

FIRST REGULAR SESSION

# HOUSE BILL NO. 805

## 95TH GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES WILSON (130) (Sponsor), JONES (89), WALLACE, WASSON,  
ATKINS AND BIVINS (Co-sponsors).

1867L.011

D. ADAM CRUMBLISS, Chief Clerk

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### AN ACT

To amend chapter 160, RSMo, by adding thereto seventeen new sections relating to professional relationships between teachers and school districts, with penalty provisions.

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

Section A. Chapter 160, RSMo, is amended by adding thereto seventeen new sections  
2 to be known as sections 160.1100, 160.1103, 160.1106, 160.1109, 160.1112, 160.1115,  
3 160.1118, 160.1121, 160.1124, 160.1127, 160.1130, 160.1133, 160.1136, 160.1139, 160.1142,  
4 160.1145, and 160.1148, to read as follows:

160.1100. 1. Sections 160.1100 to 160.1148 shall be known and may be cited as the  
2 "**Professional Relationships Between Teachers and School Districts Act**". Nothing in  
3 sections 160.1100 to 160.1148 shall be construed to permit any public school employee to  
4 engage in or support a strike, nor to prohibit any public school employee from joining or  
5 participating in any employee organization.  
6 2. Sections 160.1100 to 160.1148 shall supersede sections 105.500 to 105.530, RSMo,  
7 to the extent it applies to public school employees, as defined in section 160.1003. Sections  
8 160.1100 to 160.1148 shall not supersede provisions of this chapter, chapters 161 to 186,  
9 RSMo, chapter 295, RSMo, and the rules and regulations of public school employers which  
10 establish and regulate tenure or a merit or civil service system or which provide for other  
11 methods of administering employer-employee relations, so long as the rules and regulations  
12 or other methods of the public school employer do not conflict with sections 160.1100 to  
13 160.1148 or with lawful collective agreements negotiated under sections 160.1100 to  
14 160.1148.

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.

160.1103. As used in sections 160.1100 to 160.1148, the following words and phrases shall mean:

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

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

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

(4) "Good faith", using best endeavors to enter into an arrangement to set out a process for conducting the bargaining in an effective manner, considering and responding to proposals made by all parties to the others, and not acting to undermine the negotiating process. It also requires cooperation in the negotiating process by scheduling and attending meetings at a reasonable time, listening and considering proposals made by all parties, and trying to resolve differences in an acceptable way;

(5) "Lockout", an action by a public school employer to provoke interruptions of or prevent the continuity of work normally and usually performed by school district employees for the purpose of coercing such employees or employee organizations that represents them into accepting the employer's terms of settlement of a labor dispute, or otherwise relinquishing rights guaranteed by sections 160.1100 to 160.1148;

(6) "Management employee", any employee in a position having significant responsibilities for formulating district policies or administering district programs, including any person who is employed in an administrative capacity and who is fulfilling duties for which an administrator's certificate is required under section 168.081, RSMo. Management positions shall be designated by the public school employer;

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

36           (8) "Public school employee" or "employee", any person holding a valid teaching  
37 certificate employed by any public school employer, except persons elected by popular vote,  
38 persons appointed by the governor of this state, management employees, supervisory  
39 employees, and confidential employees;

40           (9) "Public school employer" or "employer", the governing board of a public  
41 school district or a school district itself, including a common or seven-director school  
42 district, a metropolitan or urban school district, a county board of education, a county  
43 superintendent of schools, a special school district or cooperative, or a special  
44 administrative board established by the state board of education. "Public school  
45 employer" shall also include any person such an employer authorizes to act on its behalf;

46           (10) "Strike", the concerted failure to report for duty, the willful absence from  
47 one's position, the stoppage of work, or the abstinence in whole or in part from the full,  
48 faithful, and proper performance of the duties of employment for the purpose of inducing,  
49 influencing, or coercing a change in employment conditions, compensation, or the rights,  
50 privileges, or obligations of employment, or to protest or respond to an act alleged or  
51 determined to be a violation of sections 160.1100 to 160.1148 committed by the public  
52 school employer;

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

          160.1106. 1. Public school employees shall have the right to form, join, and  
2 participate in the activities of any organization, agency, association, committee, or union  
3 for the purpose of representation on all matters of employer-employee relations under  
4 sections 160.1100 to 160.1148. Public school employees shall also have the right to refrain  
5 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 organization.

8           3. Nothing in sections 160.1100 to 160.1148 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.

