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Bill Analysis

Legislative Service Commission

Am. Sub. S.B. 77 123rd General Assembly (As Passed by the Senate)

Sens. Cupp, Schafrath, Kearns, Mumper, Prentiss, Shoemaker, Espy

BILL SUMMARY

- Requires that an evaluation of an assistant superintendent, principal, assistant principal, and other administrator serve as a "basis" in a board of education's decision of reemployment.
- Specifies conditions and procedures under which information outside an evaluation may serve as a basis for a decision.
- Requires two evaluations for years in which an administrator's contract expires.
- Differentiates between "termination" of an administrator and "suspension" and permits a board of education to develop its own administrative personnel suspension policy.
- Provides for automatic renewal of a contract only if two specified conditions are not met.

CONTENT AND OPERATION

Overview

The bill changes the procedures that a board of education or governing board of an educational service center must follow in the reemployment of the following administrators: assistant superintendents, principals, assistant principals, and "other administrators." (See **COMMENT.**) Under Ohio law, the superintendent of schools is a board of education's or governing board's chief executive officer. Other administrators are under the authority of the superintendent, with the board having specific responsibilities in reemployment decisions. The bill specifies additional procedures that must be followed in the decision to reemploy these specified administrators when a contract expires, and it

permits a board to adopt its own policy regarding the suspension of administrators prior to the expiration of a contract.

Tenure and school administrators

Background

(sec. 3319.02(C))

Administrators generally are considered under the law to be teachers. Administrators cannot attain tenure (legally known as "continuing contract status") as administrators. However, if a person has attained tenure in the district as a teacher prior to appointment as an administrator, the person retains the continuing service status as a teacher.

The term of an administrator's contract is initially limited to three years. The term of the contract of an administrator with three or more years experience may be up to five years. With specified exceptions, the contract term may not be for less than two years.

Renewal of administrator contracts

(sec. 3319.02(C))

Under current law, not changed by the bill, when an administrator's contract is due to expire, a board of education may take action to reemploy or to not reemploy that administrator. If the board of education does nothing, the administrator is "deemed" to be reemployed at the same salary (plus any increments authorized by the board) for a term of one year for administrators with less than three years experience, and for two years for administrators with three or more years experience. To not reemploy an administrator, the board must give written notice to the administrator of the board's intention to not reemploy.

Current law requires a board to evaluate the performance of administrators. The board must adopt procedures for the evaluation and the superintendent must perform the evaluation. The board must "consider" the evaluation when deciding whether to renew an administrator's contract (sec. 3319.02(D)).

Changes made by the bill

Evaluation to serve as a basis of decision

(sec. 3319.02(D))

The bill changes the procedures that a board must follow in its evaluation of administrators. The bill requires that a job description for each position be adopted locally, and that the description be included in the employee's contract. The evaluation, instead of being *considered* by the board, as under current law, must instead "*serve as a basis in the board's decision*" of whether to renew an administrator's contract.

Other relevant information may influence decision

(sec. 3319.02(D)(1) and (2))

The bill provides that other relevant information that is outside of information obtained from an evaluation may be used as a basis in the board's decision to reemploy or not. In order to provide an opportunity for an employee to refute this other information or correct any deficiencies in it, at least 60 days prior to the board's decision the superintendent or the superintendent's designee must meet with the administrator to discuss the content and source of the other information. The board must include in its evaluation procedures any locally developed job descriptions and performance standards.

Timing of evaluations

(sec. 3319.02(D)(2))

Under current law, an administrator must be evaluated annually by the superintendent. In any year in which action might be taken on the administrator's contract, the administrator must receive the written evaluation at least 60 days prior to any such action by the board.

The bill establishes an expanded evaluation requirement under which different procedures must be followed in a year that the administrator's contract is not due to expire and the year in which the contract is due to expire. When the contract is not due to expire, at least one evaluation is required. The evaluation must identify the strengths and deficiencies of the administrator and include suggestions for correcting any identified deficiencies. A written copy of the evaluation must be provided to the administrator no later than the end of the employee's contract year as defined by the employee's annual salary notice.

In a school year in which the administrator's contract expires, at least two evaluations, one preliminary evaluation and one final evaluation, must be completed. The preliminary evaluation must identify the administrator's strengths and deficiencies and include suggestions for correcting any identified deficiencies. A written copy of the preliminary evaluation must be received by the administrator at least 60 days prior to any action on the contract. The final evaluation must note the strengths and deficiencies identified in the preliminary evaluation, evaluate the administrator's progress in correcting any deficiencies, and indicate the superintendent's intended recommendation to the board regarding a contract of employment. A written copy of the evaluation must be provided to the administrator at least five days prior to the board's acting to renew or not renew the contract.

Conditions for automatic reemployment

(sec. 3319.02(D)(5))

Although the bill states that the board has the final determination regarding the renewal or nonrenewal of a contract, it does specify two conditions (in addition to taking no action, as under current law) under which the board must automatically reemploy an administrator. These conditions are: (1) the failure of the board to grant, at the administrator's request, a meeting in executive session to discuss the board's reasons for renewal or nonrenewal of the contract (which meeting must be granted under current law), and (2) the failure to provide evaluations at the rate of one in the year the contract is not to be acted upon and two in the year the contract expires. The existence of either of these conditions results in an automatic reemployment of the employee at the same salary plus any increments that may be authorized by the board for a period of one year, unless the employee has been employed as an administrator in the district or service center for three or more years, in which case reemployment is for two years.

