

SECOND REGULAR SESSION

# SENATE BILL NO. 904

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Read 1st time January 10, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

4970S.02I

## AN ACT

To repeal sections 168.104, 168.110, 168.124, 168.128, 168.221, and 168.410, RSMo, and to enact in lieu thereof seven new sections relating to teacher employment.

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

Section A. Sections 168.104, 168.110, 168.124, 168.128, 168.221, and  
2 168.410, RSMo, are repealed and seven new sections enacted in lieu thereof, to  
3 be known as sections 168.104, 168.110, 168.125, 168.128, 168.221, 168.225, and  
4 168.410, 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 successive  
13 years **and is first hired by a district before August 28, 2018**, and who has  
14 continued or who thereafter continues to be employed as a teacher by the school  
15 district or any supervisor of teachers who was employed as a teacher in the same  
16 school district for at least five successive years prior to becoming a supervisor of  
17 teachers and who continues thereafter to be employed as a certificated employee

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

18 by the school district; except that, when a permanent teacher resigns or is  
19 permanently separated from employment by a school district, and is afterwards  
20 reemployed by the same school district, reemployment for the first school year  
21 does not constitute an indefinite contract but if he **or she** is employed for the  
22 succeeding year, the employment constitutes an indefinite contract; and except  
23 that any teacher employed under a part-time contract by a school district shall  
24 accrue credit toward permanent status on a prorated basis. Any permanent  
25 teacher who is promoted with his **or her** consent to a supervisory position  
26 including principal or assistant principal, or is first employed by a district in a  
27 supervisory position including principal or assistant principal, shall not have  
28 permanent status in such position but shall retain tenure in the position  
29 previously held within the district, or, after serving two years as principal or  
30 assistant principal, shall have tenure as a permanent 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 successive years or less. In the case  
33 of any probationary teacher who has been employed in any other school system  
34 as a teacher for two or more years, the board of education shall waive one year  
35 of his **or her** probationary period;

36 (6) "School district", every school district in this state, except a  
37 metropolitan school district as defined in section [162.571] **160.011**;

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.

168.110. The board of education of a school district may modify an  
2 indefinite contract annually on or before the fifteenth day of May in the following  
3 particulars:

4 (1) Determination of the date of beginning and length of the next school  
5 year;

6 (2) Fixing the amount of annual compensation for the following school  
7 year as provided by [the salary schedule adopted by the board of education  
8 applicable to all teachers] **section 168.225**. The modifications shall be effective  
9 at the beginning of the next school year. All teachers affected by the modification  
10 shall be furnished written copies of the modifications within thirty days after

11 their adoption by the board of education.

168.125. **No teacher first employed by a district on or after August 28, 2018, shall be eligible to receive an indefinite contract. Any teacher first employed by a district on or after August 28, 2018, shall receive a contract on an annual basis.**

168.128. The board of education of each school district shall maintain records showing periods of service, dates of appointment, and other necessary information for the enforcement of sections 168.102 to 168.130. In addition, the board of education of each school district shall cause [a] **an annual, comprehensive, performance-based evaluation for each teacher employed by the district].** Such evaluations shall be ongoing and of sufficient specificity and frequency to provide for demonstrated standards of competency and academic ability] **using the annual evaluation system developed by the department of elementary and secondary education or a district evaluation that utilizes the standards and indicators in the department's evaluation system.** All evaluations shall be maintained in the teacher's personnel file at the office of the board of education. A copy of each evaluation shall be provided to the teacher and appropriate administrator. The state department of elementary and secondary education shall provide suggested procedures for such an evaluation.

168.221. 1. The first five years of employment of all teachers [entering the employment of] **employed before August 28, 2018, in** the metropolitan school district shall be deemed a period of probation during which period all appointments of teachers shall expire at the end of each school year. During the probationary period any probationary teacher whose work is unsatisfactory shall be furnished by the superintendent of schools with a written statement setting forth the nature of his or her incompetency. If improvement satisfactory to the superintendent is not made within one semester after the receipt of the statement, the probationary teacher shall be dismissed. The semester granted the probationary teacher in which to improve shall not in any case be a means of prolonging the probationary period beyond five years and six months from the date on which the teacher entered the employ of the board of education. The superintendent of schools on or before the fifteenth day of April in each year shall notify probationary teachers who will not be retained by the school district of the termination of their services. Any probationary teacher who is not so notified shall be deemed to have been appointed for the next school year. Any principal

17 who prior to becoming a principal had attained permanent employee status as a  
18 teacher shall upon ceasing to be a principal have a right to resume his or her  
19 permanent teacher position with the time served as a principal being treated as  
20 if such time had been served as a teacher for the purpose of calculating seniority  
21 and pay scale. The rights and duties and remuneration of a teacher who was  
22 formerly a principal shall be the same as any other teacher with the same level  
23 of qualifications and time of service.

