

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE **S.F. No. 768**

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DATE	D-PG	OFFICIAL STATUS
03/14/2011	499	See SF1030, Art. 2, Sec. 9 Introduction and first reading Referred to Education
04/18/2011	1375a 1385	Comm report: To pass as amended Second reading
05/12/2011	2003	General Orders: To pass
05/14/2011	2039	Calendar: Third reading Passed See HF1381, Art. 2, Sec. 17-24 (vetoed) See HF26, Art. 2, Sec. 12, 16-17 (First Special Session)

A bill for an act

relating to education; clarifying requirements governing probationary teacher and principal status; amending Minnesota Statutes 2010, sections 122A.40, subdivisions 5, 11, by adding a subdivision; 122A.41, subdivisions 1, 2, 5a, 10, 14.

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

Section 1. Minnesota Statutes 2010, section 122A.40, subdivision 5, is amended to read:

Subd. 5. **Probationary period.** (a) The first three consecutive years of a teacher's first teaching experience in Minnesota in a single district is deemed to be a probationary period of employment, and ~~after completion thereof,~~ the probationary period in each district in which the teacher is thereafter employed also shall be ~~one year~~ three consecutive years of teaching experience except that for purposes of this provision, the probationary period for principals and assistant principals shall be two consecutive years. The school board must adopt a plan for written evaluation of teachers during the probationary period. Evaluation must occur at least three times periodically throughout each school year for a teacher performing services ~~on 120 or more school days, at least two times each year for a teacher performing services on 60 to 119 school days, and at least one time each year for a teacher performing services on fewer than 60 school days~~ during that school year. Days devoted to parent-teacher conferences, teachers' workshops, and other staff development opportunities and days on which a teacher is absent from school must not be included in determining the number of school days on which a teacher performs services. Except as otherwise provided in paragraph (b), during the probationary period any annual contract with any teacher may or may not be renewed as the school board shall see fit. However, the board must give any such teacher whose contract it declines to renew for the following

2.1 school year written notice to that effect before ~~July~~ June 1. If the teacher requests reasons
2.2 for any nonrenewal of a teaching contract, the board must give the teacher its reason in
2.3 writing, including a statement that appropriate supervision was furnished describing the
2.4 nature and the extent of such supervision furnished the teacher during the employment
2.5 by the board, within ten days after receiving such request. The school board may, after
2.6 a hearing held upon due notice, discharge a teacher during the probationary period for
2.7 cause, effective immediately, under section 122A.44.

2.8 (b) A board must discharge a probationary teacher, effective immediately, upon
2.9 receipt of notice under section 122A.20, subdivision 1, paragraph (b), that the teacher's
2.10 license has been revoked due to a conviction for child abuse or sexual abuse.

2.11 (c) A probationary teacher whose first three years of consecutive employment in
2.12 a district are interrupted for active military service and who promptly resumes teaching
2.13 consistent with federal reemployment timelines for uniformed service personnel under
2.14 United States Code, title 38, section 4312(e), is considered to have a consecutive teaching
2.15 experience for purposes of paragraph (a).

2.16 (d) A probationary teacher must complete ~~at least 60~~ 120 days of teaching service
2.17 each year during the probationary period. Days devoted to parent-teacher conferences,
2.18 teachers' workshops, and other staff development opportunities and days on which a
2.19 teacher is absent from school do not count as days of teaching service under this paragraph.

2.20 **EFFECTIVE DATE.** This section is effective June 30, 2011, and applies to all
2.21 probationary teacher employment contracts ratified or modified after that date.

2.22 Sec. 2. Minnesota Statutes 2010, section 122A.40, is amended by adding a subdivision
2.23 to read:

2.24 **Subd. 8a. Probationary period for principals hired internally.** A probationary
2.25 period of two school years is required for a licensed teacher employed by the board who is
2.26 subsequently employed by the board as a licensed school principal or assistant principal
2.27 and an additional probationary period of two years is required for a licensed assistant
2.28 principal employed by the board who is subsequently employed by the board as a licensed
2.29 principal. A licensed teacher subsequently employed by the board as a licensed school
2.30 principal or assistant principal retains the teacher's continuing contract status as a licensed
2.31 teacher during the probationary period under this subdivision and has the right to return
2.32 to his or her previous position or an equivalent position, if available, if the teacher is
2.33 not promoted.

3.1 EFFECTIVE DATE. This section is effective June 30, 2011, and applies to all
3.2 contracts for internally hired licensed school principals and assistant principals ratified or
3.3 modified after that date.

