

FIRST REGULAR SESSION

HOUSE BILL NO. 120

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE ROWLAND.

0146L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 168.101, 168.126, and 168.221, RSMo, and to enact in lieu thereof three new sections relating to teacher contracts.

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

Section A. Sections 168.101, 168.126, and 168.221, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 168.101, 168.126, and 168.221, to read as follows:

168.101. 1. In addition to the employment of teachers as provided in section 168.104, the school board or board of directors of a school district, except a metropolitan school district, may, at any regular or special meeting, contract and employ legally certificated teachers not employed as superintendent of the district and not eligible under section 168.104 to gain permanent status or tenure in the position held within the school system. The contract shall be made by the order of the board, shall specify the number of months the employee is to work and the wages per month to be paid, shall be signed by the employee and the president of the board, or a facsimile signature of the president may be affixed at his direction, and the contract shall be attested by the secretary of the board by signature or facsimile.

2. After the original employment of a certificated employee not employed as superintendent of the district under this section, his employment shall continue in the same staff position from year to year subject to the regulations hereinafter set forth.

3. Each school board having one or more certificated employees as described in subsection 1 of this section under contract shall notify each such certificated employee in writing concerning his reemployment in his present staff position or lack thereof on or before the [fifteenth] **first** day of [April] **May** of the year in which the contract then in force expires.

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.

17 Failure on the part of a board to give the notice constitutes reemployment on the same terms and
18 in the same staff position as those provided in the contract of the current fiscal year; and not later
19 than the [fifteenth] **first** day of [May] **June** of the same year the board shall present a contract
20 to each such certificated employee notified of reemployment by the district.

21 4. Any motion regarding reemployment of such certificated employee shall include only
22 one person and a motion to reemploy shall be made in the positive sense and a majority of the
23 elected members voting in the affirmative shall constitute reemployment.

24 5. Any such certificated employee not employed as superintendent of the district who
25 receives a contract shall within fifteen days thereafter present to the employing board a written
26 acceptance or rejection of the employment tendered and his failure to present the acceptance
27 within such time constitutes a rejection of the board's offer.

28 6. If such certificated employee has been reemployed five times within the district, the
29 school board, if requested in writing by such certificated employee within ten days after receipt
30 of notice of demotion or lack of reemployment on the same terms and in the same staff position,
31 shall make available in writing a statement of reasons for demotion or lack of reemployment
32 within ten days after receipt of the request. The board shall grant such certificated employee a
33 hearing if requested in writing by him within ten days after the receipt of statement of reasons,
34 the hearing to be held within ten days after the request therefor, and to be open at the request of
35 the certificated employee. The certificated employee may have counsel at the hearing, may
36 testify and offer testimony of witnesses as well as other evidence sustaining his defense and may
37 cross-examine adverse witnesses.

38 7. A contract between the board of education and such certificated employee may be
39 terminated at any time by mutual consent of the certificated employee and the board.

40 8. This section shall not affect the employment or reemployment of the superintendent
41 of schools by a board of education.

168.126. 1. A board of education at a regular or special meeting may contract with and
2 employ by a majority vote legally qualified probationary teachers for the school district. The
3 contract shall be made by order of the board; shall specify the number of months school is to be
4 taught and the wages per month to be paid; shall be signed by the probationary teacher and the
5 president of the board, or a facsimile signature of the president may be affixed at his discretion;
6 and the contract shall be attested by the secretary of the board by signature or facsimile. The
7 board shall not employ one of its members as a teacher; nor shall any person be employed as a
8 teacher who is related within the fourth degree to any board member, either by consanguinity or
9 affinity, where the vote of the board member is necessary to the selection of the person.

10 2. If in the opinion of the board of education any probationary teacher has been doing
11 unsatisfactory work, the board of education, through its authorized administrative representative,

12 shall provide the teacher with a written statement definitely setting forth his alleged
13 incompetency and specifying the nature thereof, in order to furnish the teacher an opportunity
14 to correct his fault and overcome his incompetency. If improvement satisfactory to the board of
15 education has not been made within ninety days of the receipt of the notification, the board of
16 education may terminate the employment of the probationary teacher immediately or at the end
17 of the school year. Any motion to terminate the employment of a probationary teacher shall
18 include only one person and must be approved by a majority of the members of the board of
19 education. A tie vote thereon constitutes termination. On or before the [fifteenth] **first** day of
20 [April] **May** in each school year, the board of education shall notify in writing a probationary
21 teacher who will not be retained by the school district of the termination of his employment.
22 Upon request, the notice shall contain a concise statement of the reason or reasons the
23 employment of the probationary teacher is being terminated. If the reason for the termination
24 is due to a decrease in pupil enrollment, school district reorganization, or the financial condition
25 of the school district, then the district shall in all cases issue notice to the teacher expressly
26 declaring such as the reason for such termination. Nothing contained in this section shall give
27 rise to a cause of action not currently cognizant at law by a probationary teacher for any reason
28 given in said writing so long as the board issues the letter in good faith without malice, but an
29 action for actual damages may be maintained by any person for the deprivation of a right
30 conferred by this act.

31 3. Any probationary teacher who is not notified of the termination of his employment
32 shall be deemed to have been appointed for the next school year, under the terms of the contract
33 for the preceding year. A probationary teacher who is informed of reemployment by written
34 notice shall be tendered a contract on or before the [fifteenth] **first** day of [May] **June**, and shall
35 within fifteen days thereafter present to the employing board of education a written acceptance
36 or rejection of the employment tendered, and failure of such teachers to present the acceptance
37 within such time constitutes a rejection of the board's offer. A contract between a probationary
38 teacher and a board of education may be terminated or modified at any time by the mutual
39 consent of the parties thereto.

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 **first** day of [April] **May** in each year shall notify probationary teachers who will not be retained
12 by the school district of the termination of their services. Any probationary teacher who is not
13 so 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, inefficiency in line of duty, violation of the
28 published regulations of the school district, violation of the laws of Missouri governing the
29 public schools of the state, or physical or mental condition which incapacitates him for
30 instructing or associating with children, and then only by a vote of not less than a majority of all
31 the members of the board, upon written charges presented by the superintendent of schools, to
32 be heard by the board after thirty days' notice, with copy of the charges served upon the person
33 against whom they are preferred, who shall have the privilege of being present at the hearing,
34 together with counsel, offering evidence and making defense thereto. Notifications received by
35 an employee during a vacation period shall be considered as received on the first day of the
36 school term following. At the request of any person so charged the hearing shall be public.
37 During any time in which powers granted to the district's board of education are vested in a
38 special administrative board, the special administrative board may appoint a hearing officer to
39 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. Inefficiency in line of duty
47 is cause for dismissal only after the teacher has been notified in writing at least one semester
48 prior to the presentment of charges against him by the superintendent. The notification shall
49 specify the nature of the inefficiency with such particularity as to enable the teacher to be
50 informed of the nature of his inefficiency.

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

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

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

84 7. A teacher whose appointment has become permanent may give up the right to a
85 permanent appointment to participate in the teacher choice compensation package under sections
86 168.745 to 168.750.

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