

SECOND REGULAR SESSION
[P E R F E C T E D]
SENATE SUBSTITUTE NO. 2 FOR
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 806
96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CUNNINGHAM.

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TERRY L. SPIELER, Secretary.

5825S.06P

AN ACT

To repeal sections 168.104, 168.124, 168.221, and 168.291, RSMo, and to enact in lieu thereof three new sections relating to the employment of school personnel, with an effective date.

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

Section A. Sections 168.104, 168.124, 168.221, and 168.291, RSMo, are
2 repealed and three new sections enacted in lieu thereof, to be known as sections
3 168.104, 168.124, and 168.221, to read as follows:

168.104. The following words and phrases when used in sections 168.102
2 to 168.130, except in those instances where the context indicates otherwise, mean:

3 (1) "Board of education", the school board or board of directors of a school
4 district, except a metropolitan school district, having general control of the affairs
5 of the district;

6 (2) "Demotion", any reduction in salary or transfer to a position carrying
7 a lower salary, except on request of a teacher, other than any change in salary
8 applicable to all teachers or all teachers in a classification;

9 (3) "Indefinite contract", every contract heretofore or hereafter entered
10 into between a school district and a permanent teacher;

11 (4) "Permanent teacher", any teacher who has been employed or who is
12 hereafter employed as a teacher in the same school district for [five] **ten**
13 successive years and who has continued or who thereafter continues to be

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

14 employed as a teacher by the school district or any supervisor of teachers who
15 was employed as a teacher in the same school district for at least [five] **ten**
16 successive years prior to becoming a supervisor of teachers and who continues
17 thereafter to be employed as a certificated employee by the school district; except
18 that, when a permanent teacher resigns or is permanently separated from
19 employment by a school district, and is afterwards reemployed by the same school
20 district, reemployment for the first school year does not constitute an indefinite
21 contract but if he is employed for the succeeding year, the employment constitutes
22 an indefinite contract; and except that any teacher employed under a part-time
23 contract by a school district shall accrue credit toward permanent status on a
24 prorated basis. Any permanent teacher who is promoted with his consent to a
25 supervisory position including principal or assistant principal, or is first
26 employed by a district in a supervisory position including principal or assistant
27 principal, shall not have permanent status in such position but shall retain
28 tenure in the position previously held within the district, or, after serving two
29 years as principal or assistant principal, shall have tenure as a permanent
30 teacher of that system;

31 (5) "Probationary teacher", any teacher as herein defined who has been
32 employed in the same school district for [five] **ten** successive years or less. In the
33 case of any probationary teacher who has been employed in any other school
34 system as a teacher for two or more years, the board of education shall waive one
35 year of his probationary period;

36 (6) "School district", every school district in this state, except metropolitan
37 school district as defined in section 162.571;

38 (7) "Teacher", any employee of a school district, except a metropolitan
39 school district, regularly required to be certified under laws relating to the
40 certification of teachers, except superintendents and assistant superintendents
41 but including certified teachers who teach at the prekindergarten level in a
42 nonmetropolitan public school within a prekindergarten program in which no fees
43 are charged to parents or guardians.

168.124. 1. The board of education of a school district may place on leave
2 of absence as many teachers as may be necessary because of a decrease in pupil
3 enrollment, school district reorganization or the financial condition of the school
4 district. In placing teachers on leave, the board of education shall be governed
5 by the following provisions:

6 [(1) No permanent teacher shall be placed on leave of absence while

7 probationary teachers are retained in positions for which a permanent teacher is
8 qualified;

9 (2) Permanent teachers shall be retained on the basis of
10 performance-based evaluations and seniority (however, seniority shall not be
11 controlling) within the field of specialization;

12 (3) Permanent teachers shall be reinstated to the positions from which
13 they have been given leaves of absence, or if not available, to positions requiring
14 like training and experience, or to other positions in the school system for which
15 they are qualified by training and experience;]

16 [(4)] (1) No appointment of new teachers shall be made while there are
17 available teachers on unrequested leave of absence who are properly qualified to
18 fill such vacancies;

19 [(5)] (2) A teacher placed on leave of absence may engage in teaching or
20 another occupation during the period of such leave;

21 [(6)] (3) The leave of absence shall not impair the tenure of a teacher;

22 [(7)] (4) The leave of absence shall continue for a period of not more than
23 three years unless extended by the board;

24 (5) **Seniority or years of service shall not be used as criteria for**
25 **reduction in force; effective teacher performance shall be the deciding**
26 **criterion.**

27 2. [Should] If a board of education [choose] **chooses** to [utilize the
28 mechanism for reducing] **reduce its** teacher forces as provided in subsection 1
29 of this section in an attempt to manage adverse financial conditions caused at
30 least partially by a withholding of, or a decrease or less than expected increase
31 in, education appropriations, then the district additionally shall follow the
32 provisions of subsection [3] 4 of this section. **For purposes of this section,**
33 **"adverse financial conditions" shall mean a five percent decrease in a**
34 **school district's fund balance from the previous year.**

35 3. If a school district has an unrestricted combined ending fund balance
36 of more than ten percent of current expenditures in its teachers' and incidental
37 funds, and in the subsequent fiscal year such district, because of state
38 appropriations, places a [contracted] teacher on leave of absence after forty days
39 subsequent to the governor signing the elementary and secondary education
40 appropriation bill, the district shall pay the affected teacher the greater of his or
41 her salary for any days worked under the contract, or a sum equal to three
42 thousand dollars.

168.221. 1. The first [five] **ten** years of employment of all teachers
2 entering the employment of the metropolitan school district shall be deemed a
3 period of probation during which period all appointments of teachers shall expire
4 at the end of each school year. During the probationary period any probationary
5 teacher whose work is unsatisfactory shall be furnished by the superintendent of
6 schools with a written statement setting forth the nature of his 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] **ten** years and six months from the date on which the teacher entered the
12 employ of the board of education. The superintendent of schools on or before the
13 fifteenth day of April in each year shall notify probationary teachers who will not
14 be 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, inefficiency in line of
33 duty, violation of the published regulations of the school district, violation of the
34 laws of Missouri governing the public schools of the state, or physical or mental
35 condition which incapacitates him for instructing or associating with children,
36 and then only by a vote of not less than a majority of all the members of the

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

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

73 teaching the subjects or giving the courses of instruction to be placed on leave of
74 absence as herein provided who are qualified to teach other subjects or courses
75 of instruction, if positions are available for the teachers in the other subjects or
76 courses of instruction.

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

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

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

 [168.291. Whenever it is necessary to decrease the number
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.]

Section B. Section A of this act shall become effective on July 1, 2013.

✓
Bill

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