3.4 Sec. 3. Minnesota Statutes 2010, section 122A.40, subdivision 11, is amended to read:

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

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

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

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

3.33 ~~(d)~~ (e) Notwithstanding ~~clauses (a), (b) and (c)~~ paragraphs (b), (c), and (d), if the
3.34 placing of a probationary teacher on unrequested leave before a teacher who has acquired
3.35 continuing rights, the placing of a teacher who has acquired continuing contract rights

4.1 on unrequested leave before another teacher who has acquired continuing contract rights
4.2 but who has greater seniority, or the restriction imposed by the provisions of ~~clause (e)~~
4.3 paragraph (d) would place the district in violation of its affirmative action program,
4.4 the district may retain the probationary teacher, the teacher with less seniority, or the
4.5 provisionally licensed teacher.

4.6 ~~(e)~~ (f) Teachers placed on unrequested leave of absence must be reinstated to
4.7 the positions from which they have been given leaves of absence or, if not available,
4.8 to other available positions in the school district in fields in which they are licensed.
4.9 Reinstatement must be in the inverse order of placement on leave of absence. A teacher
4.10 must not be reinstated to a position in a field in which the teacher holds only a provisional
4.11 license, other than a vocational education license, while another teacher who holds a
4.12 nonprovisional license in the same field remains on unrequested leave. The order of
4.13 reinstatement of teachers who have equal seniority and who are placed on unrequested
4.14 leave in the same school year is negotiable.

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

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

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

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

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

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

4.35 **EFFECTIVE DATE.** This section is effective June 30, 2011, and applies to all
4.36 collective bargaining agreements ratified or modified after that date.

S.F. No. 768, 1st Engrossment - 87th Legislative Session (2011-2012) [S0768-1]

5.1 Sec. 4. Minnesota Statutes 2010, section 122A.41, subdivision 1, is amended to read:

5.2 Subdivision 1. **Words, terms, and phrases.** Unless the language or context clearly
5.3 indicates that a different meaning is intended, the following words, terms, and phrases, for
5.4 the purposes of the following subdivisions in this section shall be defined as follows:

5.5 (a) **Teachers.** The term "teacher" includes every person regularly employed, as a
5.6 principal, or to give instruction in a classroom, or to superintend or supervise classroom
5.7 instruction, or as placement teacher and visiting teacher. Persons regularly employed as
5.8 counselors and school librarians shall be covered by these sections as teachers if licensed
5.9 as teachers or as school librarians.

5.10 (b) **School board.** The term "school board" includes a majority in membership
5.11 of any and all boards or official bodies having the care, management, or control over
5.12 public schools.

5.13 (c) **Demote.** The word "demote" means to reduce ~~in rank or to transfer to a lower~~
5.14 ~~branch of the service or to a position carrying a lower salary or~~ the compensation a person
5.15 actually receives in the new position.

5.16 (d) **Nonprovisional license.** For purposes of this section, "nonprovisional license"
5.17 shall mean an entrance, continuing, or life license.

5.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.

5.19 Sec. 5. Minnesota Statutes 2010, section 122A.41, subdivision 2, is amended to read:

5.20 Subd. 2. **Probationary period; discharge or demotion.** (a) All teachers in
5.21 the public schools in cities of the first class during the first three years of consecutive
5.22 employment shall be deemed to be in a probationary period of employment during which
5.23 period any annual contract with any teacher may, or may not, be renewed as the school
5.24 board, after consulting with the peer review committee charged with evaluating the
5.25 probationary teachers under subdivision 3, shall see fit. The school site management team
5.26 or the school board if there is no school site management team, shall adopt a plan for a
5.27 written evaluation of teachers during the probationary period according to subdivision
5.28 3. Evaluation by the peer review committee charged with evaluating probationary
5.29 teachers under subdivision 3 shall occur at least three times periodically throughout each
5.30 school year for a teacher performing services on 120 or more school days, at least two
5.31 times each year for a teacher performing services on 60 to 119 school days, and at least
5.32 one time each year for a teacher performing services on fewer than 60 school days. Days
5.33 devoted to parent-teacher conferences, teachers' workshops, and other staff development
5.34 opportunities and days on which a teacher is absent from school shall not be included in
5.35 determining the number of school days on which a teacher performs services. The school

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6.1 board may, during such probationary period, discharge or demote a teacher for any of the
6.2 causes as specified in this code. A written statement of the cause of such discharge or
6.3 demotion shall be given to the teacher by the school board at least 30 days before such
6.4 removal or demotion shall become effective, and the teacher so notified shall have no
6.5 right of appeal therefrom.

