

SECOND REGULAR SESSION

[P E R F E C T E D]

SENATE BILL NO. 695

99TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR WALLINGFORD.

Pre-filed December 1, 2017, and ordered printed.

Read 2nd time January 16, 2018, and referred to the Committee on Education.

Reported from the Committee February 15, 2018, with recommendation that the bill do pass.

Taken up for Perfection February 27, 2018. Bill declared Perfected and Ordered Printed, as amended.

ADRIANE D. CROUSE, Secretary.

4709S.01P

AN ACT

To repeal sections 161.032, 161.042, 161.052, 161.072, and 161.082, RSMo, and to enact in lieu thereof seven new sections relating to boards and commissions.

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

Section A. Sections 161.032, 161.042, 161.052, 161.072, and 161.082, RSMo, are repealed and seven new sections enacted in lieu thereof, to be known as sections 26.305, 161.026, 161.032, 161.042, 161.052, 161.072, and 161.082, to read as follows:

26.305. 1. Notwithstanding any provision of law to the contrary, when the governor makes an appointment to any state board or commission when the senate is not in session, the governor shall notify the Missouri senate of the appointment in writing. No appointee shall be sworn in or serve in his or her official duties in the position until such time as the senate has been notified of the appointment. Once the appointment has been made and the senate is notified, the governor is prohibited from withdrawing or rescinding the appointment unless such action is authorized by the Missouri senate. In order to withdraw or rescind an appointment, when the senate reconvenes, the governor may request an appointment be sent back without prejudice. However, if the senate rejects the request or does not approve the request and the time frame by which the senate was to consider the original appointment expires without the senate giving its advice and consent,

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

15 the appointee shall be deemed rejected and prohibited from being
16 reappointed. Nothing in this section shall prohibit the governor from
17 removing a member of a board or commission with written notice and
18 hearing on charges of malfeasance, misfeasance, or nonfeasance in
19 office.

20 2. If an appointee who has been appointed when the senate is not
21 in session chooses to resign from his or her position prior to receiving
22 the advice and consent of the senate, the governor shall notify the
23 senate of the resignation and request for the nomination to be sent
24 back without prejudice. However, if the senate rejects the request or
25 does not approve the request, and the time frame by which the senate
26 was to consider the original appointment expires, the appointee shall
27 be deemed rejected and prohibited from being reappointed.

28 3. The governor shall be prohibited from reappointing an
29 appointee that was appointed prior to the effective date of this section
30 if the appointee was appointed when the senate was not in session and
31 resigned his or her position prior to receiving the advice and consent
32 of the senate.

33 4. No person whose appointment requires the advice and consent
34 of the senate shall have the authority to act prior to receiving the
35 advice and consent of the Senate:

36 (1) If such person is reappointed to a position by the governor
37 while the senate is not in session; and

38 (2) Such person's prior appointment to such position on the
39 administrative board or commission failed, for any reason, to receive
40 the advice and consent of the senate.

41 5. Notwithstanding any provision of law to the contrary, at all
42 meetings of any state board or commission only members that have
43 received the advice and consent of the senate shall be counted for
44 purposes of determining the existence of a quorum.

161.026. 1. Notwithstanding the provisions of section 161.032 or
2 any other provision of law, the governor shall, by and with the advice
3 and consent of the senate, appoint a teacher representative to the state
4 board of education, who shall attend all meetings and participate in all
5 deliberations of the board. The teacher representative shall not have
6 the right to vote on any matter before the board or be counted in
7 establishing a quorum under section 161.082.

