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Bill Analysis
Legislative Service Commission

S.B. 264
127th General Assembly
(As Introduced)

Sens. Carey, Padgett, Goodman, Schaffer, Mumper, Coughlin, Cates, Harris, Buehrer

BILL SUMMARY

- Prohibits classroom teachers employed by school districts from striking and instead requires binding arbitration to settle unresolved collective bargaining disputes.
- Requires the Legislative Service Commission to study the effect of the binding arbitration requirement on school districts.
- Makes an appropriation.

CONTENT AND OPERATION

Prohibition on strikes; submission to binding arbitration

(R.C. 4117.14 and 4117.15)

The bill prohibits classroom teachers employed by school districts from striking. Instead, those teachers must submit to a final offer settlement procedure, also known as binding arbitration, to settle unresolved collective bargaining disputes with their employers. In the event of a strike by district teachers, the district board of education may seek an injunction against the strike from the court of common pleas. Under the bill, school district teachers are treated like certain other public employees, such as law enforcement and safety personnel and health service workers, who are prohibited from striking under continuing law.

Background on public employee collective bargaining negotiations

Under the Public Employee Collective Bargaining Law (R.C. Chapter 4117.), all matters pertaining to wages, hours, or terms and other conditions of employment are subject to collective bargaining between a public employer and the "employee organization" (union) that represents the employer's public

employees.¹ That law specifies timelines and requirements for negotiating collective bargaining agreements. In the event the parties are unable to reach an agreement, they may submit, at any time prior to 45 days before the collective bargaining agreement expires, the issues in dispute to any mutually agreed upon dispute settlement procedure that supersedes the statutory procedures (R.C. 4117.14(C)). If, 50 days before the the agreement expires, the parties are unable to reach an agreement, either party may request the State Employment Relations Board (SERB) to intervene. SERB must investigate to determine whether the parties have engaged in collective bargaining. If an impasse exists or 45 days before the expiration date of the collective bargaining agreement, SERB must appoint a mediator to assist the parties in the collective bargaining process. Any time after the appointment of a mediator, either party may request the appointment of a fact-finding panel. (R.C. 4117.14(C)(2) and (3).)

The fact-finding panel must submit the panel's findings of fact and recommendations on the unresolved issues to the public employer and employee organization. Not later than seven days after the recommendations are sent, the appropriate legislative body, by a three-fifths vote of its total membership, and in the case of the public employee organization, the membership, by a three-fifths vote of the total membership, may reject the recommendations. If neither rejects the recommendations, the recommendations are deemed agreed upon as the final resolution of the issues submitted and a collective bargaining agreement must be executed between the parties, including the fact-finding panel's recommendations, except as otherwise modified by the parties by mutual agreement. If either party rejects the recommendations, SERB must publicize the findings of fact and recommendations of the fact-finding panel. (R.C. 4117.14(C)(5) and (6).)

If the parties are unable to reach agreement within seven days after the publication of findings and recommendations from the fact-finding panel or if the collective bargaining agreement has expired, the public employees who are permitted to strike may strike in accordance with statutory procedures. Those public employees who are not permitted to strike² must submit the matter to a final

¹ R.C. 4117.08, not in the bill.

² The following public employees are not permitted to strike: members of a police or fire department; members of the State Highway Patrol; deputy sheriffs; dispatchers employed by a police, fire, or sheriff's department or the State Highway Patrol or civilian dispatchers employed by a public employer other than a police, fire, or sheriff's department to dispatch police, fire, sheriff's department, or emergency medical or rescue personnel; members of an exclusive nurse's unit; employees of the State School for the Deaf or the State School for the Blind; employees of any public employee retirement system; corrections officers; guards at penal or mental institutions; special police officers appointed by a managing officer of an institution under the jurisdiction of the Department

offer settlement procedure with a conciliator selected by the parties. (R.C. 4117.14(D).)

Final offer settlement procedure for employees not permitted to strike.

Parties to a collective bargaining agreement who are not allowed to strike must submit their unresolved collective bargaining issues and other matters mutually agreed to by the public employer and the exclusive representative of the union to a final offer settlement procedure. The conciliator may attempt mediation at any time, but the conciliator must hold a hearing within 30 days of SERB's order to submit to a final offer settlement procedure, or as soon after as is practicable. Not later than five days before the hearing, each of the parties must submit to the conciliator, to the opposing party, and to SERB, a written report summarizing the unresolved issues, the party's final offer as to the issues, and the rationale for that position. The conciliator may request SERB to issue subpoenas for the hearing and may administer oaths. The conciliator must hear testimony from the parties and provide for a written record to be made of all statements at the hearing. SERB must submit the written report and recommendations of the fact-finders for inclusion in the record and for consideration by the conciliator. (R.C. 4117.14(G)(1) to (6).)

After the hearing, the conciliator must resolve the dispute by selecting, on an issue-by-issue basis, from between each of the party's final settlement offers, taking into consideration factors such as past collective bargaining agreements, the interests and welfare of the public, and the public employer's ability to finance the proposed issues. The conciliator must promulgate a written opinion and order upon the issues presented to the conciliator. Increases in rates of compensation and other matters with cost implications awarded by the conciliator may be effective only at the start of the next fiscal year, except that if a new fiscal year has commenced since the issuance of the SERB order to submit to a final offer settlement procedure, the awarded increases may be retroactive to the commencement of the new fiscal year. The parties may, at any time, amend or modify a conciliator's order by mutual agreement. Final offer settlement awards are subject to the Arbitration Law (R.C. Chapter 2711.) and are subject to review by the court of common pleas having jurisdiction over the public employer (R.C. 4117.14(G)(7) to (11) and (H)).

of Mental Health or the Department of Mental Retardation and Developmental Disabilities; psychiatric attendants employed at mental health forensic facilities; or youth leaders employed at juvenile correctional facilities (R.C. 4117.14(D)(1)).

LSC study

(Sections 3 and 4)

The bill requires the Legislative Service Commission (LSC) to monitor and study the effects of the bill's provisions for the five-year period beginning on the bill's effective date. The study must evaluate the following:

(1) The amount of money saved by school districts because of the requirement to submit to binding arbitration to resolve collective bargaining disputes;

(2) The impact of the binding arbitration requirement on the quality of education and labor-management relations in public schools and on the wages of classroom teachers employed by school districts;

(3) The effectiveness of the binding arbitration requirement in preventing disruption in academic programs; and

(4) Other related subjects as determined by LSC.

LSC must submit a study report to the Speaker and Minority Leader of the House of Representatives and the President and Minority Leader of the Senate. This report is due by the last day of the five-year study period. The bill appropriates \$50,000 from the General Revenue Fund in fiscal year 2009 for LSC's expenses in conducting the study.

HISTORY

ACTION	DATE
Introduced	12-11-07

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