6.6 (b) A probationary teacher whose first three years of consecutive employment are
6.7 interrupted for active military service and who promptly resumes teaching consistent with
6.8 federal reemployment timelines for uniformed service personnel under United States
6.9 Code, title 38, section 4312(e), is considered to have a consecutive teaching experience
6.10 for purposes of paragraph (a).

6.11 (c) A probationary teacher must complete ~~at least 60~~ 120 days of teaching service
6.12 each year during the probationary period. Days devoted to parent-teacher conferences,
6.13 teachers' workshops, and other staff development opportunities and days on which a
6.14 teacher is absent from school do not count as days of teaching service under this paragraph.

6.15 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.16 Sec. 6. Minnesota Statutes 2010, section 122A.41, subdivision 5a, is amended to read:

6.17 Subd. 5a. **Probationary period for principals hired internally.** ~~A board and the~~
6.18 ~~exclusive representative of the school principals in the district may negotiate a plan for~~ A
6.19 probationary period of ~~up to~~ two school years is required for licensed teachers employed
6.20 by the board who are subsequently employed by the board as a licensed school principal
6.21 or assistant principal and an additional probationary period of ~~up to~~ two years is required
6.22 for licensed assistant principals employed by the board who are subsequently employed
6.23 by the board as a licensed school principal. A licensed teacher subsequently employed by
6.24 the board as a licensed school principal or assistant principal retains his or her continuing
6.25 contract status as a licensed teacher during the probationary period under this subdivision
6.26 and has the right to return to his or her previous position or an equivalent position, if
6.27 available, if the teacher is not promoted.

6.28 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.29 Sec. 7. Minnesota Statutes 2010, section 122A.41, subdivision 10, is amended to read:

6.30 Subd. 10. **Decision, when rendered.** The hearing must be concluded and a decision
6.31 in writing, stating the grounds on which it is based, rendered within 25 days after giving of
6.32 such notice. Where the hearing is before a school board the teacher may be discharged
6.33 or demoted upon the affirmative vote of a majority of the members of the board. If the

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7.1 charges, or any of such, are found to be true, the board conducting the hearing must
7.2 discharge, demote, or suspend the teacher, as seems to be for the best interest of the school.
7.3 ~~A teacher must not be discharged for either of the causes specified in subdivision 6, clause~~
7.4 ~~(3), except during the school year, and then only upon charges filed at least four months~~
7.5 ~~before the close of the school sessions of such school year.~~

7.6 **EFFECTIVE DATE.** This section is effective the day following final enactment.

7.7 Sec. 8. Minnesota Statutes 2010, section 122A.41, subdivision 14, is amended to read:

7.8 Subd. 14. **Services terminated by discontinuance or lack of pupils; preference**
7.9 **given.** (a) ~~A teacher whose services are terminated on account of discontinuance of~~
7.10 ~~position or lack of pupils must receive first consideration for other positions in the district~~
7.11 ~~for which that teacher is qualified.~~ In the event it becomes necessary to discontinue
7.12 one or more positions, in making such discontinuance, teachers must receive first
7.13 consideration for other positions in the district for which that teacher is qualified and must
7.14 be discontinued in any department in the inverse order in which they were employed,
7.15 unless a board and the exclusive representative of teachers in the district negotiate a
7.16 plan providing otherwise.

7.17 (b) The board may exempt from the effects of paragraph (a) those teachers who
7.18 teach in a Montessori or a language immersion program or provide instruction in an
7.19 advanced placement course and who, in the superintendent's judgment, meet a unique
7.20 need in delivering curriculum. However, within the Montessori or language immersion
7.21 program, a teacher shall be discontinued based on the inverse order in which the teacher
7.22 was employed.

7.23 ~~(b)~~ (c) Notwithstanding the provisions of clause (a), a teacher is not entitled to
7.24 exercise any seniority when that exercise results in that teacher being retained by the
7.25 district in a field for which the teacher holds only a provisional license, as defined by the
7.26 Board of Teaching, unless that exercise of seniority results in the termination of services,
7.27 on account of discontinuance of position or lack of pupils, of another teacher who also
7.28 holds a provisional license in the same field. The provisions of this clause do not apply
7.29 to vocational education licenses.

7.30 ~~(c)~~ (d) Notwithstanding the provisions of clause (a), a teacher must not be reinstated
7.31 to a position in a field in which the teacher holds only a provisional license, other than a
7.32 vocational education license, while another teacher who holds a nonprovisional license in
7.33 the same field is available for reinstatement.