**160.1109. 1. Employee organizations shall have the right to represent their members in their professional and employment relations with public school employers. Employee organizations may establish reasonable restrictions regarding who may join and may make reasonable provisions for the dismissal of individuals from membership.**

**2. Employee organizations shall have access to use institutional facilities at reasonable times for the purpose of meetings concerning the exercise of rights guaranteed by sections 160.1100 to 160.1148.**

**3. All employee organizations shall have the right to have membership dues deducted under section 168.300, RSMo. In addition, any school district that grants payroll deduction for membership dues for one employee organization shall allow all employee organizations the opportunity to have membership dues deducted. The right to have dues deducted can be removed under subsection 2 of section 160.1130.**

**160.1112. 1. Employee organizations shall have the right to represent employees in their appropriate employee unit in a school district in their professional and employment relations with public school employers.**

**2. Employee organizations shall be allowed to communicate with members of the employee unit, subject to reasonable regulation, and the right to use institutional facilities at reasonable times for the purpose of meetings concerned with the exercise of the rights guaranteed by sections 160.1100 to 160.1148.**

**160.1115. A person serving in a management position, supervisory position, or a confidential position may represent himself or herself individually in his or her employment relationship with the public school employer. An employee organization shall not be permitted by a public school employer to meet and negotiate on any benefit or compensation paid to persons serving in a management position, supervisory position, or a confidential position.**

**160.1118. 1. It shall be a violation of sections 160.1100 to 160.1148 and unlawful for a public school employer to do any of the following:**

**(1) Impose or threaten to impose reprisals on employees, to discriminate or threaten to discriminate against employees, or otherwise to interfere with, restrain, or coerce employees because of their exercise of rights guaranteed by sections 160.1100 to 160.1148. For purposes of this subdivision, "employee" shall include an applicant for employment or reemployment;**

**(2) Deny to employee organizations rights guaranteed to them by sections 160.1100 to 160.1148;**

**(3) Refuse or fail to meet and negotiate in good faith with employee organizations;**

**(4) Dominate or interfere with the formation of employee organizations.**

12           **2. It shall be a violation of sections 160.1100 to 160.1148 and unlawful for an**  
13 **employee organization to:**

14           **(1) Cause or attempt to cause a public school employer or employee organization**  
15 **to violate any provisions of sections 160.1100 to 160.1148;**

16           **(2) Impose or threaten to impose reprisals on employees, to discriminate or threaten**  
17 **to discriminate against employees, or otherwise to interfere with, restrain, or coerce**  
18 **employees because of their exercise of rights guaranteed by sections 160.1100 to 160.1148;**

19           **(3) Refuse or fail to cooperate in good faith with an employee or another employee**  
20 **organization.**

**160.1121. 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 organization**  
8 **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 organization.**

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 or employee organization on any matter outside the scope of representation.**

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

160.1124. The employee organization shall fairly represent each and every  
2 employee in the appropriate unit.

160.1127. The employee organization shall have standing to sue in any action or  
2 proceeding heretofore or hereafter instituted by it as representative and on behalf of one  
3 or more of its members to enforce any provision in sections 160.1100 to 160.1148 or any  
4 term or terms of a fully executed agreement to which the employee organization is a party.

160.1130. 1. (1) No public school employee or employee organization shall engage  
2 in a strike or cause, instigate, encourage, or condone a strike.

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

6 2. (1) If a public school employer alleges that there is a strike by one or more  
7 public school employees in violation of subdivision (1) of subsection 1 of this section, the  
8 employer shall notify the commission of the full or partial days a public school employee  
9 was engaged in the alleged strike.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

64 (10) Fines imposed under this section are in addition to all other penalties  
65 prescribed by sections 160.1100 to 160.1148 and by law.

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

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

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

          160.1133. Each school district shall adopt and publish a policy on procedures to  
2 recognize and establish an employee organization for the purpose of meeting and  
3 negotiating. Nothing shall preclude a school district from working with more than one  
4 employee organization.

          160.1136. Employee organizations that have been recognized to meet and negotiate  
2 with the employer shall be required to develop protocol for cooperation between and  
3 among all employee organizations that will allow them to act together on behalf of all  
4 employees in the appropriate unit and that will enable the employee organization to secure  
5 and maintain stable and effective arrangements. These protocols shall include an  
6 organizational structure that will enable the employee organization to better perform its  
7 function and a procedure for communications between the employer and the employee  
8 organization and among employee organization members, including the sharing of  
9 information with all unit members as well as the constituent employee organization. There  
10 shall also be protocols established to ensure a binding agreement is honored and enforced.

          160.1139. Each school district and employee organization shall enter into a written  
2 agreement covering matters within the scope of meeting and negotiations under section  
3 160.1121. This agreement shall be a tentative agreement until ratification by the employee  
4 organization. Once ratified by the employee organization, the tentative agreement shall  
5 be presented to the employer for action at a public meeting. If rejected by the employer,  
6 the employee organization and the employer shall continue meeting and negotiating.



**160.1142. Each school district shall establish a policy on procedures to follow if an**  
2 **impasse is declared while meeting and negotiating with the employee organization.**

**160.1145. A written agreement is binding when ratified by the employee**  
2 **organization and approved by the board of education.**

**160.1148. Nothing in sections 160.1100 to 160.1148 shall absolve a board of**  
2 **education from following section 610.010, RSMo.**

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