

SECOND REGULAR SESSION

SENATE BILL NO. 543

96TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR CHAPPELLE-NADAL.

Pre-filed December 9, 2011, and ordered printed.

TERRY L. SPIELER, Secretary.

4111S.011

AN ACT

To repeal sections 168.124, 168.211, and 168.221, RSMo, and to enact in lieu thereof eight new sections relating to elementary and secondary education.

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

Section A. Sections 168.124, 168.211, and 168.221, RSMo, are repealed
2 and eight new sections enacted in lieu thereof, to be known as sections 161.380,
3 162.1115, 168.107, 168.124, 168.211, 168.214, 168.221, and 168.223, to read as
4 follows:

**161.380. 1. By June 30, 2013, the department of elementary and
2 secondary education shall develop an evaluation instrument that shall
3 be provided to school districts to evaluate school superintendent
4 performance.**

**5 2. The department may promulgate rules and regulations to
6 implement the provisions of this section. Any rule or portion of a rule,
7 as that term is defined in section 536.010 that is created under the
8 authority delegated in this section shall become effective only if it
9 complies with and is subject to all of the provisions of chapter 536, and,
10 if applicable, section 536.028. This section and chapter 536 are
11 nonseverable and if any of the powers vested with the general assembly
12 pursuant to chapter 536, to review, to delay the effective date, or to
13 disapprove and annul a rule are subsequently held unconstitutional,
14 then the grant of rulemaking authority and any rule proposed or
15 adopted after August 28, 2012, shall be invalid and void.**

**162.1115. 1. When two or more school districts consolidate under
2 section 162.223, the department of elementary and secondary education
3 shall grant the new school district a waiver from review under the
4 Missouri school improvement program for a period of three years.**

5 2. When a school district annexes another district under section
6 162.441 and the annexation results in a ten percent increase in the
7 number of pupils enrolled in the district, the department of elementary
8 and secondary education shall grant a waiver from review under the
9 Missouri school improvement program for a period of three years.

10 3. When a school district boundary line is changed under section
11 162.431 and the boundary line change results in a ten percent increase
12 in the number of pupils enrolled in the district, the department of
13 elementary and secondary education shall grant a waiver from review
14 under the Missouri school improvement program for a period of three
15 years.

168.107. 1. No board of education shall provide a total
2 compensation package to any superintendent, assistant superintendent,
3 administrator, or central office personnel in an amount in excess of two
4 and one-half times the amount of that district's total average salary for
5 "permanent teachers", as such term is defined in section 168.104.

6 2. For all school districts, the average administrator salary shall
7 not exceed twice the amount of the district's average salary for
8 "permanent teachers", as such term is defined in section 168.104.

9 3. The department of elementary and secondary education shall
10 withhold from any school district that violates the provisions of this
11 section an amount equal to one percent of moneys received by the
12 district pursuant to section 163.031, exclusive of categorical add-
13 ons. This subsection shall apply to all school districts, including
14 districts that receive state aid pursuant to subsection 2 of section
15 163.031.

16 4. For purposes of this section, "total compensation package"
17 includes, but shall not be limited to, base salary, retirement benefits,
18 dues and club memberships, housing and auto allowances,
19 entertainment allowances, cell phone or personal digital assistant and
20 service contract, deferred compensation, buy-out clause,
21 pay-for-performance goals, donations from school foundations, and any
22 other valuable consideration provided in the form of cash, credit, or
23 services as a result of employment, expressed in dollars.

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 leave 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) 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) A teacher placed on leave of absence may engage in teaching or
20 another occupation during the period of such leave;

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

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

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

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

37 **4. Should a board of education choose to utilize the mechanism**
38 **for reducing teacher forces as provided in subsection 1 of this section,**
39 **the board shall also reduce administrative costs by a percent equal to**

40 **the percent by which the amount of funds spent on teacher**
41 **compensation was reduced.**

168.211. 1. In metropolitan districts the superintendent of schools shall
2 be appointed by the board of education for a term of one to five years, during
3 which term his compensation shall not be reduced, **except as provided in**
4 **section 168.214.** The superintendent of schools may appoint, with the approval
5 of the board, a treasurer, a commissioner of school buildings and he shall serve
6 at the pleasure of the superintendent of schools and as many associate and
7 assistant superintendents as he deems necessary, whose compensation shall be
8 fixed by the board. The superintendent of schools shall give bond in the sum that
9 the board requires but not less than fifty thousand dollars. No employee or agent
10 of the board shall be a member of the board.

11 2. The superintendent of schools shall have general supervision, subject
12 to policies established by the board, of the school system, including its various
13 departments and physical properties, courses of instruction, discipline and
14 conduct of the schools, textbooks and studies. All appointments, promotions and
15 transfers of teachers and all other employees, and introduction and changes of
16 textbooks and apparatus, shall be made by the superintendent with the approval
17 of the board. All appointments and promotions of teachers and all other
18 employees shall be made upon the basis of merit, to be ascertained, as far as
19 practicable, in cases of appointment, by examination, and in cases of promotion,
20 by length and character of service. Examinations for appointment shall be
21 conducted by the superintendent under regulations to be made by the board. He
22 shall make such reports to the board that it directs or the rules provide.

