

# SENATE BILL NO. 601

## 96TH GENERAL ASSEMBLY

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INTRODUCED BY SENATOR LEMBKE.

Read 1st time January 4, 2012, and ordered printed.

TERRY L. SPIELER, Secretary.

4836S.011

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### AN ACT

To repeal sections 168.221 and 168.291, RSMo, and to enact in lieu thereof one new section relating to employment of school personnel.

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

Section A. Sections 168.221 and 168.291, RSMo, are repealed and one  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

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

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

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. **Thereafter, both the superintendent,**  
62 **or his or her designated representative, and the teacher shall meet and**  
63 **confer in an effort to resolve the matter.**

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

80 5. Whenever it is necessary to decrease the number of teachers because  
81 of insufficient funds or a substantial decrease of pupil population within the  
82 school district, the board of education upon recommendation of the  
83 superintendent of schools may cause the necessary number of teachers beginning  
84 with those serving probationary periods to be placed on leave of absence without  
85 pay, but only in the inverse order of their appointment. Nothing herein stated  
86 shall prevent a readjustment by the board of education of existing salary  
87 schedules. No teacher placed on a leave of absence shall be precluded from  
88 securing other employment during the period of the leave of absence. Each  
89 teacher placed on leave of absence shall be reinstated in inverse order of his **or**  
90 **her** placement on leave of absence. Such reemployment shall not result in a loss  
91 of status or credit for previous years of service. [No new appointments shall be  
92 made while there are available teachers on leave of absence who are seventy

93 years of age or less and who are adequately qualified to fill the vacancy unless  
94 the teachers fail to advise the superintendent of schools within thirty days from  
95 the date of notification by the superintendent of schools that positions are  
96 available to them that they will return to employment and will assume the duties  
97 of the position to which appointed not later than the beginning of the school year  
98 next following the date of the notice by the superintendent of schools] **Such**  
99 **leave of absence shall not impair the appointment of a teacher. The**  
100 **leave of absence may continue for a period of not more than three years**  
101 **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.

[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.]

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