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State of Minnesota  
HOUSE OF REPRESENTATIVES

EIGHTY-SEVENTH SESSION

H. F. No. **2385**

02/20/2012 Authored by Kath, Brynaert, Norton, Benson, J., Morrow and others  
The bill was read for the first time and referred to the Committee on Education Reform

1.1 A bill for an act  
1.2 relating to education; modifying certain unrequested leave of absence provisions  
1.3 for teachers; amending Minnesota Statutes 2010, sections 122A.40, subdivisions  
1.4 10, 11; 122A.41, subdivision 14; 179A.20, by adding a subdivision; repealing  
1.5 Minnesota Statutes 2010, section 122A.40, subdivision 11.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. Minnesota Statutes 2010, section 122A.40, subdivision 10, is amended to  
1.8 read:

1.9 Subd. 10. **Negotiated unrequested leave of absence.** The school board and the  
1.10 exclusive bargaining representative of the teachers ~~may~~ must negotiate a plan, consistent  
1.11 with subdivision 8, providing for unrequested leave of absence without pay or fringe  
1.12 benefits for as many teachers as may be necessary because of discontinuance of position,  
1.13 lack of pupils, financial limitations, or merger of classes caused by consolidation of  
1.14 districts. ~~Failing to successfully negotiate such a plan, the provisions of subdivision 11~~  
1.15 ~~shall apply.~~ The negotiated plan must not include provisions which would result in the  
1.16 exercise of seniority by a teacher holding a provisional license, other than a vocational  
1.17 education license, ~~contrary to the provisions of subdivision 11, clause (c)~~, or the  
1.18 reinstatement of a teacher holding a provisional license, other than a vocational education  
1.19 license, ~~contrary to the provisions of subdivision 11, clause (c)~~. The provisions of section  
1.20 179A.16 do not apply for the purposes of this subdivision.

1.21 **EFFECTIVE DATE.** This section is effective beginning in the 2017-2018 school  
1.22 year and later.

1.23 Sec. 2. Minnesota Statutes 2010, section 122A.40, subdivision 11, is amended to read:

2.1 Subd. 11. **Unrequested leave of absence.** (a) The board may place on unrequested  
 2.2 leave of absence, without pay or fringe benefits, as many teachers as may be necessary  
 2.3 because of discontinuance of position, lack of pupils, financial limitations, or merger of  
 2.4 classes caused by consolidation of districts. The unrequested leave is effective at the close  
 2.5 of the school year. In placing teachers on unrequested leave, ~~the board is governed by the~~  
 2.6 ~~following provisions:~~ the board may exempt from the effects of paragraphs (b) to (g) those  
 2.7 teachers who teach in a Montessori or a language immersion program, provide instruction  
 2.8 in an advanced placement course, or hold a kindergarten through grade 12 instrumental  
 2.9 vocal classroom music license and currently serve as a choir, band, or orchestra director  
 2.10 and who, in the superintendent's judgment, meet a unique need in delivering curriculum.  
 2.11 However, within the Montessori or language immersion program, a teacher must be placed  
 2.12 on unrequested leave of absence consistent with paragraphs (b) to (g).

2.13 ~~(a)~~ (b) The board may place probationary teachers on unrequested leave first in  
 2.14 the inverse order of their employment. A teacher who has acquired continuing contract  
 2.15 rights must not be placed on unrequested leave of absence while probationary teachers  
 2.16 are retained in positions for which the teacher who has acquired continuing contract  
 2.17 rights is licensed;

2.18 ~~(b)~~ (c) Teachers who have acquired continuing contract rights shall be placed on  
 2.19 unrequested leave of absence in fields in which they are licensed in the inverse order  
 2.20 in which they were employed by the school district. In the case of equal seniority, the  
 2.21 order in which teachers who have acquired continuing contract rights shall be placed on  
 2.22 unrequested leave of absence in fields in which they are licensed is negotiable;

2.23 ~~(c)~~ (d) Notwithstanding the provisions of ~~clause (b)~~ paragraph (c), a teacher is not  
 2.24 entitled to exercise any seniority when that exercise results in that teacher being retained  
 2.25 by the district in a field for which the teacher holds only a provisional license, as defined  
 2.26 by the board of teaching, unless that exercise of seniority results in the placement on  
 2.27 unrequested leave of absence of another teacher who also holds a provisional license  
 2.28 in the same field. The provisions of this ~~clause~~ paragraph do not apply to vocational  
 2.29 education licenses;

2.30 ~~(d)~~ (e) Notwithstanding ~~clauses (a), (b) and (c)~~ paragraphs (b), (c), and (d), if the  
 2.31 placing of a probationary teacher on unrequested leave before a teacher who has acquired  
 2.32 continuing rights, the placing of a teacher who has acquired continuing contract rights  
 2.33 on unrequested leave before another teacher who has acquired continuing contract rights  
 2.34 but who has greater seniority, or the restriction imposed by the provisions of ~~clause (c)~~  
 2.35 paragraph (d) would place the district in violation of its affirmative action program,

3.1 the district may retain the probationary teacher, the teacher with less seniority, or the  
3.2 provisionally licensed teacher~~;~~.

3.3 ~~(e)~~ (f) Teachers placed on unrequested leave of absence must be reinstated to  
3.4 the positions from which they have been given leaves of absence or, if not available,  
3.5 to other available positions in the school district in fields in which they are licensed.  
3.6 Reinstatement must be in the inverse order of placement on leave of absence. A teacher  
3.7 must not be reinstated to a position in a field in which the teacher holds only a provisional  
3.8 license, other than a vocational education license, while another teacher who holds a  
3.9 nonprovisional license in the same field remains on unrequested leave. The order of  
3.10 reinstatement of teachers who have equal seniority and who are placed on unrequested  
3.11 leave in the same school year is negotiable~~;~~.

