

SECOND REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 2059
94TH GENERAL ASSEMBLY

Reported from the Special Committee on General Laws April 7, 2008 with recommendation that House Committee Substitute for House Bill No. 2059 Do Pass. Referred to the Committee on Rules pursuant to Rule 25(21)(f).

D. ADAM CRUMBLISS, Chief Clerk

3324L.02C

AN ACT

To repeal section 295.070, RSMo, and to enact in lieu thereof twenty new sections relating to professional relationships between teachers and school districts, with penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 295.070, RSMo, is repealed and twenty new sections enacted in lieu thereof, to be known as sections 160.1000, 160.1003, 160.1006, 160.1009, 160.1012, 160.1015, 160.1018, 160.1021, 160.1024, 160.1027, 160.1030, 160.1033, 160.1036, 160.1039, 160.1042, 160.1045, 160.1048, 160.1051, 160.1054, and 295.070, to read as follows:

160.1000. 1. Sections 160.1000 to 160.1054 shall be known and may be cited as the "Professional Relationships Between Teachers and School Districts Act". Nothing in sections 160.1000 to 160.1054 shall be construed to permit any public school employee to engage in or support a strike, nor to prohibit any public school employee from joining or participating in any employee organization.

2. Sections 160.1000 to 160.1054 shall supersede sections 105.500 to 105.530, RSMo, to the extent it applies to public school employees, as defined in section 160.1003. Sections 160.1000 to 160.1054 shall not supersede provisions of this chapter, chapters 161 to 186, RSMo, chapter 295, RSMo, and the rules and regulations of public school employers which establish and regulate tenure or a merit or civil service system or which provide for other methods of administering employer-employee relations, so long as the rules and regulations or other methods of the public school employer do not conflict with sections 160.1000 to

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

13 **160.1054 or with lawful collective agreements negotiated under sections 160.1000 to**
14 **160.1054.**

2 **160.1003. As used in sections 160.1000 to 160.1054, the following words and phrases**
3 **shall mean:**

4 **(1) "Commission", the board of mediation created in chapter 295, RSMo;**

5 **(2) "Confidential employee", any employee who, in the regular course of his or her**
6 **duties, has access to or possesses information relating to his or her employer's employer-**
7 **employee relations;**

8 **(3) "Employee organization", any organization, agency, association, union,**
9 **committee, council, or group of any kind, except an employee representation council, that**
10 **includes employees of a public school employer and which has as one of its primary**
11 **purposes representing those employees in their relations with that public school employer.**
12 **"Employee organization" shall also include any person such an organization authorizes**
13 **to act on its behalf;**

14 **(4) "Employee representation council" or "council", the council of employee**
15 **organizations established for an appropriate unit as described in 160.1045 to meet and**
16 **negotiate with the employer over terms and conditions of employment. "Employee**
17 **representation council" shall also include any person such council authorizes to act on its**
18 **behalf. All members of the employee representation council shall be certified employees**
19 **of the school districts for which they are meeting and negotiating;**

20 **(5) "Good faith", using best endeavors to enter into an arrangement to set out a**
21 **process for conducting the negotiating in an effective manner, considering and responding**
22 **to proposals made by each party to the other, and not acting to undermine the negotiating**
23 **process. It also requires cooperation in the negotiating process by scheduling and**
24 **attending meetings at a reasonable time, listening and considering proposals made by the**
25 **other side, and trying to resolve differences in an acceptable way;**

26 **(6) "Lockout", an action by a public school employer to provoke interruptions of**
27 **or prevent the continuity of work normally and usually performed by school district**
28 **employees for the purpose of coercing such employees, employee organizations, or the**
29 **employee representation council that represents them into accepting the employer's terms**
30 **of settlement of a labor dispute, or otherwise relinquishing rights guaranteed by sections**
31 **160.1000 to 160.1054;**

32 **(7) "Management employee", any employee in a position having significant**
33 **responsibilities for formulating district policies or administering district programs,**
34 **including any person who is employed in an administrative capacity and who is fulfilling**

34 duties for which an administrator's certificate is required under section 168.081, RSMo.
35 Management positions shall be designated by the public school employer;