23 3. The superintendent of schools shall have general supervision, subject
24 to policies established by the board, of all school buildings, apparatus, equipment
25 and school grounds and of their construction, installation, operation, repair, care
26 and maintenance; the purchasing of all supplies and equipment; the operation of
27 the school lunchrooms; the administration of examinations for the appointment
28 and promotion of all employees of the school system; and the preparation and
29 administration of the annual budget for the school system. Subject to the
30 approval of the board of education as to number and salaries, the superintendent
31 may appoint as many employees as are necessary for the proper performance of
32 his duties.

33 4. The board may grant a leave of absence to the superintendent of
34 schools, and may remove him from office by vote of a majority of its members.

35 5. Should the superintendent hire a commissioner of school buildings, said
36 person shall be a person qualified by reason of education, experience and general
37 familiarity with buildings and personnel to assume the following responsibilities
38 and duties. Subject to the control of the superintendent of schools, he shall
39 exercise supervision over all school buildings, machinery, heating systems,
40 equipment, school grounds and other buildings and premises of the board of
41 education and the construction, installation, operation, repair, care and
42 maintenance related thereto and the personnel connected therewith; the
43 purchasing of building supplies and equipment and such other duties as may be
44 assigned to him by board rules or regulations.

168.214. 1. **Notwithstanding any provision of law to the contrary,**
2 **a board of education may reduce the compensation of its**
3 **superintendent of schools, irrespective of any contract, as described in**
4 **this section, after the board has employed the superintendent for four**
5 **consecutive years. This section shall only apply to the board of**
6 **education of a school district that:**

7 (1) **Is classified as unaccredited by the state board of education;**

8 (2) **Is classified as provisionally accredited by the state board of**
9 **education; or**

10 (3) **For any three years since its previous accreditation**
11 **classification by the state board of education has obtained a score on**
12 **its annual performance report consistent with the classification of**
13 **provisionally accredited or unaccredited.**

14 2. **The board may reduce a superintendent's compensation under**
15 **this section upon a comparison of the district's student performance**
16 **data with non district Missouri student performance data and the**
17 **board's finding that the district's students have significantly**
18 **underperformed as compared with non district Missouri students**
19 **possessing similar characteristics, including but not limited to,**
20 **students who are eligible for free and reduced lunch, students who are**
21 **assigned an individualized education program, students who receive**
22 **special education services, and students with limited English**
23 **proficiency.**

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 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, 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 upon 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. Nothing herein stated
83 shall prevent a readjustment by the board of education of existing salary
84 schedules. No teacher placed on a leave of absence shall be precluded from
85 securing other employment during the period of the leave of absence. Each
86 teacher placed on leave of absence shall be reinstated in inverse order of his
87 placement on leave of absence. Such reemployment shall not result in a loss of
88 status or credit for previous years of service. No new appointments shall be made
89 while there are available teachers on leave of absence who are seventy years of
90 age or less and who are adequately qualified to fill the vacancy unless the
91 teachers fail to advise the superintendent of schools within thirty days from the
92 date of notification by the superintendent of schools that positions are available
93 to them that they will return to employment and will assume the duties of the
94 position to which appointed not later than the beginning of the school year next
95 following the date of the notice by the superintendent of schools. **When**
96 **decreasing the number of teachers under this subsection, the board of**
97 **education shall also reduce administrative costs by a percent equal to**
98 **the percent by which the amount of funds spent on teacher**
99 **compensation was reduced.**

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

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

168.223. 1. No board of education shall provide a total
2 **compensation package to any superintendent, assistant superintendent,**
3 **administrator, or central office personnel in an amount in excess of two**
4 **and one-half times the amount of that district's total average salary for**

5 teachers with a permanent appointment as provided in section 168.221.

6 2. For all school districts, the average administrator salary shall
7 not exceed twice the amount of the district's average salary for
8 teachers with a permanent appointment as provided in section 168.221.

9 3. The department of elementary and secondary education shall
10 withhold from any school district that violates the provisions of this
11 section an amount equal to one percent of moneys received by the
12 district pursuant to section 163.031, exclusive of categorical add-
13 ons. This subsection shall apply to all school districts, including
14 districts that receive state aid pursuant to subsection 2 of section
15 163.031.

16 4. For purposes of this section, "total compensation package"
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18 dues and club memberships, housing and auto allowances,
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20 service contract, deferred compensation, buy-out clause,
21 pay-for-performance goals, donations from school foundations, and any
22 other valuable consideration provided in the form of cash, credit, or
23 services as a result of employment, expressed in dollars.

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