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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. **3555**

02/17/2022

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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; modifying unrequested leave of absence provisions for
1.3 teachers; amending Minnesota Statutes 2020, sections 122A.40, subdivisions 5,
1.4 10, by adding a subdivision; 122A.41, subdivisions 2, 14a, by adding a subdivision.

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

1.6 Section 1. Minnesota Statutes 2020, section 122A.40, subdivision 5, is amended to read:

1.7 Subd. 5. **Probationary period.** (a) The first three consecutive years of a teacher's first
1.8 teaching experience in Minnesota in a single district is deemed to be a probationary period
1.9 of employment, and, the probationary period in each district in which the teacher is thereafter
1.10 employed shall be one year. The school board must adopt a plan for written evaluation of
1.11 teachers during the probationary period that is consistent with subdivision 8. Evaluation
1.12 must occur at least three times periodically throughout each school year for a teacher
1.13 performing services during that school year; the first evaluation must occur within the first
1.14 90 days of teaching service. Days devoted to parent-teacher conferences, teachers' workshops,
1.15 and other staff development opportunities and days on which a teacher is absent from school
1.16 must not be included in determining the number of school days on which a teacher performs
1.17 services. Except as otherwise provided in paragraph (b), during the probationary period any
1.18 annual contract with any teacher may or may not be renewed as the school board shall see
1.19 fit. However, the board must give any such teacher whose contract it declines to renew for
1.20 the following school year written notice to that effect before July 1. If the teacher requests
1.21 reasons for any nonrenewal of a teaching contract, the board must give the teacher its reason
1.22 in writing, including a statement that appropriate supervision was furnished describing the
1.23 nature and the extent of such supervision furnished the teacher during the employment by
1.24 the board, within ten days after receiving such request. The school board may, after a hearing

2.1 held upon due notice, discharge a teacher during the probationary period for cause, effective
2.2 immediately, under section 122A.44.

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

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

2.11 (d) A probationary teacher whose first three years of consecutive employment are
2.12 interrupted for maternity, paternity, or medical leave and who resumes teaching within 12
2.13 months of when the leave began is considered to have a consecutive teaching experience
2.14 for purposes of paragraph (a) if the probationary teacher completes a combined total of
2.15 three years of teaching service immediately before and after the leave.

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

2.20 (f) A board may renew a probationary teacher while placing teachers with continuing
2.21 contracts on unrequested leave of absence pursuant to a plan adopted under subdivisions
2.22 10 and 10a.

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

2.24 Sec. 2. Minnesota Statutes 2020, section 122A.40, subdivision 10, is amended to read:

2.25 Subd. 10. **Negotiated unrequested leave of absence.** (a) The school board and the
2.26 exclusive bargaining representative of the teachers must negotiate a plan providing for
2.27 unrequested leave of absence without pay or fringe benefits for as many teachers as may
2.28 be necessary because of discontinuance of position, lack of pupils, financial limitations, or
2.29 merger of classes caused by consolidation of districts.

2.30 (b) A plan may include a process to exempt up to five percent of the teachers in the
2.31 district from unrequested leave of absence or nonrenewal regardless of a teacher's
2.32 probationary status or seniority if the plan meets the requirements of subdivision 10a and

3.1 if the board and the exclusive representative of the teachers agree in writing to the process
3.2 by October 1 of each school year.

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

3.4 Sec. 3. Minnesota Statutes 2020, section 122A.40, is amended by adding a subdivision to
3.5 read:

3.6 **Subd. 10a. Unrequested leave of absence exemption process.** (a) A plan to exempt
3.7 up to five percent of the teachers in the district from unrequested leave of absence or
3.8 nonrenewal must establish a committee to select teachers to receive the exemption. The
3.9 committee must have an equal number of representatives selected by the superintendent
3.10 and the exclusive representative. The committee must have at least three representatives
3.11 appointed by the superintendent and three representatives appointed by the exclusive
3.12 representative. School districts and exclusive representatives are strongly encouraged to
3.13 include members of underrepresented communities as committee representatives. The
3.14 committee must complete comprehensive antiracism training conducted by a training provider
3.15 approved by the Professional Educator Licensing and Standards Board before beginning
3.16 the selection process.

3.17 (b) A teacher selected for exemption from unrequested leave of absence or nonrenewal
3.18 must have demonstrated excellent teaching or professional performance, as determined by
3.19 colleagues, mentors, and administrators. In addition, the teacher must be a member of a
3.20 protected class that:

3.21 (1) is underrepresented among either (i) teachers in the district relative to the percentage
3.22 of students in the protected class enrolled in the district, or (ii) licensed teachers in Minnesota;
3.23 and

3.24 (2) has experienced systemic barriers to entering and remaining in the teaching profession,
3.25 as determined by the committee.

3.26 (c) The district and exclusive representative may negotiate additional criteria for the
3.27 committee to consider, including licensure tier. The committee may annually determine by
3.28 majority vote the percentage of teachers eligible for the exemption, not to exceed five percent
3.29 of teachers in the district.

3.30 (d) The committee must make final decisions and notify affected teachers no later than
3.31 February 1 of each school year. The exemption is valid for the school year in which the
3.32 exemption is granted unless the committee renews the exemption in a subsequent year. The
3.33 committee may, by majority vote, grant a teacher a two-year exemption from nonrenewal.

4.1 (e) If the committee is unable to reach a consensus regarding teacher selections, the
4.2 committee must vote on each candidate for the exemption. The candidates receiving the
4.3 most votes must be granted the exemption until the number of teachers receiving the
4.4 exemption reaches the lesser of five percent of the teachers in the district or the percentage
4.5 determined by majority vote of the committee.