8 **2. The teacher representative shall be an active classroom**
9 **teacher. For purposes of this section, "active classroom teacher" means**
10 **a resident of the state of Missouri who is a full-time teacher with at**
11 **least five years of teaching experience in the state of Missouri, who is**
12 **certified to teach under the laws governing the certification of teachers**
13 **in Missouri, and who is not on leave at the time of the appointment to**
14 **the position of teacher representative. The teacher representative shall**
15 **have the written support of the local school board prior to accepting**
16 **the appointment.**

17 **3. The term of the teacher representative shall be four years, and**
18 **appointments made under this section shall be made in rotation from**
19 **each congressional district beginning with the first congressional**
20 **district and continuing in numerical order.**

21 **4. If a vacancy occurs for any reason in the position of teacher**
22 **representative, the governor shall appoint, by and with the advice and**
23 **consent of the senate, a replacement for the unexpired term. Such**
24 **replacement shall be a resident of the same congressional district as**
25 **the teacher representative being replaced, shall meet the qualifications**
26 **set forth under subsection 2 of this section, and shall serve until his or**
27 **her successor is appointed and qualified.**

28 **5. If the teacher representative ceases to be an active classroom**
29 **teacher, as defined under subsection 2 of this section, or fails to follow**
30 **the board's attendance policy, the teacher representative's position**
31 **shall immediately become vacant unless an absence is caused by**
32 **sickness or some accident preventing the representative's arrival at the**
33 **time and place appointed for the meeting.**

34 **6. The teacher representative shall receive the same**
35 **reimbursement for expenses as members of the state board of education**
36 **receive under section 161.022.**

37 **7. At no time shall more than one nonvoting member serve on the**
38 **state board of education.**

39 **8. The provisions of this section shall expire on August 28, 2026.**

161.032. The members of the board shall be citizens of high moral
2 standards and recognized ability in their respective business or profession, who
3 have resided in the state for not less than five years immediately preceding their
4 appointment, and not more than one of whom shall be a resident of the same
5 county or congressional district. At no time shall more than four members be of

6 the same political party **and at no time shall more than two members be**
7 **classified as "independent"**. No member of the board shall be connected,
8 either as an official or as an employee, with any public, private, or
9 denominational school, college or university, nor be the holder of or a candidate
10 for any public office.

161.042. Each member shall take an oath to support the constitution of
2 the United States and of this state and to faithfully demean himself **or herself**
3 in office. **Each board member shall be sworn in during open session of**
4 **the state board of education. The oath shall be administered by the**
5 **president or vice president of the state board of education.**

161.052. Any vacancy occurring in the term of office of any board member
2 shall be filled [by appointment by the governor, by and with the advice and
3 consent of the senate] **subject to the provisions of section 26.305**, for the
4 unexpired term. [If a vacancy occurs while the general assembly is not in
5 session, the governor shall make a temporary appointment until the next session
6 of the general assembly, when he shall nominate some person to fill the office.]

161.072. **1.** The state board of education shall meet semiannually in
2 December and in June in Jefferson City. Other meetings may be called by the
3 president of the board on seven days' written notice to the members. In the
4 absence of the president, the commissioner of education shall call a meeting on
5 request of three members of the board, and if both the president and the
6 commissioner of education are absent or refuse to call a meeting, any three
7 members of the board may call a meeting by similar notices in writing. The
8 business to come before the board shall be available by free electronic record at
9 least seven business days prior to the start of each meeting. All records of any
10 decisions, votes, exhibits, or outcomes shall be available by free electronic media
11 within forty-eight hours following the conclusion of every meeting. Any materials
12 prepared for the members of the board by the staff shall be delivered to the
13 members at least five days before the meeting, and to the extent such materials
14 are public records as defined in section 610.010 and are not permitted to be closed
15 under section 610.021, shall be made available by free electronic media at least
16 five business days in advance of the meeting.

2. Upon an affirmative vote of the members of the board who are
18 **present and who are not teacher representatives, a given meeting**
19 **closed under sections 610.021 and 610.022 shall be closed to the teacher**
20 **representative.**

161.082. 1. The board may act only when lawfully convened in a regular
2 or special meeting, and it may speak only through its official records. No member
3 of the board has any authority as an individual by reason of his official position.

4 2. At all meetings of the board, five members **that have received the**
5 **advice and consent of the senate** are necessary to constitute a quorum for the
6 transaction of business, but no official actions may be taken unless a majority of
7 the whole board, **all of whom shall have received the advice and consent**
8 **of the senate**, votes therefor.

9 3. **If at any time a quorum of the board has not received the**
10 **advice and consent of the senate, the state treasurer shall distribute all**
11 **necessary appropriations to school districts pursuant to state and**
12 **federal law.**

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Bill

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