Vote needed for reemployment

(sec. 3319.02(C))

Under current law, educational service centers and city and exempted village school districts may reemploy an administrator whom the superintendent refuses to nominate after considering two nominees for the position and by a vote of three-fourths of its membership. The bill deletes the requirement that two nominees must be considered and clarifies that the three-fourths vote is of the full membership.

Under current law, a local school district board upon a *majority* vote may reemploy an administrator that the superintendent of its educational service center

refuses to nominate after considering two nominees for the position. The bill deletes the requirement that two nominees be considered and changes the vote required from a majority vote to a three-fourths vote of the full membership.

Termination or suspension of an administrative contract

Background

Under current law, early termination or suspension of administrators (prior to expiration of a contract) is governed by the contract termination provisions for teachers.

Section 3319.16 (not in the bill) specifies that a teacher contract "may not be terminated except for gross inefficiency or immorality; for willful and persistent violations of reasonable regulations of the board of education; or for other good and just cause." The section sets forth procedures that must be followed in a contract termination, including notice, hearings, and the right to appeal to a court of common pleas.

Suspension of a contract pursuant to section 3319.17 (not in the bill) may be done for one of several specified reasons, all of which relate to the need to reduce the number of teachers employed in the district. Preference must be given to retaining those teachers within each affected field on continuing contracts and with greater seniority. Likewise, when positions open, they must be filled giving preference to seniority and those on continuing contracts.

The bill specifies that contract termination must be carried out as under current law, but contract suspensions may be pursuant to either current law or the bill's new provisions for local suspension policies (sec. 3319.171).

Administrative personnel suspension policy

(sec. 3319.171)

The bill specifies that in lieu of using the suspension provisions of current law, the board of education of a city, local, exempted village, or joint vocational school district or the governing board of an educational service center *may* adopt an administrative personnel suspension policy governing the suspension of administrator contracts. If a board adopts such a policy, no administrative contract may be suspended except pursuant to that policy.

The policy the bill permits a board to adopt must include, but is not limited to:

(1) One or more reasons that a board may consider for suspending any administrative contract. The bill expressly states that one reason for such suspension may include the financial conditions of the school district or educational service center.

(2) Procedures for determining the order of suspension of contracts within the employment areas affected;

(3) Provisions requiring a right of restoration for employees whose contracts of employment are suspended under the policy if and when any positions become vacant or are created for which any of them are or become qualified.

The policies and procedures relating to the order of suspension and restoration rights must be developed by the board with input from the superintendent and all assistant superintendents, principals, assistant principals, and other administrators employed by the board.

Other changes made by the bill

Suspension of contracts of supervisors in a service center

(sec. 3319.02(E))

The bill changes the condition under which the contracts of supervisors employed by an educational service center may be suspended. Under current law, they may be suspended for the remainder of the contract term "if there is a reduction of the number of approved supervisory teachers" allocated to the service center under the provisions of law authorizing service center funding. This condition is eliminated by the bill and the contracts of supervisors may be suspended only in the same manner as all other administrative contracts.

Conforming amendments to incorporate new administrator contract suspension policy

The bill amends sections of education law as necessary to reflect the possibility that a board may adopt the new option of a locally developed suspension policy for administrators. The affected sections amended are section 3314.10 (community schools), section 3316.07 (governing a school district financial planning and supervision commission), 3319.14 (adjustments when teachers return from leaves), and 3319.18 (reduction of teachers or administrators as a result of the merger of districts or formation of a new district).

It also amends Sec. 50.52.13 of Am. Sub. H.B. 215 of the 122nd G.A. (Lucas County community schools); however, that section was repealed by Sec. 31

of Am. Sub. H.B. 283 of the 123rd G.A. (1999-2001 Education Budget Act). The Lucas County community schools are now governed under R.C. Chapter 3314.

Effective date

(Section 5)

Although the act becomes effective the first date permitted by law, it does not apply to an administrator whose contract expires during the 1999-2000 school year until the contract of that administrator is renewed (or not renewed) during that year.

COMMENT

As amended by Sub. H.B. 238 of the 123rd General Assembly (eff. 6-8-99), R.C. 3319.02(A) defines "other administrator" as either:

(i) Any employee of a board of education whose position requires a license for being an administrator issued by the Department of Education, including a "professional pupil services" employee or an "administrative specialist" or their equivalent if the person is "not employed as a school counselor and spends less than 50% of the time employed teaching or working with students"; or

(ii) Any *nonlicensed* employee whose duties enable the employee to be considered a "supervisor" or "management level employee" under the Public Employees Collective Bargaining Law.¹

However, R.C. 3319.02(A)(2) specially provides that "other administrator" does not mean a superintendent, assistant superintendent, principal, or assistant principal.

Under the rules promulgated by the Department of Education, the "professional pupil services" license is granted to persons who complete the requirements contained in Ohio Administrative Code 3301-24-05(E) for any of the following professions: school audiologist, school counselor, school psychologist, school social worker, school speech-language pathologist, school nurse, orientation and mobility specialist, occupational therapist, and physical therapist.

Also under those rules, the "administrative specialist" license is one of three types of administrative licenses offered, the three being principal, administrative specialist, and superintendent. The administrative specialist license is added to a

¹ See R.C. 4117.01(F) and (L), not in either this bill or Sub. H.B. 238.

professional teacher license or professional pupil services license and enables the person to work in a central office or in a supervisory capacity. OAC 3301-24-05(F)(2) contains the requirements for the administrative specialist license.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	02-17-99	p. 138
Reported, S. Education	06-16-99	p. 611
Passed Senate (25-8)	06-16-99	pp. 615-616

S0077-PS.123/jc