24         2. After completion of satisfactory probationary services **of any teacher**  
25 **employed before August 28, 2018**, appointments of teachers shall become  
26 permanent, subject to removal for any one or more causes herein described and  
27 to the right of the board to terminate the services of all who attain the age of  
28 compulsory retirement fixed by the retirement system. In determining the  
29 duration of the probationary period of employment in this section specified, the  
30 time of service rendered as a substitute teacher shall not be included. **Any**  
31 **teacher first employed by the district on or after August 28, 2018, shall**  
32 **not be eligible to have his or her appointment become**  
33 **permanent. Instead, the appointment of any teacher first employed by**  
34 **the district on or after August 28, 2018, shall expire at the end of each**  
35 **school year.**

36         3. No teacher whose appointment has become permanent may be removed  
37 except for one or more of the following causes: immorality, incompetency, or  
38 inefficiency in line of duty, violation of the published regulations of the school  
39 district, violation of the laws of Missouri governing the public schools of the state,  
40 or physical or mental condition which incapacitates him **or her** for instructing  
41 or associating with children, and then only by a vote of not less than a majority  
42 of all the members of the board, upon written charges presented by the  
43 superintendent of schools, to be heard by the board after thirty days' notice, with  
44 copy of the charges served upon the person against whom they are preferred, who  
45 shall have the privilege of being present at the hearing, together with counsel,  
46 offering evidence and making defense thereto. At the request of any person so  
47 charged the hearing shall be public. During any time in which powers granted  
48 to the district's board of education are vested in a special administrative board,  
49 the special administrative board may appoint a hearing officer to conduct the  
50 hearing. The hearing officer shall conduct the hearing as a contested case under  
51 chapter 536 and shall issue a written recommendation to the board rendering the  
52 charges against the teacher. The board shall render a decision on the charges

53 upon the review of the hearing officer's recommendations and the record from the  
54 hearing. The action and decision of the board upon the charges shall be  
55 final. Pending the hearing of the charges, the person charged may be suspended  
56 if the rules of the board so prescribe, but in the event the board does not by a  
57 majority vote of all the members remove the teacher upon charges presented by  
58 the superintendent, the person shall not suffer any loss of salary by reason of the  
59 suspension. Incompetency or inefficiency in line of duty is cause for dismissal  
60 only after the teacher has been notified in writing at least thirty days prior to the  
61 presentment of charges against him **or her** by the superintendent. The  
62 notification shall specify the nature of the incompetency or inefficiency with such  
63 particularity as to enable the teacher to be informed of the nature of his or her  
64 incompetency or inefficiency.

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

81 5. [Whenever it is necessary to decrease the number of teachers because  
82 of insufficient funds or a substantial decrease of pupil population within the  
83 school district, the board of education upon recommendation of the  
84 superintendent of schools may cause the necessary number of teachers beginning  
85 with those serving probationary periods to be placed on leave of absence without  
86 pay, but only in the inverse order of their appointment. Nothing herein stated  
87 shall prevent a readjustment by the board of education of existing salary  
88 schedules. No teacher placed on a leave of absence shall be precluded from

89 securing other employment during the period of the leave of absence. Each  
90 teacher placed on leave of absence shall be reinstated in inverse order of his or  
91 her placement on leave of absence. Such reemployment shall not result in a loss  
92 of status or credit for previous years of service. No appointment of new teachers  
93 shall be made while there are available teachers on unrequested leave of absence  
94 who are properly qualified to fill such vacancies. Such leave of absence shall not  
95 impair the tenure of a teacher. The leave of absence shall continue for a period  
96 of not more than three years unless extended by the board.