36 (8) "Meeting and negotiating", meeting, conferring, negotiating, and discussing
37 between the employee representation council and the public school employer in a good
38 faith effort to reach an agreement on matters within the scope of representation and the
39 execution of a written document incorporating any agreements reached, which document
40 shall, when accepted by the council and the public school employer, become binding upon
41 all parties. The agreement may be for a period of up to, but not to exceed three years;

42 (9) "Public school employee" or "employee", any person holding a valid teaching
43 certificate employed by any public school employer, except persons elected by popular vote,
44 persons appointed by the governor of this state, management employees, supervisory
45 employees, and confidential employees;

46 (10) "Public school employer" or "employer", the governing board of a public
47 school district or a school district itself, including a common or seven-director school
48 district, a metropolitan or urban school district, a county board of education, a county
49 superintendent of schools, a special school district or cooperative, a community or junior
50 college district, or a special administrative board established by the state board of
51 education. "Public school employer" shall also include any person such an employer
52 authorizes to act on its behalf;

53 (11) "Strike", the concerted failure to report for duty, the willful absence from
54 one's position, the stoppage of work, or the abstinence in whole or in part from the full,
55 faithful, and proper performance of the duties of employment for the purpose of inducing,
56 influencing, or coercing a change in employment conditions, compensation, or the rights,
57 privileges, or obligations of employment, or to protest or respond to an act alleged or
58 determined to be a violation of sections 160.1000 to 160.1054 committed by the public
59 school employer;

60 (12) "Supervisory employee", any employee, regardless of job description, having
61 authority in the interest of the employer to hire, transfer, suspend, lay off, recall, promote,
62 discharge, or discipline other employees, or the responsibility to assign work to and direct
63 them, or to adjust their grievances, or effectively recommend such action, if, in connection
64 with the foregoing functions, the exercise of that authority is not of a merely routine or
65 clerical nature, but requires the use of independent judgment.

160.1006. In addition to other authority granted, the commission, when dealing
2 with public schools, shall also have the following authority:

3 (1) To participate in any case pending before the commission;

4 (2) Within its discretion, to conduct studies relating to employer-employee
5 relations, including the collection, analysis, and making available of data relating to wages,
6 benefits, and employment practices in public and private employment;

7 (3) To develop and maintain research and training programs, either through use
8 of commission staff or by entering into contracts with independent contractors, to assist
9 public school employers, employee representation councils, and employee organizations in
10 the discharge of their responsibilities under sections 160.1000 to 160.1054;

11 (4) To adopt rules and regulations to carry out the provisions and effectuate the
12 purposes and policies of sections 160.1000 to 160.1054;

13 (5) To hold hearings, subpoena witnesses, administer oaths, take the testimony or
14 deposition of any person, and, in connection therewith, to issue subpoenas duces tecum to
15 require the production and examination of any employer, employee representation council,
16 or employee organization records, books, or papers relating to any matter within its
17 jurisdiction, provided that such information shall remain confidential and not be disclosed
18 by the commission;

19 (6) To investigate violations or alleged violations of sections 160.1000 to 160.1054,
20 and take any action and make any determinations in respect of these charges or alleged
21 violations as the commission deems necessary to effectuate the policies of sections 160.1000
22 to 160.1054;

23 (7) To bring an action in a court of competent jurisdiction to enforce any of its
24 orders, decisions, or rulings, or to enforce the refusal to obey a subpoena. Upon issuance
25 of a complaint charging that any person or party has engaged in or is engaging in a
26 violation of sections 160.1000 to 160.1054, the commission may petition the court for
27 appropriate temporary relief or restraining order;

28 (8) To delegate its powers to any member of the commission or to any person
29 appointed by the commission for the performance of its functions, except that no fewer
30 than three commission members may participate in the determination of any ruling or
31 decision on the merits of any dispute coming before it, and except that a decision to refuse
32 to issue a complaint shall require the approval of at least three commission members;

33 (9) To take any other action as the commission deems necessary to discharge its
34 authority and duties and otherwise to effectuate the purposes of sections 160.1000 to
35 160.1054.

