

FIRST REGULAR SESSION

SENATE BILL NO. 80

100TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR EMERY.

Pre-filed December 1, 2018, and ordered printed.

ADRIANE D. CROUSE, Secretary.

0382S.01I

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2 168.410, RSMo, are repealed and seven new sections enacted in lieu thereof, to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, 2019**, 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 metropolitan
37 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.

2 **168.125. No teacher first employed by a district on or after**
3 **August 28, 2019, shall be eligible to receive an indefinite contract. Any**
4 **teacher first employed by a district on or after August 28, 2019, shall**
5 **receive a contract on an annual basis.**

6 168.128. The board of education of each school district shall maintain
7 records showing periods of service, dates of appointment, and other necessary
8 information for the enforcement of sections 168.102 to 168.130. In addition, the
9 board of education of each school district shall cause [a] **an annual,**
10 **comprehensive, performance-based evaluation for each teacher employed by the**
11 **district]. Such evaluations shall be ongoing and of sufficient specificity and**
12 **frequency to provide for demonstrated standards of competency and academic**
13 **ability] using the annual evaluation system developed by the department**
14 **of elementary and secondary education or a district evaluation that**
15 **utilizes the standards and indicators in the department's evaluation**
16 **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, 2019, 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, 2019**, 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, 2019, 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, 2019, 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, 2019, 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, 2020.

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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