the superintendent of schools
6 with a written statement setting forth the nature of his **or her** incompetency. If
7 improvement satisfactory to the superintendent is not made within one semester
8 after the receipt of the statement, the probationary teacher shall be
9 dismissed. The semester granted the probationary teacher in which to improve
10 shall not in any case be a means of prolonging the probationary period beyond
11 five years and six months from the date on which the teacher entered the employ
12 of the board of education. The superintendent of schools on or before the fifteenth
13 day of April in each year shall notify probationary teachers who will not be
14 retained by the school district of the termination of their services. Any
15 probationary teacher who is not so notified shall be deemed to have been
16 appointed for the next school year. Any principal who prior to becoming a
17 principal had attained permanent employee status as a teacher shall upon
18 ceasing to be a principal have a right to resume his or her permanent teacher
19 position with the time served as a principal being treated as if such time had
20 been served as a teacher for the purpose of calculating seniority and pay
21 scale. The rights and duties and remuneration of a teacher who was formerly a
22 principal shall be the same as any other teacher with the same level of
23 qualifications and time of service.

24 2. After completion of satisfactory probationary services, appointments of
25 teachers shall become permanent, subject to removal for any one or more causes
26 herein described and to the right of the board to terminate the services of all who
27 attain the age of compulsory retirement fixed by the retirement system. In
28 determining the duration of the probationary period of employment in this section
29 specified, the time of service rendered as a substitute teacher shall not be
30 included.

31 3. No teacher whose appointment has become permanent may be removed
32 except for one or more of the following causes: immorality, **incompetency, or**
33 inefficiency in line of duty, violation of the published regulations of the school
34 district, violation of the laws of Missouri governing the public schools of the state,
35 or physical or mental condition which incapacitates him for instructing or
36 associating with children, and then only by a vote of not less than a majority of
37 all the members of the board, upon written charges presented by the
38 superintendent of schools, to be heard by the board after thirty days' notice, with
39 copy of the charges served upon the person against whom they are preferred, who

40 shall have the privilege of being present at the hearing, together with counsel,
41 offering evidence and making defense thereto. [Notifications received by an
42 employee during a vacation period shall be considered as received on the first day
43 of the school term following.] At the request of any person so charged the hearing
44 shall be public. During any time in which powers granted to the district's board
45 of education are vested in a special administrative board, the special
46 administrative board may appoint a hearing officer to conduct the hearing. The
47 hearing officer shall conduct the hearing as a contested case under chapter 536
48 and shall issue a written recommendation to the board rendering the charges
49 against the teacher. The board shall render a decision on the charges upon the
50 review of the hearing officer's recommendations and the record from the
51 hearing. The action and decision of the board upon the charges shall be
52 final. Pending the hearing of the charges, the person charged may be suspended
53 if the rules of the board so prescribe, but in the event the board does not by a
54 majority vote of all the members remove the teacher upon charges presented by
55 the superintendent, the person shall not suffer any loss of salary by reason of the
56 suspension. **Incompetency or** inefficiency in line of duty is cause for dismissal
57 only after the teacher has been notified in writing at least [one semester] **thirty**
58 **days** prior to the presentment of charges against him by the superintendent. The
59 notification shall specify the nature of the **incompetency or** inefficiency with
60 such particularity as to enable the teacher to be informed of the nature of his **or**
61 **her incompetency or** inefficiency.

62 4. No teacher whose appointment has become permanent shall be demoted
63 nor shall his **or her** salary be reduced unless the same procedure is followed as
64 herein stated for the removal of the teacher because of inefficiency in line of duty,
65 and any teacher whose salary is reduced or who is demoted may waive the
66 presentment of charges against him by the superintendent and a hearing thereon
67 by the board. The foregoing provision shall apply only to permanent teachers
68 prior to the compulsory retirement age under the retirement system. Nothing
69 herein contained shall in any way restrict or limit the power of the board of
70 education to make reductions in the number of teachers or principals, or both,
71 because of insufficient funds, decrease in pupil enrollment, or abolition of
72 particular subjects or courses of instruction, except that the abolition of particular
73 subjects or courses of instruction shall not cause those teachers who have been
74 teaching the subjects or giving the courses of instruction to be placed on leave of
75 absence as herein provided who are qualified to teach other subjects or courses
76 of instruction, if positions are available for the teachers in the other subjects or

77 courses of instruction.

78 5. Whenever it is necessary to decrease the number of teachers because
79 of insufficient funds or a substantial decrease of pupil population within the
80 school district, the board of education upon recommendation of the
81 superintendent of schools may cause the necessary number of teachers beginning
82 with those serving probationary periods to be placed on leave of absence without
83 pay, but only in the inverse order of their appointment. Nothing herein stated
84 shall prevent a readjustment by the board of education of existing salary
85 schedules. No teacher placed on a leave of absence shall be precluded from
86 securing other employment during the period of the leave of absence. Each
87 teacher placed on leave of absence shall be reinstated in inverse order of his **or**
88 **her** placement on leave of absence. Such reemployment shall not result in a loss
89 of status or credit for previous years of service. [No new appointments shall be
90 made while there are available teachers on leave of absence who are seventy
91 years of age or less and who are adequately qualified to fill the vacancy unless
92 the teachers fail to advise the superintendent of schools within thirty days from
93 the date of notification by the superintendent of schools that positions are
94 available to them that they will return to employment and will assume the duties
95 of the position to which appointed not later than the beginning of the school year
96 next following the date of the notice by the superintendent of schools] **No**
97 **appointment of new teachers shall be made while there are available**
98 **teachers on unrequested leave of absence who are properly qualified**
99 **to fill such vacancies. Such leave of absence shall not impair the**
100 **tenure of a teacher. The leave of absence shall continue for a period of**
101 **not more than three years unless extended by the board.**

102 6. If any regulation which deals with the promotion of teachers is
103 amended by increasing the qualifications necessary to be met before a teacher is
104 eligible for promotion, the amendment shall fix an effective date which shall allow
105 a reasonable length of time within which teachers may become qualified for
106 promotion under the regulations.

107 7. A teacher whose appointment has become permanent may give up the
108 right to a permanent appointment to participate in the teacher choice
109 compensation package under sections 168.745 to 168.750.

110 8. **Should the state mandate that professional development for**
111 **teachers be provided in local school districts and any funds be utilized for**
112 **such, a metropolitan school district shall be allowed to utilize a**
113 **professional development plan for teachers which is known within the**

114 **administration as the "St. Louis Plan," should the district and the teacher**
115 **decide jointly to participate in such plan.**

2 of employees because of insufficient funds or decrease in pupil
3 enrollment or lack of work the board of education may cause the
4 necessary number of employees, beginning with those serving
5 probationary periods, to be placed on leave of absence without pay,
6 but only in the inverse order of their appointment. Each employee
7 placed on leave of absence shall be reinstated in inverse order of
8 his placement on leave of absence. Such reemployment shall not
9 result in a loss of status or credit for previous periods of
10 service. No new appointments shall be made while there are
11 available employees on leave of absence who have not attained the
12 age of seventy years and who are adequately qualified to fill the
13 vacancy in the particular department unless the employees fail to
14 advise the board within thirty days from date of notification by the
15 board that positions are available to them, that they will return to
16 employment, and will assume the duties of the position to which
17 they are appointed not later than the beginning of the month
18 following the date of the notice by the board.]

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