160.1009. 1. A person commits the crime of interfering with the state board of
2 mediation if he or she purposely resists, prevents, impedes, or interferes with any member
3 of the state board of mediation, or any of their agents in the performance of their duties
4 under sections 160.1000 to 160.1054.

5 **2. The crime of interfering with the state board of mediation is a class A**
6 **misdemeanor.**

160.1012. 1. The initial determination as to whether there are violations of sections
2 **160.1000 to 160.1054 that are justified, and if so, what remedy is necessary to effectuate the**
3 **purposes of sections 160.1000 to 160.1054, shall be a matter within the exclusive**
4 **jurisdiction of the commission. Procedures for investigating, hearing, and deciding such**
5 **cases shall be devised and promulgated by the commission.**

6 **2. Any employee, employee organization, employee representation council, or**
7 **employer shall have the right to file a charge of a violation of sections 160.1000 to 160.1054,**
8 **except that the commission shall not do the following:**

9 **(1) Issue a complaint with respect of any charge based upon an alleged violation of**
10 **sections 160.1000 to 160.1054 occurring more than six months prior to the filing of the**
11 **charge;**

12 **(2) Issue a complaint against conduct also prohibited by the provisions of a**
13 **negotiated agreement until the grievance machinery of the agreement, if it exists and covers**
14 **the matter at issue, has been exhausted. However, when the charging party demonstrates**
15 **that resort to a contractual grievance procedure would be futile, exhaustion shall not be**
16 **necessary. The commission shall have discretionary jurisdiction to review the settlement**
17 **award reached under the grievance machinery solely for the purpose of determining**
18 **whether it is repugnant to the purposes of sections 160.1000 to 160.1054. If the commission**
19 **finds that the settlement is repugnant to the purposes of sections 160.1000 to 160.1054, it**
20 **shall issue a complaint on the basis of a timely filed charge, and hear and decide the case**
21 **on the merits. Otherwise, it shall dismiss the charge. The commission shall, in determining**
22 **whether the charge was timely filed, consider the six-month limitation set forth in this**
23 **subsection to have been tolled during the time it took the charging party to exhaust the**
24 **grievance machinery.**

25 **3. The commission shall not have the authority to enforce agreements between the**
26 **parties, and shall not issue a complaint on any charge based on alleged violations of any**
27 **agreement that would not also constitute a violation of sections 160.1000 to 160.1054.**

28 **4. The commission shall have the power to issue a decision and order directing an**
29 **offending party to cease and desist from violating sections 160.1000 to 160.1054 and to take**
30 **such affirmative action, including but not limited to, the reinstatement of employees with**
31 **or without back pay, as will effectuate the policies of sections 160.1000 to 160.1054.**

32 **5. (1) Any charging party, respondent, or intervener aggrieved by the final decision**
33 **or order of the commission in a case of a violation of sections 160.1000 to 160.1054, except**

34 a decision of the commission not to issue a complaint in such a case, may petition for
35 judicial review of such decision or order.

36 (2) Such petition shall be filed in the circuit court of the county where the school
37 district is located. The petition shall be filed within thirty days after issuance of the
38 commission's final order, order denying reconsideration, or order joining in the request
39 for judicial review, as applicable. Upon the filing of such petition, the court shall cause
40 notice to be served upon the commission and thereupon shall have jurisdiction of the
41 proceeding. The commission shall file in the court the record of the proceeding, certified
42 by the commission, within ten days after the clerk's notice unless such time is extended by
43 the court for good cause shown. The court shall have jurisdiction to grant to the
44 commission such temporary relief or restraining order it deems just and proper and in like
45 manner to make and enter a decree enforcing, modifying, or setting aside the order of the
46 commission. The findings of the commission with respect to questions of fact, including
47 ultimate facts, if supported by competent and substantial evidence on the record
48 considered as a whole, shall be conclusive.