4.6 (f) Data on individual teachers collected, created, received, maintained, or disseminated
4.7 by the committee are private personnel data pursuant to section 13.43.

4.8 (g) A dispute over violations of procedures under this section is subject to the grievance
4.9 procedure in the applicable collective bargaining agreement.

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

4.11 Sec. 4. Minnesota Statutes 2020, section 122A.41, subdivision 2, is amended to read:

4.12 Subd. 2. **Probationary period; discharge or demotion.** (a) All teachers in the public
4.13 schools in cities of the first class during the first three years of consecutive employment
4.14 shall be deemed to be in a probationary period of employment during which period any
4.15 annual contract with any teacher may, or may not, be renewed as the school board, after
4.16 consulting with the peer review committee charged with evaluating the probationary teachers
4.17 under subdivision 3, shall see fit. The school site management team or the school board if
4.18 there is no school site management team, shall adopt a plan for a written evaluation of
4.19 teachers during the probationary period according to subdivisions 3 and 5. Evaluation by
4.20 the peer review committee charged with evaluating probationary teachers under subdivision
4.21 3 shall occur at least three times periodically throughout each school year for a teacher
4.22 performing services during that school year; the first evaluation must occur within the first
4.23 90 days of teaching service. Days devoted to parent-teacher conferences, teachers' workshops,
4.24 and other staff development opportunities and days on which a teacher is absent from school
4.25 shall not be included in determining the number of school days on which a teacher performs
4.26 services. The school board may, during such probationary period, discharge or demote a
4.27 teacher for any of the causes as specified in this code. A written statement of the cause of
4.28 such discharge or demotion shall be given to the teacher by the school board at least 30
4.29 days before such removal or demotion shall become effective, and the teacher so notified
4.30 shall have no right of appeal therefrom.

4.31 (b) A probationary teacher whose first three years of consecutive employment are
4.32 interrupted for active military service and who promptly resumes teaching consistent with
4.33 federal reemployment timelines for uniformed service personnel under United States Code,

title 38, section 4312(e), is considered to have a consecutive teaching experience for purposes of paragraph (a).

(c) A probationary teacher whose first three years of consecutive employment are interrupted for maternity, paternity, or medical leave and who resumes teaching within 12 months of when the leave began is considered to have a consecutive teaching experience for purposes of paragraph (a) if the probationary teacher completes a combined total of three years of teaching service immediately before and after the leave.

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

(e) A board may renew a probationary teacher while placing teachers with continuing contracts on unrequested leave of absence pursuant to a plan adopted under subdivisions 14a and 14b.

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

Sec. 5. Minnesota Statutes 2020, section 122A.41, subdivision 14a, is amended to read:

Subd. 14a. **Negotiated unrequested leave of absence.** (a) The school board and the exclusive bargaining representative of the teachers must negotiate a plan providing for unrequested leave of absence without pay or fringe benefits for 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.

(b) A plan may include a process to exempt up to five percent of the teachers in the district from unrequested leave of absence or nonrenewal regardless of a teacher's probationary status or seniority if the plan meets the requirements of subdivision 10a and if the board and the exclusive representative of the teachers agree in writing to the process by October 1 of each school year.

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

Sec. 6. Minnesota Statutes 2020, section 122A.41, is amended by adding a subdivision to read:

Subd. 14b. **Unrequested leave of absence exemption process.** (a) A plan to exempt up to five percent of the teachers in the district from unrequested leave of absence or nonrenewal must establish a committee to select teachers to receive the exemption. The

committee must have an equal number of representatives selected by the superintendent and the exclusive representative. The committee must have at least three representatives appointed by the superintendent and three representatives appointed by the exclusive representative. School districts and exclusive representatives are strongly encouraged to include members of underrepresented communities as committee representatives. The committee must complete comprehensive antiracism training conducted by a training provider approved by the Professional Educator Licensing and Standards Board before beginning the selection process.

(b) A teacher selected for exemption from unrequested leave of absence or nonrenewal must have demonstrated excellent teaching or professional performance, as determined by colleagues, mentors, and administrators. In addition, the teacher must be a member of a protected class that:

(1) is underrepresented among either (i) teachers in the district relative to the percentage of students in the protected class enrolled in the district, or (ii) licensed teachers in Minnesota; and

(2) has experienced systemic barriers to entering and remaining in the teaching profession, as determined by the committee.

(c) The district and exclusive representative may negotiate additional criteria for the committee to consider, including licensure tier. The committee may annually determine by majority vote the percentage of teachers eligible for the exemption, not to exceed five percent of teachers in the district.

(d) The committee must make final decisions and notify affected teachers no later than February 1 of each school year. The exemption is valid for the school year in which the exemption is granted unless the committee renews the exemption in a subsequent year. The committee may, by majority vote, grant a teacher a two-year exemption from nonrenewal.

(e) If the committee is unable to reach a consensus regarding teacher selections, the committee must vote on each candidate for the exemption. The candidates receiving the most votes must be granted the exemption until the number of teachers receiving the exemption reaches the lesser of five percent of the teachers in the district or the percentage determined by majority vote of the committee.

(f) Data on individual teachers collected, created, received, maintained, or disseminated by the committee are private personnel data pursuant to section 13.43.

- 7.1 (g) A dispute over violations of procedures under this section is subject to the grievance
- 7.2 procedure in the applicable collective bargaining agreement.
- 7.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.