



S.B. 261

123rd General Assembly
(As Introduced)

Sen. Shoemaker

BILL SUMMARY

- Expands the prohibition against an employee in the classified civil service soliciting, or being solicited for, political contributions to include any nonpartisan or partisan political contribution, but limits the prohibition to times when the employee is on duty or engaged in official duties, provided such activities do not jeopardize federal funds for the employee's appointing authority.
- Modifies and expands certain restrictions on the political activities of a classified civil service employee and applies the restrictions to times when the employee is on duty, provided such activities do not jeopardize federal funds for the employee's appointing authority.
- Broadens the prohibition against abuses of official power and harassment, discipline, or coercion of classified civil service employees for political purposes to include such abuses and acts if done by *any* person and if done for giving or refusing support to a candidate or a policy issue presented for public vote, extends the investigation authority of the State Personnel Board of Review or local civil service commission to include such abuses and acts done for political purposes, and prescribes remedies for violation of the prohibition.
- Changes the order of layoff for part-time employees and gives the appointing authority the right to appeal a decision of the State Personnel Board of Review involving a layoff only if it complies with the Board's order to reinstate the employee and pay wages as ordered.
- Authorizes payment for a deceased county employee's unused sick leave to certain relatives or to the employee's estate.

CONTENT AND OPERATION

Investigation of abuse of official power

Existing law requires the State Personnel Board of Review or the appropriate municipal or civil service township civil service commission to conduct an investigation if it has reason to believe that any officer, board, commission, head of a department, or person having the power of appointment, layoff, suspension, or removal abuses that power in violation of the Civil Service Law (R.C. Chapter 124.). If an investigation shows a violation, the statute provides for removal of the guilty person after a public hearing.

The bill adds the action of a supervisor and a person who has the power of promotion and reduction to the above list of persons who may be investigated for possible abuse of power. It also specifically applies the procedure described above when the abuse of power is in the form of promotion in violation of the Civil Service Law or of direct or indirect appointment, promotion, reduction, suspension, layoff, discharge, or change in official rank or compensation, or of harassment, discipline, or coercion of an officer or employee in the classified service for political purposes (see "*Abuse of official power for political purposes*" below), or promise or threat to do any of those acts by any of the officers or public bodies in the list. The bill adds suspension as an alternative to removal allowed under existing law, of the guilty person after a public hearing. (Sec. 124.56.)

Prohibited political activities

Current law places certain restrictions upon the political activity of officers and employees in the classified civil service of the state, counties, cities, city school districts, and civil service townships. These officers and employees may not directly or indirectly, orally or by letter, solicit or receive, or in any manner concern themselves in soliciting or receiving, any assessment, subscription, or contribution for any political party or candidate for public office. The bill replaces the reference to solicitations for candidates for public office with a reference to solicitations for "any nonpartisan or partisan political purpose," and applies the prohibition only while the officer or employee is engaged in official duties or "on duty" as an officer or employee. "On duty" is defined by the bill to exclude meal times, vacations, approved leaves, or any time before or after an employee's working hours. (Sec. 124.57(A)(1) and (E).)

Existing law also prohibits any person from similarly soliciting contributions, payments, or assessments from officers or employees in the classified service of the state or the specified political subdivisions. The bill

retains this prohibition but applies it only while the person is engaged in official duties or on duty as an officer. (Sec. 124.57(A)(1).)

An officer or employee in the classified civil service of the state or the specified political subdivisions is prohibited under existing law from being an officer in any political organization and from taking part in politics, other than to vote as the officer or employee pleases and to freely express political opinions. The bill replaces these restrictions with a restriction specifying that, during the hours while engaged in official duties or on duty, a classified employee is prohibited from engaging in any form of political activity calculated to favor or improve the political fortune of any political party or the candidacy of any person seeking or attempting to hold partisan political office. (Sec. 124.57(A)(2).)

The bill makes a violation of any of these political activities prohibitions grounds for a reduction in pay or position, suspension, or removal under the regular civil service disciplinary procedures. (Sec. 124.57(C).)

The bill qualifies the application of these prohibitions by stating that they are not to be construed as authorizing an officer or employee in the classified service to engage in any activity that may result in the withholding of federal funds from the appointing authority with which the officer or employee serves. Each appointing authority that receives federal funds that may be withheld as a result of political activity by officers or employees in the classified service is required by the bill to notify its officers and employees in the classified service of those activities that can result in federal funds being withheld and must provide them with the federal code provision or administrative rule that sets forth the limitations on political activity. (Sec. 124.57(D).)

Abuse of official power for political purposes

Current law prohibits any officer or employee of the state, a county, city, city school district, or civil service township from:

(1) Appointing, promoting, reducing, suspending, laying off, discharging, or in any manner changing the official rank or compensation of any officer or employee in the classified service or promising or threatening to do so;

(2) Harassing, disciplining, or coercing any officer or employee for giving, withholding, or refusing to support any party.

The bill expands the prohibition by applying it to any person, not merely to an officer or employee of the state or specified political subdivisions. The bill qualifies the prohibition in (1) above by specifying that it applies to those acts done "directly or indirectly." The bill further expands the prohibition to include

the acts specified in (1) and (2) above committed against an officer or employee in the classified service for giving, withholding, or refusing to give support to a candidate for public office, or any partisan or nonpartisan public policy issue presented for the vote of the electorate in the form of a constitutional amendment, statute, or repeal of a constitutional provision or statute. (Sec. 124.60(A).)

Under the bill, an officer or employee aggrieved by the abuse of official power for political purposes may file a complaint with the State Personnel Board of Review or the municipal or civil service township civil service commission, which then proceeds with the investigation authorized by existing law as revised by the bill (see "**Investigation of abuse of official power**" above). Additionally, the bill grants the officer or employee aggrieved by the abuse of official power for political purposes a cause of action for compensatory and punitive damages against the offender. (Sec. 124.60(B) and (C).)

Changes in employee layoff law

Existing law prescribes the order, in specified primary appointment categories, in which employees may be laid off if a reduction in force is necessary. The order in the primary appointment categories is: part-time, seasonal, full-time, and other employee appointment categories established by the Director of Administrative Services. The bill modifies this order so that part-time employees and seasonal employees switch positions in the order. (Sec. 124.323(A).)

Currently, in layoff cases involving classified employees, only the affected employee has the right to appeal the layoff decision of the State Personnel Board of Review to the court of common pleas. The bill permits the appointing authority in those cases a right to appeal the decision of the Board to the court of common pleas, but only if the appointing authority complies with the Board's order to reinstate the employee and pay the employee's salary or wage, including any back salary or wage the Board orders. If the appointing authority fails to comply with the Board's order, any appeal taken by the appointing authority must be dismissed. The procedure for appeal, as is the case with existing appeals, must be in accordance with the Administrative Procedure Act. (Sec. 124.328.)

Payment of deceased county employee's unused sick leave

Existing law provides for the payment of a county employee's unused vacation leave and unpaid overtime to certain relatives or to the estate of the employee upon death.¹ The law, however, has no provision for the payment of a

¹ *The relatives are: the surviving spouse; any one or more of the deceased employee's children who are 18 years of age or older; the father or mother of the deceased employee.*

county employee's unused sick leave upon death. The bill permits the payment of unused sick leave to the credit of a county employee whose salary or wage is paid directly by warrant of the county auditor, upon that employee's death, to specified relatives or to the employee's estate.¹ Under the bill, the determination of whether to pay the unused sick leave, and if paid, the rate of compensation for it, is by resolution of the board of county commissioners.

HISTORY

ACTION	DATE	JOURNAL ENTRY
Introduced	03-07-00	p. 1441

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