49 (3) If the time to petition for extraordinary relief from a commission decision has
50 expired, the commission shall seek enforcement of any final decision or order in a circuit
51 court in the school district where the violation case occurred. The commission shall
52 respond within ten days to any inquiry from a party to the action as to why the commission
53 has not sought court enforcement of the final decision or order. If the response does not
54 indicate that there has been compliance with the commission's final decision or order, the
55 commission shall seek enforcement of the final decision or order upon the request of the
56 party. The commission shall file in the court the record of the proceeding, certified by the
57 commission, and appropriate evidence disclosing the failure to comply with the decision
58 or order. If, after a hearing, the court determines that the order was issued under
59 procedures established by the commission and that the person or entity refuses to comply
60 with the order, the court shall enforce such order by writ of mandamus. The court shall
61 not review the merits of the order.

160.1015. 1. Public school employees shall have the right to form, join, and
2 participate in the activities of any organization, agency, association, committee, union, or
3 employee representation council for the purpose of representation on all matters of
4 employer-employee relations under sections 160.1000 to 160.1054. Public school employees
5 shall also have the right to refrain from any or all of such activities.

6 2. Any employee may at any time present grievances to his or her employer without
7 the intervention of an employee representation council or employee organization.

8 **3. Nothing in sections 160.1000 to 160.1054 shall be construed to limit, impair, or**
9 **affect the right of a public school employee to the expression or communication of a view,**
10 **grievance, complaint, or opinion on any matter related to the conditions or compensation**
11 **of public school employment or their betterment as long as the expression or**
12 **communication does not interfere with the full, faithful, and proper performance of the**
13 **duties of employment.**

160.1018. 1. Employee organizations shall have the right to represent their
2 **members in their professional and employment relations with public school employers.**
3 **Employee organizations may establish reasonable restrictions regarding who may join and**
4 **may make reasonable provisions for the dismissal of individuals from membership.**

5 **2. Employee organizations shall have access to use institutional facilities at**
6 **reasonable times for the purpose of meetings concerning the exercise of rights guaranteed**
7 **by sections 160.1000 to 160.1054.**

8 **3. All employee organizations shall have the right to have membership dues**
9 **deducted under section 168.300, RSMo. In addition, any school district that grants payroll**
10 **deduction for membership dues for one employee organization shall allow all employee**
11 **organizations the opportunity to have membership dues deducted. The right to have dues**
12 **deducted can be removed under subsection 2 of section 160.1042.**

160.1021. 1. Employee representation councils shall have the right to represent
2 **employees in their appropriate unit in a school district in their professional and**
3 **employment relations with public school employers.**

4 **2. Employee representation councils shall be allowed to communicate with**
5 **members of the employee unit, subject to reasonable regulation, and the right to use**
6 **institutional facilities at reasonable times for the purpose of meetings concerned with the**
7 **exercise of the rights guaranteed by sections 160.1000 to 160.1054.**

160.1024. A person serving in a management position, supervisory position, or a
2 **confidential position may represent himself or herself individually in his or her**
3 **employment relationship with the public school employer. An employee representation**
4 **council shall not be permitted by a public school employer to meet and negotiate on any**
5 **benefit or compensation paid to persons serving in a management position, supervisory**
6 **position, or a confidential position.**

160.1027. 1. It shall be a violation of sections 160.1000 to 160.1054 and unlawful
2 **for a public school employer to do any of the following:**

3 **(1) Impose or threaten to impose reprisals on employees, to discriminate or threaten**
4 **to discriminate against employees, or otherwise to interfere with, restrain, or coerce**
5 **employees because of their exercise of rights guaranteed by sections 160.1000 to 160.1054.**

6 For purposes of this subdivision, "employee" shall include an applicant for employment
7 or reemployment;

8 (2) Deny rights guaranteed to employee organizations or employee representation
9 councils by sections 160.1000 to 160.1054;

10 (3) Refuse or fail to meet and negotiate in good faith with employee representation
11 councils;

12 (4) Dominate or interfere with the formation of employee representation councils.

