

**SENATE**  
**STATE OF MINNESOTA**  
**NINETIETH SESSION**

**S.F. No. 2127**

(SENATE AUTHORS: HOUSLEY and Pratt)

DATE  
03/15/2017

D-PG  
1487 Introduction and first reading  
Referred to E-12 Policy

OFFICIAL STATUS

1.1 A bill for an act  
 1.2 relating to education; modifying unrequested leave of absence provisions; amending  
 1.3 Minnesota Statutes 2016, sections 122A.40, subdivision 10; 122A.41, by adding  
 1.4 a subdivision; repealing Minnesota Statutes 2016, sections 122A.40, subdivision  
 1.5 11; 122A.41, subdivision 14.

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

1.7 Section 1. Minnesota Statutes 2016, section 122A.40, subdivision 10, is amended to read:

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

1.19 **EFFECTIVE DATE.** This section is effective July 1, 2018.

1.20 Sec. 2. Minnesota Statutes 2016, section 122A.41, is amended by adding a subdivision to  
 1.21 read:

1.22 Subd. 14a. **Negotiated unrequested leave of absence.** The school board and the exclusive  
 1.23 bargaining representative of the teachers must negotiate a plan providing for unrequested

2.1 leave of absence without pay or fringe benefits for as many teachers as may be necessary  
2.2 because of discontinuance of position, lack of pupils, financial limitations, or merger of  
2.3 classes caused by consolidation of districts.

2.4 **EFFECTIVE DATE.** This section is effective July 1, 2018.

2.5 Sec. 3. **REPEALER.**

2.6 Minnesota Statutes 2016, sections 122A.40, subdivision 11; and 122A.41, subdivision  
2.7 14, are repealed effective July 1, 2018.

**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.

**122A.41 TEACHER TENURE ACT; CITIES OF THE FIRST CLASS;  
DEFINITIONS.**

Subd. 14. **Services terminated by discontinuance or lack of pupils; preference given.**

(a) A teacher whose services are terminated on account of discontinuance of position or lack of pupils must receive first consideration for other positions in the district for which that teacher is

## APPENDIX

### Repealed Minnesota Statutes: 17-3091

qualified. In the event it becomes necessary to discontinue one or more positions, in making such discontinuance, teachers must be discontinued in any department in the inverse order in which they were employed, unless a board and the exclusive representative of teachers in the district negotiate a plan providing otherwise.

(b) Notwithstanding the provisions of clause (a), 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 termination of services, on account of discontinuance of position or lack of pupils, of another teacher who also holds a provisional license in the same field. The provisions of this clause do not apply to vocational education licenses.

(c) Notwithstanding the provisions of clause (a), 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 is available for reinstatement.