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State of Minnesota

HOUSE OF REPRESENTATIVES

EIGHTY-EIGHTH SESSION

H. F. No. 2380

02/27/2014 Authored by Erickson, S.; Myhra and Woodard
The bill was read for the first time and referred to the Committee on Education Policy

1.1 A bill for an act
1.2 relating to education; making decisions affecting teachers' unrequested leaves of
1.3 absence and teaching assignments; amending Minnesota Statutes 2012, sections
1.4 122A.40, subdivision 10; 122A.41, subdivision 14; repealing Minnesota Statutes
1.5 2012, section 122A.40, subdivision 11.

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

1.7 Section 1. Minnesota Statutes 2012, section 122A.40, subdivision 10, is amended to
1.8 read:

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

1.20 (b) For purposes of placing a teacher on unrequested leave of absence or recalling
1.21 a teacher from unrequested leave of absence, a school board is not required to reassign
1.22 a teacher with more seniority to accommodate the seniority claims of a teacher who is
1.23 similarly licensed and effective but with less seniority.

1.24 (c) Notwithstanding other law to the contrary, if a school board and the exclusive
1.25 representative of the teachers do not agree to a plan providing for unrequested leaves of

2.1 absence under paragraph (a), the school board must base decisions affecting teachers'  
 2.2 unrequested leaves of absence and teaching assignments on teacher evaluation outcomes  
 2.3 under subdivision 8.

2.4 **EFFECTIVE DATE.** This section is effective beginning in the 2016-2017 school  
 2.5 year and later.

2.6 Sec. 2. Minnesota Statutes 2012, section 122A.41, subdivision 14, is amended to read:

2.7 Subd. 14. **Services terminated by discontinuance or lack of pupils; preference**  
 2.8 **given.** (a) A teacher whose services are terminated on account of discontinuance of  
 2.9 position or lack of pupils must receive first consideration for other positions in the district  
 2.10 for which that teacher is qualified. In the event it becomes necessary to discontinue  
 2.11 one or more positions, in making such discontinuance, teachers must be discontinued  
 2.12 in any department in the inverse order in which they were employed, unless a board  
 2.13 and the exclusive representative of teachers in the district negotiate a plan providing  
 2.14 otherwise. For purposes of discharging, demoting, or recalling a teacher whose services  
 2.15 are discontinued or terminated under this subdivision, a school board is not required to  
 2.16 reassign a teacher with more seniority to accommodate the seniority claims of a teacher  
 2.17 who is similarly licensed and effective but with less seniority.

2.18 (b) Notwithstanding the provisions of clause (a), a teacher is not entitled to exercise  
 2.19 any seniority when that exercise results in that teacher being retained by the district in  
 2.20 a field for which the teacher holds only a provisional license, as defined by the Board  
 2.21 of Teaching, unless that exercise of seniority results in the termination of services, on  
 2.22 account of discontinuance of position or lack of pupils, of another teacher who also  
 2.23 holds a provisional license in the same field. The provisions of this clause do not apply  
 2.24 to vocational education licenses.

2.25 (c) Notwithstanding the provisions of clause (a), a teacher must not be reinstated  
 2.26 to a position in a field in which the teacher holds only a provisional license, other than a  
 2.27 vocational education license, while another teacher who holds a nonprovisional license in  
 2.28 the same field is available for reinstatement.

2.29 (d) Notwithstanding other provisions of this subdivision, a school board may base  
 2.30 decisions affecting teachers' unrequested leaves of absence and teaching assignments on  
 2.31 teacher evaluation outcomes under subdivision 5.

2.32 **EFFECTIVE DATE.** This section is effective beginning in the 2016-2017 school  
 2.33 year and later.

3.1 Sec. 3. **REPEALER.**

3.2 Minnesota Statutes 2012, section 122A.40, subdivision 11, is repealed.

3.3 **EFFECTIVE DATE.** This section is effective for the 2016-2017 school year and

3.4 later.

**122A.40 EMPLOYMENT; CONTRACTS; TERMINATION.**

Subd. 11. **Unrequested leave of absence.** The board may place on unrequested leave of absence, without pay or fringe benefits, as many teachers as may be necessary because of discontinuance of position, lack of pupils, financial limitations, or merger of classes caused by consolidation of districts. The unrequested leave is effective at the close of the school year. In placing teachers on unrequested leave, the board is governed by the following provisions:

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

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

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

(d) Notwithstanding paragraphs (a), (b), and (c), if the placing of a probationary teacher on unrequested leave before a teacher who has acquired continuing rights, the placing of a teacher who has acquired continuing contract rights on unrequested leave before another teacher who has acquired continuing contract rights but who has greater seniority, or the restriction imposed by the provisions of paragraph (c) would place the district in violation of its affirmative action program, the district may retain the probationary teacher, the teacher with less seniority, or the provisionally licensed teacher;

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

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

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

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

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

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

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