13 2. It shall be a violation of sections 160.1000 to 160.1054 and unlawful for an
14 employee organization to:

15 (1) Cause or attempt to cause a public school employer, an employee representation
16 council, or another employee organization to violate any provisions of sections 160.1000 to
17 160.1054;

18 (2) Impose or threaten to impose reprisals on employees, to discriminate or threaten
19 to discriminate against employees, or otherwise to interfere with, restrain, or coerce
20 employees because of their exercise of rights guaranteed by sections 160.1000 to 160.1054;

21 (3) Refuse or fail to cooperate in good faith with an employee or another employee
22 organization in carrying out the functions of an employee representation council.

23 3. It shall be a violation of sections 160.1000 to 160.1054 and unlawful for an
24 employee representation council to:

25 (1) Cause or attempt to cause a public school employer, employee, or an employee
26 organization to violate any provisions of sections 160.1000 to 160.1054;

27 (2) Impose or threaten to impose reprisals on employees, to discriminate or threaten
28 to discriminate against employees, or otherwise to interfere with, restrain, or coerce
29 employees because of their exercise of rights guaranteed by sections 160.1000 to 160.1054;

30 (3) Refuse or fail to meet and negotiate in good faith with the public school
31 employer of any of the employees in the unit represented by the council.

160.1030. 1. (1) The duty to meet and negotiate in good faith requires the local
2 board of education to publish and adopt a policy that establishes a time line for the parties
3 to begin negotiations prior to the adoption of the final budget for the ensuing year
4 sufficiently in advance of such adoption date so that there is adequate time for agreement
5 to be reached.

6 (2) A public school employer shall, upon request, meet and negotiate regarding
7 matters within the scope of representation with and only with an employee representation
8 council that represents employees in their appropriate unit. A public school employer shall
9 appoint at least one member of the board of education to participate in all meetings with
10 the employee representation council.

11 **2. (1) The scope of meeting and negotiating shall be limited to matters relating to**
12 **wages, hours of employment, and other terms and conditions of employment. "Terms and**
13 **conditions of employment" mean grievance procedures, insurance, fringe benefits, leave,**
14 **and payroll deductions. Nothing herein shall prohibit the parties from mutually agreeing**
15 **to discuss other terms and conditions of employment, provided however, that refusal to**
16 **negotiate on any other terms and conditions shall not constitute bad faith.**

17 **(2) All matters not specifically enumerated are reserved to the public school**
18 **employer and may not be a subject of meeting and negotiating; provided that nothing**
19 **herein may be construed to limit the right of the public school employer to consult with any**
20 **employee, employee organization or employment representation council on any matter**
21 **outside the scope of representation.**

22 **(3) Nothing herein shall authorize the diminution of any right, duty or obligation**
23 **of either the professional employee or the board of education, which has been fixed by**
24 **statute or by the constitution of this state. Except as otherwise expressly provided in this**
25 **subsection, the fact that any matter may be the subject of a statute or the constitution of**
26 **this state does not preclude negotiation thereon so long as the negotiation proposal would**
27 **not prevent the fulfillment of the statutory or constitutional objective.**

160.1033. A public school employer and a majority of the employee representation
2 **council shall enter into a written agreement covering matters within the scope of meeting**
3 **and negotiating under section 160.1030. This written agreement shall be presented to the**
4 **employer for action at a public meeting. The school board has the authority to accept,**
5 **reject, or modify the agreement that has been reached between the employer and the**
6 **majority of the employee representation council. The written agreement becomes binding**
7 **when approved by a majority of the members of the board of education and the minutes**
8 **of the meeting where action took place are approved.**

160.1036. The employee representation council shall fairly represent each and every
2 **employee in the appropriate unit.**

160.1039. The employee representation council or any employee organization shall
2 **have standing to sue in any action or proceeding heretofore or hereafter instituted by it as**
3 **representative and on behalf of one or more of its members.**

160.1042. 1. (1) No public school employee, employee organization, or employee
2 **representation council shall engage in a strike or cause, instigate, encourage, or condone**
3 **a strike.**

4 **(2) No public school employer shall institute a lockout. A public school employer**
5 **does not violate this section if there is a total or partial cessation of the public school**
6 **employer's operations in response to a strike held in violation of this subsection.**