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.] 6. A teacher whose appointment has become permanent may give up  
103 the right to a permanent appointment to participate in the teacher choice  
104 compensation package under sections 168.745 to 168.750. **Any teacher first**  
105 **employed by the district on or after August 28, 2018, shall not be**  
106 **eligible to participate in the teacher choice compensation package**  
107 **under sections 168.745 to 168.750.**

108 [8.] 7. Should the state mandate that professional development for  
109 teachers be provided in local school districts and any funds be utilized for such,  
110 a metropolitan school district shall be allowed to utilize a professional  
111 development plan for teachers which is known within the administration as the  
112 "St. Louis Plan", should the district and the teacher decide jointly to participate  
113 in such plan, **provided any use of the "St. Louis Plan" does not conflict**  
114 **with the provisions of subsection 8 of this section.**

115 8. **The board of education of the metropolitan school district**  
116 **shall cause an annual, comprehensive, performance-based evaluation**  
117 **for each teacher employed by the district using the annual evaluation**  
118 **system developed by the department of elementary and secondary**  
119 **education or a district evaluation that utilizes the standards and**  
120 **indicators in the department's evaluation system. All evaluations shall**  
121 **be maintained in the teacher's personnel file at the office of the board**  
122 **of education. A copy of each evaluation shall be provided to the**  
123 **teacher and appropriate administrator. The department of elementary**  
124 **and secondary education shall provide suggested procedures for such**

125 an evaluation.

168.225. 1. The school board of each district shall develop and  
2 adopt a performance salary schedule for all teachers and other  
3 instructional personnel by July 1, 2019.

4 2. The performance salary schedule shall incorporate the  
5 following elements:

6 (1) The salary schedule shall review and may provide annual  
7 salary adjustments based upon performance determined by the annual  
8 evaluation system for teachers developed by the department of  
9 elementary and secondary education or the annual evaluation system  
10 developed by the district that utilizes the standards and indicators in  
11 the department's evaluation system. Teachers shall be evaluated using  
12 multiple, fair, rigorous, transparent, and valid measures, consistent  
13 with definitions of these terms by the department. A district may use  
14 the model evaluation form developed by the department or a district  
15 evaluation form that utilizes the standards and indicators in the  
16 department's evaluation system. Multiple measures of student  
17 achievement shall count for a minimum of thirty percent of the overall  
18 evaluation; and

19 (2) The performance salary schedule shall not use advanced  
20 degrees in setting a salary schedule for instructional personnel or  
21 school administrators unless the advanced degree is in the employee's  
22 area of certification or expertise.

23 3. The department of elementary and secondary education may  
24 provide technical assistance to district school boards in developing and  
25 implementing a local evaluation system under this section, including  
26 providing or helping to develop training for evaluators and a resource  
27 bank that identifies assessments, processes, tools, and policies that a  
28 district school board may use to develop its own evaluation  
29 system. The department shall develop a resource bank that shall  
30 include resources that are appropriate to districts of different sizes,  
31 demographics, and locations and shall update the resource bank  
32 periodically to reflect new research and experience in implementing an  
33 evaluation system.

34 4. The district may develop additional salary schedules  
35 differentiated based on assignment to a Title I school, based on  
36 teaching in a subject area for which there is a shortage of teachers as

37 **determined by the department of elementary and secondary education,**  
38 **or to reflect the supply and demand of the teacher labor market.**

168.410. School administrators and school district superintendents shall  
2 be evaluated in the following manner:

3 (1) The board of education of each school district shall cause a  
4 comprehensive performance-based evaluation for each administrator employed by  
5 the district. Such evaluation shall be [ongoing and of sufficient specificity and  
6 frequency] **done annually** to provide for demonstrated standards of competency  
7 and academic ability;

8 (2) All evaluations shall be maintained in the respective administrator's  
9 personnel file at the office of the board of education of the school district. A copy  
10 of each evaluation shall be provided to the person being evaluated and to the  
11 appropriate administrator;

12 (3) The state department of elementary and secondary education shall  
13 provide suggested procedures for the evaluations performed under this section.

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

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

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

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

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

21 (5) A teacher placed on leave of absence may engage in

22 teaching or another occupation during the period of such leave;

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

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

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

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

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