

SECOND REGULAR SESSION

[PERFECTED]

HOUSE COMMITTEE SUBSTITUTE FOR

HOUSE BILL NO. 1526

96TH GENERAL ASSEMBLY

4267L.05P

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 168.124, 168.221, and 168.291, RSMo, and to enact in lieu thereof two new sections relating to school personnel.

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

Section A. Sections 168.124, 168.221, and 168.291, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 168.124 and 168.221, to read as follows:

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

(1) [No permanent teacher shall be placed on leave of absence while probationary teachers are retained in positions for which a permanent teacher is qualified;

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

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

(4)] Seniority, years of service, or the amount of an individual teacher's salary shall not be used as criteria for reduction in force;

(2) Individual performance shall be the most heavily weighted factor, at not less than seventy percent, which shall include evidence of increased student achievement;

(3) Any record of misconduct, criminal conduct or excessive unexcused absences shall be considered as a negative factor;

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

18 **(4) Significant, relevant contributions such as schoolwide contributions, creation**
19 **and implementation of a tutoring program, and creation of a school enrichment program**
20 **shall be considered as a positive factor;**

21 **(5) Relevant special training, certifications or licenses shall be considered as a**
22 **positive factor;**

23 **(6) Each teacher and principal contract and collective bargaining agreement shall**
24 **authorize use of evaluation results as the basis for the decisions described in this section;**

25 **(7) No appointment of new teachers shall be made while there are available teachers on**
26 **unrequested leave of absence who are properly qualified to fill such vacancies based on the**
27 **board's criteria for effective teacher performance;**

28 [(5)] **(8)** A teacher placed on leave of absence may engage in teaching or another
29 occupation during the period of such leave;

30 [(6)] **(9)** The leave of absence shall not impair the tenure of a teacher; **and**

31 [(7)] **(10)** The leave of absence shall continue for a period of not more than three years
32 unless extended by the board.

33 [2. Should a board of education choose to utilize the mechanism for reducing teacher
34 forces as provided in subsection 1 of this section in an attempt to manage adverse financial
35 conditions caused at least partially by a withholding of, or a decrease or less than expected
36 increase in, education appropriations, then the district additionally shall follow the provisions
37 of subsection 3 of this section.

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

168.221. 1. The first five years of employment of all teachers entering the employment
2 of the metropolitan school district shall be deemed a period of probation during which period all
3 appointments of teachers shall expire at the end of each school year. During the probationary
4 period any probationary teacher whose work is unsatisfactory shall be furnished by the
5 superintendent of schools with a written statement setting forth the nature of his incompetency.
6 If improvement satisfactory to the superintendent is not made within one semester after the
7 receipt of the statement, the probationary teacher shall be dismissed. The semester granted the
8 probationary teacher in which to improve shall not in any case be a means of prolonging the
9 probationary period beyond five years and six months from the date on which the teacher entered

10 the employ of the board of education. The superintendent of schools on or before the fifteenth
11 day of April in each year shall notify probationary teachers who will not be retained by the
12 school district of the termination of their services. Any probationary teacher who is not so
13 notified shall be deemed to have been appointed for the next school year. Any principal who
14 prior to becoming a principal had attained permanent employee status as a teacher shall upon
15 ceasing to be a principal have a right to resume his or her permanent teacher position with the
16 time served as a principal being treated as if such time had been served as a teacher for the
17 purpose of calculating seniority and pay scale. The rights and duties and remuneration of a
18 teacher who was formerly a principal shall be the same as any other teacher with the same level
19 of qualifications and time of service.