7 **2. (1) If a public school employer alleges that there is a strike by one or more**
8 **public school employees in violation of subdivision (1) of subsection 1 of this section, the**
9 **employer shall notify the commission of the full or partial days a public school employee**
10 **was engaged in the alleged strike.**

11 **(2) If an employee representation council, an employee organization, or a public**
12 **school employee alleges that there is a lockout by a public school employer in violation of**
13 **subdivision (2) of subsection 1 of this section, the council, association, organization, or**
14 **employee shall notify the commission of the full or partial days of the alleged lockout.**

15 **(3) Within thirty days after receipt of a notice made under subdivision (1) or (2) of**
16 **this subsection, the commission shall conduct a hearing to determine if there has been a**
17 **violation and shall issue its decision and order.**

18 **(4) If, after such hearing, the commission finds that one or more public school**
19 **employees engaged in a strike in violation of subdivision (1) of subsection 1 of this section,**
20 **the commission shall fine each public school employee two hundred fifty dollars for each**
21 **full or partial day that he or she engaged in the strike. In addition, such employees may**
22 **be subject to dismissal after a hearing conducted by the board under section 168.118,**
23 **RSMo, and if not dismissed by the school district, they shall forfeit their claim to tenure**
24 **if they presently have attained tenure, and the same may be demoted to probationary**
25 **status for the entire probationary period.**

26 **(5) If, after such hearing, the commission finds any employee organization has**
27 **supported, assisted, or facilitated a strike in violation of subdivision (1) of subsection 1 of**
28 **this section, such employee organization shall be fined for each full or partial day that**
29 **public school employee or employees engaged in the strike in the amount described as**
30 **follows:**

31 **(a) One thousand dollars for a school district with an enrollment of up to but not**
32 **greater than three hundred fifty students;**

33 **(b) One thousand five hundred dollars for a school district with an enrollment of**
34 **at least three hundred fifty-one students but not greater than one thousand students;**

35 **(c) Three thousand dollars for a school district with a student enrollment of at least**
36 **one thousand one students but not greater than three thousand five hundred students;**

37 **(d) Five thousand dollars for a school district with a student enrollment of at least**
38 **three thousand five hundred one students but not greater than seven thousand five**
39 **hundred students;**

40 **(e) Seven thousand five hundred dollars for a school district with a student**
41 **enrollment of seven thousand five hundred one or greater students.**
42

43 Such employee organization shall be ineligible to be represented on an employee
44 representation council in the public school district where the strike took place for a period
45 of two years after the violation. In addition, the public school employer shall stop making
46 payroll deductions for dues of any such employee organization for one year after the
47 violation.

48 (6) If, after such hearing, the commission finds that a public school employer
49 instituted a lockout in violation of subdivision (2) of subsection 1 of this section, the
50 commission shall fine the public school employer five thousand dollars for each full or
51 partial day of a lockout and shall fine each member of the public school employer's
52 governing board and superintendent of schools two hundred fifty dollars for each full or
53 partial day of a lockout.

54 (7) If the commission imposes a fine against a public school employee under
55 subdivision (4) of this subsection and the public school employee continues to be employed
56 by a public school employer, the commission shall order the public school employer to
57 deduct the fine from the public school employee's annual salary.

58 (8) The commission shall transmit money received from fines imposed under this
59 section, and a public school employer shall transmit money deducted under an order under
60 subdivisions (5) and (6) of this subsection to the state treasurer for deposit in the state
61 school moneys fund.

62 (9) If the commission does not receive payment of a fine imposed under this section
63 within thirty days after the imposition of the fine, or if a public school employer does not
64 deduct a fine from a public school employee's pay pursuant to an order under subdivision
65 (6) of this subsection, the commission shall institute collection proceedings.

66 (10) Fines imposed under this section are in addition to all other penalties
67 prescribed by sections 160.1000 to 160.1054 and by law.

