



Ohio Legislative Service Commission

Bill Analysis

Hannah K. Wann

S.B. 192

128th General Assembly
(As Introduced)

Sens. Cates and Seitz, Niehaus, Buehrer, Wagoner

BILL SUMMARY

- Re-enacts a recently repealed law that permits the board of education of a local or exempted village school district (non-Civil Service school districts) to terminate the positions of transportation employees for reasons of economy and efficiency and to contract with an independent agent to provide student transportation services, as long as specified conditions are satisfied.

CONTENT AND OPERATION

The provisions of this bill are identical to prior law repealed by the 2009-2011 budget act, Am. Sub. H.B. 1 of the 128th General Assembly, effective October 16, 2009.

Termination of school district transportation staff

(R.C. 3319.081(C) and 3319.0810)

The bill authorizes the termination of transportation staff positions for "reasons of economy and efficiency" by the boards of non-Civil Service school districts (local and exempted village school districts and some city school districts). In that case, rather than employ its own staff to transport students, the board must contract with an independent agent to provide transportation services. This provision does not appear to permit the lay off of any board-employed transportation personnel for economic reasons unless the district intends to contract for at least some nonpublic personnel.

The bill prescribes conditions for laying off transportation employees and contracting with an independent agent for transportation services. First, any collective bargaining agreement between the board and the labor organization representing the terminated employees must have expired or be scheduled to expire within 60 days after

the termination notice, or must contain provisions permitting the termination of positions while the agreement is in force.

Second, the board must permit any employee whose position is terminated to fill any vacancy within the district's organization for which the employee is qualified. In doing so, the board must follow procedures for filling the vacancies established in the collective bargaining agreement with the labor organization representing the terminated employees, if it is still in force and contains such provisions. If the agreement is not in force or does not contain provisions for reemployment of the terminated employees in new positions, the board must offer reemployment on the basis of seniority.

Third, the board must permit any terminated employee to fill the employee's former position in the event the board reinstates that position within one year after the position is terminated. The bill specifically states that the board need not reinstate an employee under this condition if the collective bargaining agreement with the labor organization representing the terminated employees, if one is in force at the time of the terminations, provides otherwise.

Fourth, the board must permit a terminated employee to appeal, pursuant to the Administrative Procedure Act (R.C. Chapter 119.), the board's decision to terminate the employee, not to reemploy the employee, or not to reinstate the employee.

Fifth, the contract between the board and an independent agent for the provision of transportation services must contain a stipulation requiring the agent to consider hiring the terminated district employees for similar positions.

Sixth, the contract between the board and the independent agent also must require the agent to recognize for purposes of collective bargaining between the former district employees and the agent any labor organization that represented those employees at the time of the terminations, as long as the following additional conditions are satisfied:

- (1) A majority of the employees in the former school district bargaining unit agree to representation by that labor organization;
- (2) Federal law does not prohibit the representation; and
- (3) The labor organization is not prohibited from representing nonpublic employees either under other provisions of law or its own governing instruments.

No employee may be compelled to be included in the bargaining unit represented by that labor organization if there is another one within the agent's organization that is applicable to the employee.

Recourse if district board does not comply with conditions

(R.C. 3319.0810(B))

If the school district board fails to comply with any of the prescribed lay-off conditions, including enforcement of the required contractual obligations, the terminations of transportation staff positions are void. In such instances, the board must reinstate the positions and fill them with the employees who filled those positions just prior to the terminations. The employees must be compensated at their rate of compensation in those positions just prior to the terminations plus any increases paid to other nonteaching employees since the terminations. In addition, the employees must receive back pay from the date of the terminations to the date of reinstatement, minus any pay the employees received while the board was in compliance with the bill's provisions.

The bill grants any employee aggrieved by the board's failure to comply with any of the bill's provisions the specific right to sue the board for reinstatement of the employee's former position or for damages in lieu of reinstatement. Suit may be brought in the common pleas court for the county in which the school district is located or, if the district is located in more than one county, in the common pleas court for the county in which the majority of the district's territory is located.

HISTORY

ACTION	DATE
Introduced	10-27-09

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