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

26 3. No teacher whose appointment has become permanent may be removed except for one
27 or more of the following causes: immorality, **incompetency**, or inefficiency in line of duty,
28 violation of the published regulations of the school district, violation of the laws of Missouri
29 governing the public schools of the state, or physical or mental condition which incapacitates
30 him for instructing or associating with children, and then only by a vote of not less than a
31 majority of all the members of the board, upon written charges presented by the superintendent
32 of schools, to be heard by the board after thirty days' notice, with copy of the charges served upon
33 the person against whom they are preferred, who shall have the privilege of being present at the
34 hearing, together with counsel, offering evidence and making defense thereto. [Notifications
35 received by an employee during a vacation period shall be considered as received on the first day
36 of the school term following.] At the request of any person so charged the hearing shall be
37 public. During any time in which powers granted to the district's board of education are vested
38 in a special administrative board, the special administrative board may appoint a hearing officer
39 to conduct the hearing. The hearing officer shall conduct the hearing as a contested case under
40 chapter 536 and shall issue a written recommendation to the board rendering the charges against
41 the teacher. The board shall render a decision on the charges upon the review of the hearing
42 officer's recommendations and the record from the hearing. The action and decision of the board
43 upon the charges shall be final. Pending the hearing of the charges, the person charged may be
44 suspended if the rules of the board so prescribe, but in the event the board does not by a majority

45 vote of all the members remove the teacher upon charges presented by the superintendent, the
46 person shall not suffer any loss of salary by reason of the suspension. **Incompetency or**
47 **inefficiency in line of duty is cause for dismissal only after the teacher has been notified in**
48 **writing at least [one semester] thirty days prior to the presentment of charges against him or**
49 **her by the superintendent. The notification shall specify the nature of the incompetency**
50 **or inefficiency with such particularity as to enable the teacher to be informed of the nature of his**
51 **or her incompetency or inefficiency. Thereafter, both the superintendent, or his or her**
52 **designated representative, and the teacher shall meet and confer in an effort to resolve the**
53 **matter.**

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

67 5. Whenever it is necessary to decrease the number of teachers because of insufficient
68 funds or a substantial decrease of pupil population within the school district, the board of
69 education upon recommendation of the superintendent of schools may cause the necessary
70 number of teachers beginning with those serving probationary periods to be placed on leave of
71 absence without pay, but only in the inverse order of their appointment. Nothing herein stated
72 shall prevent a readjustment by the board of education of existing salary schedules. No teacher
73 placed on a leave of absence shall be precluded from securing other employment during the
74 period of the leave of absence. Each teacher placed on leave of absence shall be reinstated in
75 inverse order of his placement on leave of absence. Such reemployment shall not result in a loss
76 of status or credit for previous years of service. [No new appointments shall be made while there
77 are available teachers on leave of absence who are seventy years of age or less and who are
78 adequately qualified to fill the vacancy unless the teachers fail to advise the superintendent of
79 schools within thirty days from the date of notification by the superintendent of schools that

80 positions are available to them that they will return to employment and will assume the duties
81 of the position to which appointed not later than the beginning of the school year next following
82 the date of the notice by the superintendent of schools.] **Such leave of absence shall not impair**
83 **the tenure of a teacher. The leave of absence may continue for a period of not more than**
84 **three years unless extended by the board.**

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

89 7. A teacher whose appointment has become permanent may give up the right to a
90 permanent appointment to participate in the teacher choice compensation package under sections
91 168.745 to 168.750.

2 [168.291. Whenever it is necessary to decrease the number of employees
3 because of insufficient funds or decrease in pupil enrollment or lack of work the
4 board of education may cause the necessary number of employees, beginning
5 with those serving probationary periods, to be placed on leave of absence without
6 pay, but only in the inverse order of their appointment. Each employee placed
7 on leave of absence shall be reinstated in inverse order of his placement on leave
8 of absence. Such reemployment shall not result in a loss of status or credit for
9 previous periods of service. No new appointments shall be made while there are
10 available employees on leave of absence who have not attained the age of seventy
11 years and who are adequately qualified to fill the vacancy in the particular
12 department unless the employees fail to advise the board within thirty days from
13 date of notification by the board that positions are available to them, that they
14 will return to employment, and will assume the duties of the position to which
15 they are appointed not later than the beginning of the month following the date
of the notice by the board.]

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