68 (11) A public school employer may bring an action to enjoin a strike by public
69 school employees, and an employee representation council or employee organization may
70 bring an action to enjoin a lockout by a public school employer in the circuit court for the
71 county in which the affected public school is located. A court having jurisdiction of an
72 action brought under this subsection shall grant injunctive relief if the court finds that a
73 strike or lockout has occurred, without regard to the existence of other remedies,
74 demonstration of irreparable harm, or other factors. Failure to comply with an order of
75 the court may be punished as contempt. In addition, the court shall award court costs and
76 reasonable attorney fees to a plaintiff who prevails in an action brought under this
77 subsection.

78 **(12) A public school employer shall not provide to a public school employee or to**
79 **a school board member any compensation or additional work assignment that is intended**
80 **to reimburse the public school employee or school board member for a monetary penalty**
81 **imposed under this section.**

82 **(13) No penalty, forfeiture of rights or privileges, or other sanction or fine imposed**
83 **on an employee organization, its officers, or members as the result of a strike shall be**
84 **negotiable by such organization and a public school employer at any time.**

160.1045. 1. Notwithstanding any other provision to the contrary, establishment
2 **of an employee representation council for an appropriate unit shall be initiated by the**
3 **filing with the local board of education a request letter by an employee organization and**
4 **supported by a showing of interest of at least ten percent of the employees in an**
5 **appropriate unit. The request letter shall describe the grouping of jobs or positions which**
6 **constitute the unit claimed to be appropriate. Each school district shall adopt and publish**
7 **a policy on procedures to recognize and establish an employee representation council.**

8 **2. Notice of any such request letter shall be conspicuously posted on all employee**
9 **bulletin boards in each facility of the public school employer in which members of the unit**
10 **claimed to be appropriate are employed. The board of education shall allow at least forty-**
11 **five days between the date of such posting and the date the school board takes action to**
12 **allow other employee organizations an opportunity to file a petition supported by sufficient**
13 **showing of interest to join the council.**

14 **3. The showing of interest supporting a request letter shall be based upon current**
15 **dues deduction authorizations or other evidence such as notarized membership lists and**
16 **shall be dated not more than six months prior to filing of the request letter. Such proof of**
17 **support shall be submitted directly to the board or its designee, and the information**
18 **submitted shall remain confidential and not be disclosed by the board or its designee. The**
19 **board shall carry out its responsibilities under this section and shall report in writing**
20 **within seven days of a decision by the local board of education to the employee**
21 **organization as to whether the proof of support is adequate, and if not adequate, it shall**
22 **state the reasons why it is inadequate. Any employee organization may appeal the decision**
23 **by the board to the commission who shall establish procedures for hearing such appeal.**

24 **4. If a local board of education receives request letters and showing of interest**
25 **documents that are similar from more than one employee organization, any employee that**
26 **has their name appearing on both membership lists or supporting documentations shall**
27 **have their name stricken from both organizations' documentations for the purpose of**
28 **verifying a showing of interest.**

29 **5. Any board of education that does not receive a request letter or the board of**
30 **education determines there is not a showing of interest by at least ten percent of any**
31 **employee organization shall not be subject to the provisions of sections 160.1000 to**
32 **160.1054.**

33 **6. If there is only one employee organization that establishes a showing of interest**
34 **of at least ten percent, the local board of education shall determine in policy the size of the**
35 **council.**

160.1048. 1. (1) Any employee organization that can establish a showing of interest
2 **of at least ten percent of the employees in the appropriate unit shall be entitled to have at**
3 **least one representative on the employee representation council. Additional**
4 **representatives of an employee organization to the council shall be proportional based on**
5 **a percentage of membership for each organization that established a showing of interest.**

6 **(2) If only one employee organization establishes a showing of interest of at least**
7 **ten percent, the local board of education shall determine in policy the size of the council.**
8 **After the first year of meeting and negotiating with the employee representation council**
9 **in a school district that has more than ten different buildings where employees of a**
10 **represented unit are located, the board of education may establish a larger council, as long**
11 **as representation on the council remains proportional to the size of the different member**
12 **organizations that have established a showing of interest.**

13 **(3) The showing of interest shall be determined in accordance with section**
14 **160.1045. This showing of interest shall be renewed annually, and membership on the**
15 **council shall be adjusted accordingly.**

