

Administrative Memo

Date: August 7, 2020
To: School Administrators
From: Dr. Paul Katnik, Assistant Commissioner, Office of Educator Quality
Subject: EQ-20-001 – Missouri Statutes Waived to Address Potential Substitute Shortage

In order to help alleviate the potential shortage of substitute teachers and/or school support staff members during the 2020-21 school year, Governor Parson approved the Department of Elementary and Secondary Education's (DESE's) request to temporarily waive portions of the state statutes that limit both the number of hours retired school employees can work in a substitute position as well as the total salary they can earn in that temporary role. Substitute teacher shortages were a growing concern in the education community prior to COVID-19, and school leaders anticipate finding qualified, experienced teachers and/or staff to fill the necessary gaps during the pandemic will be even more of a challenge.

Read more below about the portions of the statutes waived by Governor Parson (sections of statute language in bold italics). These waivers remain in effect for the duration of the Governor's emergency order.

As the pandemic continues, DESE remains committed to removing barriers that allow school leaders to focus on the health and safety of their students, staff members and communities during this unprecedented time.

Statutory Waiver Language

- Retirees may be employed, when – salary amount, effect on benefits, exception
Section 1 and 2 of 169.560, RSMo

— 1. Any person retired and currently receiving a retirement allowance pursuant to sections 169.010 to 169.141, other than for disability, may be employed in any capacity for an employer included in the retirement system created by those sections on either a part-time or temporary-substitute basis ***[not to exceed a total of five hundred fifty hours in any one school year, and through such employment may earn up to fifty percent of the annual compensation payable under the employer's salary schedule for the position or positions filled by the retiree, given such person's level of experience and education,]*** without a discontinuance of the person's retirement allowance. ***[If the employer does not utilize a salary schedule, or if the position in question is not subject to the employer's salary schedule, a retiree employed in accordance with the provisions of this subsection may earn up to fifty percent of the annual compensation paid to the person or persons who last held such position or positions. If the position or positions did not previously exist, the compensation limit shall be determined in accordance with rules duly adopted by the board of trustees of the retirement system; provided that, it shall not exceed fifty percent of the annual compensation payable for the position by the employer that is most comparable to the position filled by the retiree. In any case where a retiree fills more than one position during the school year, the fifty-percent limit on permitted earning shall be based solely on the annual compensation of the highest paid position occupied by the retiree for at least one-fifth of the total hours worked during the year.]*** Such a person shall not contribute to the retirement system or to the public education employee retirement system established by

sections 169.600 to 169.715 because of earnings during such period of employment. If such a person is employed in any capacity by such an employer in excess of the limitations set forth in this subsection, the person shall not be eligible to receive the person's retirement allowance for any month during which the person is so employed. In addition, such person shall contribute to the retirement system if the person satisfies the retirement system's membership eligibility requirements. In addition to the conditions set forth above, this subsection shall apply to any person retired and currently receiving a retirement allowance under sections 169.010 to 169.141, other than for disability, who is employed by a third party or is performing work as an independent contractor, if such person is performing work for an employer included in the retirement system as a temporary or long-term substitute teacher or in any other position that would normally require that person to be duly certificated under the laws governing the certification of teachers in Missouri if such person was employed by the district. The retirement system may require the employer, the third-party employer, the independent contractor, and the retiree subject to this subsection to provide documentation showing compliance with this subsection. If such documentation is not provided, the retirement system may deem the retiree to have exceeded the limitations provided in this subsection.

[2. Notwithstanding any other provision of this section, any person retired and currently receiving a retirement allowance in accordance with sections 169.010 to 169.141, other than for disability, may be employed by an employer included in the retirement system created by those sections in a position that does not normally require a person employed in that position to be duly certificated under the laws governing the certification of teachers in Missouri, and through such employment may earn up to sixty percent of the minimum teacher's salary as set forth in section 163.172, without a discontinuance of the person's retirement allowance. Such person shall not contribute to the retirement system or to the public education employee retirement system established by sections 169.600 to 169.715 because of earnings during such period of employment, and such person shall not earn membership service for such employment. The employer's contribution rate shall be paid by the hiring employer into the public education employee retirement system established by sections 169.600 to 169.715. If such a person is employed in any capacity by an employer in excess of the limitations set forth in this subsection, the person shall not be eligible to receive the person's retirement allowance for any month during which the person is so employed. In addition, such person shall become a member of and contribute to any retirement system described in this subsection if the person satisfies the retirement system's membership eligibility requirements. The provisions of this subsection shall not apply to any person retired and currently receiving a retirement allowance in accordance with sections 169.010 to 169.141 employed by a public community college.]

- Eligibility for retirement, when – temporary-substitute service for retiree authorized, limitation, no contribution from retiree required
Section 2 of 169.660, RSMo

2. Any person retired and currently receiving a retirement allowance pursuant to sections 169.600 to 169.715, other than for disability, may be employed on either a part-time or temporary-substitute basis by a district included in the retirement system ***[not to exceed a total of five hundred fifty hours in any one school year]***, without a discontinuance of the person's retirement allowance. Such a person shall not contribute to the retirement system, or to the public school retirement system established by sections 169.010 to 169.141, because of earnings during such period of employment. If such a person is employed in any capacity by such a district on a regular, full-time basis, ***[or the person's part-time or temporary-substitute service in any capacity exceeds five hundred fifty hours in any one school year]***, the person shall not be eligible to receive the person's retirement allowance for any month during which the person is so employed.