3.12 ~~(f)~~ (g) Appointment of a new teacher must not be made while there is available, on  
3.13 unrequested leave, a teacher who is properly licensed to fill such vacancy, unless the  
3.14 teacher fails to advise the school board within 30 days of the date of notification that a  
3.15 position is available to that teacher who may return to employment and assume the duties  
3.16 of the position to which appointed on a future date determined by the board~~;~~.

3.17 ~~(g)~~ (h) A teacher placed on unrequested leave of absence may engage in teaching  
3.18 or any other occupation during the period of this leave~~;~~.

3.19 ~~(h)~~ (i) The unrequested leave of absence must not impair the continuing contract  
3.20 rights of a teacher or result in a loss of credit for previous years of service~~;~~.

3.21 ~~(i)~~ (j) The unrequested leave of absence of a teacher who is placed on unrequested  
3.22 leave of absence and who is not reinstated shall continue for a period of five years, after  
3.23 which the right to reinstatement shall terminate. The teacher's right to reinstatement shall  
3.24 also terminate if the teacher fails to file with the board by April 1 of any year a written  
3.25 statement requesting reinstatement~~;~~.

3.26 ~~(j)~~ (k) The same provisions applicable to terminations of probationary or continuing  
3.27 contracts in subdivisions 5 and 7 must apply to placement on unrequested leave of  
3.28 absence~~;~~.

3.29 ~~(k)~~ (l) Nothing in this subdivision shall be construed to impair the rights of teachers  
3.30 placed on unrequested leave of absence to receive unemployment benefits if otherwise  
3.31 eligible.

3.32 **EFFECTIVE DATE.** This section is effective for the 2012-2013 through 2016-2017  
3.33 school years.

3.34 Sec. 3. Minnesota Statutes 2010, section 122A.41, subdivision 14, is amended to read:

4.1 Subd. 14. **Services terminated by discontinuance or lack of pupils; preference**  
 4.2 **given.** (a) ~~A teacher whose services are terminated on account of discontinuance of~~  
 4.3 ~~position or lack of pupils must receive first consideration for other positions in the district~~  
 4.4 ~~for which that teacher is qualified.~~ In the event it becomes necessary to discontinue one  
 4.5 or more positions in the 2012-2013 through 2016-2017 school years, in making such  
 4.6 discontinuance, teachers must receive first consideration for other positions in the district  
 4.7 for which that teacher is qualified and must be discontinued in any department in the  
 4.8 inverse order in which they were employed, unless.

4.9 (b) Beginning in the 2017-2018 school year and later, a board and the exclusive  
 4.10 representative of teachers in the district must negotiate a plan providing otherwise,  
 4.11 consistent with subdivision 5, for discontinuing and terminating teachers under this  
 4.12 subdivision.

4.13 ~~(b)~~ (c) For the 2012-2013 through 2016-2017 school years, the board may exempt  
 4.14 from the effects of paragraph (a) those teachers who teach in a Montessori or a language  
 4.15 immersion program or provide instruction in an advanced placement course and who, in  
 4.16 the superintendent's judgment, meet a unique need in delivering curriculum. However,  
 4.17 within the Montessori or language immersion program, a teacher shall be discontinued  
 4.18 based on the inverse order in which the teacher was employed.

4.19 (d) Notwithstanding the provisions of clause paragraph (a), for the 2012-2013  
 4.20 through 2016-2017 school years, a teacher is not entitled to exercise any seniority when  
 4.21 that exercise results in that teacher being retained by the district in a field for which the  
 4.22 teacher holds only a provisional license, as defined by the Board of Teaching, unless that  
 4.23 exercise of seniority results in ~~the termination of~~ terminating the services, on account  
 4.24 of discontinuance of position or lack of pupils, of another teacher who also holds a  
 4.25 provisional license in the same field. The provisions of this ~~clause paragraph~~ do not apply  
 4.26 to vocational education licenses.

4.27 ~~(e)~~ (e) Notwithstanding the provisions of clause paragraph (a), for the 2012-2013  
 4.28 through 2016-2017 school years, a teacher must not be reinstated to a position in a field  
 4.29 in which the teacher holds only a provisional license, other than a vocational education  
 4.30 license, while another teacher who holds a nonprovisional license in the same field is  
 4.31 available for reinstatement.

4.32 **EFFECTIVE DATE.** This section is effective July 1, 2012, and applies to  
 4.33 negotiated discharge or demotion plans agreed to on or after that date.

4.34 Sec. 4. Minnesota Statutes 2010, section 179A.20, is amended by adding a subdivision  
 4.35 to read:

5.1            Subd. 4a. **Unrequested leave of absence for teachers.** A school board and the  
5.2 exclusive representative of the teachers may not execute a contract unless the contract  
5.3 contains a plan for unrequested leave of absence under section 122A.40, subdivision 10,  
5.4 or a plan for discontinuing or terminating teachers under section 122A.41, subdivision 14.

5.5            **EFFECTIVE DATE.** This section is effective beginning in the 2017-2018 school  
5.6 year and later.

5.7            Sec. 5. **REPEALER.**

5.8            Minnesota Statutes 2010, section 122A.40, subdivision 11, is repealed effective  
5.9 for the 2017-2018 school year and later.