16 **(4) The employee organization shall submit the showing of interest to the board,**
17 **or its designee, and the information submitted shall remain confidential and not be**
18 **disclosed by the board or designee.**

19 **2. The members of the employee representation council shall establish and revise**
20 **as necessary, appropriate operating procedures to allow the council to function in a**
21 **cooperative and efficient manner, including:**

22 **(1) Developing a protocol for cooperation between and among all employee**
23 **organizations, which comprise the council, that will allow them to act together on behalf**
24 **of all employees in the appropriate unit, and that will enable the council to secure and**
25 **maintain stable and effective arrangements;**

26 **(2) Establishing organizational structures that will enable the council to better**
27 **perform its function;**

28 (3) Establishing a procedure for communication between the employer and the
29 council, and among council members, including the sharing of information with all unit
30 members as well as with the council's constituent employee organizations;

31 (4) Determining the venue, frequency and duration of meetings of the council;

32 (5) Establishing the duration for all operating procedures, and a process for review
33 and revision.

34

35 In establishing and revising such operating procedures, all organizations comprising the
36 employee representation council shall act in a spirit of cooperation with a view to reaching
37 an agreement within a reasonable time so as not to interfere with the ability of the council
38 to fulfill its statutory functions. If no such initial agreement is reached following the
39 establishment of the council and the beginning of meeting and negotiating with the
40 employer, the board of education shall provide a prototype of operating procedures for the
41 parties to follow. Meetings between the employee representation council and the district
42 shall not be subject to the provisions of chapter 610, RSMo.

 160.1051. All matters within the scope of meeting and negotiating that are agreed
2 to by a simple majority of employee representation councils and the employers shall be
3 reduced to writing. Included in this document are items where agreement could not be
4 reached. Each member of an employee representation council shall be allowed the
5 opportunity for a ratification vote of their members prior to signing off on an agreement
6 that has been reached. Once a majority of the members of an employee representation
7 council sign the agreement, the agreement shall be sent to the board of education for action
8 at the next board of education meeting. Should a board of education not accept an
9 agreement that has been agreed to by the employee representation council, that agreement
10 shall be sent back to the negotiating team for further negotiating. At such time, a board
11 of education may enter into impasse procedures or arbitration that might be allowed as
12 stated in the school district's adopted policies. Once an agreement reaches the board of
13 education for a second time, the board of education may accept, reject, or modify the
14 agreement. Once the written agreement is acted upon by the board of education and the
15 minutes of the meeting where the board of education took action on the agreement are
16 approved, the agreement becomes binding. Discussion of the written document by the
17 board of education shall be done in an open meeting. Nothing in sections 160.1000 to
18 160.1054 shall absolve a board of education from following the provisions of chapter 610,
19 RSMo.

 160.1054. The commission shall promulgate rules to implement the provisions of
2 sections 160.1000 to 160.1054. Any rule or portion of a rule, as that term is defined in

3 section 536.010, RSMo, that is created under the authority delegated in this section shall
4 become effective only if it complies with and is subject to all of the provisions of chapter
5 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536,
6 RSMo, are nonseverable and if any of the powers vested with the general assembly under
7 chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule
8 are subsequently held unconstitutional, then the grant of rulemaking authority and any
9 rule proposed or adopted after August 28, 2008, shall be invalid and void.

295.070. 1. The state board of mediation shall have power to employ and fix the
2 compensation of conciliators and other assistants and to delegate to such assistants such powers
3 as may be necessary to carry out its duties under this chapter **and sections 160.1000 to 160.1054,**
4 **RSMo.** The board shall by regulation prescribe the methods of procedure before it.
5 2. The board shall have power to issue subpoenas requiring the attendance and testimony
6 of witnesses and the production of evidence which relates to any matter under investigation by
7 the board. In cases of refusal to obey a subpoena issued by the board the circuit court of Cole
8 County or of any county where the person refusing to obey such subpoena may be found, on
9 application by the board, shall have power to issue an order requiring such person to appear
10 before the board and to testify and produce evidence ordered touching the matter under
11 investigation, and any failure to obey such order shall be punished by the court as a contempt
12 thereof.

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