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Final Analysis
Legislative Service Commission

Am. H.B. 671
126th General Assembly
(As Passed by the General Assembly)

Reps. Webster, Oelslager, Gilb, Peterson, Hughes, Seitz, R. McGregor, Hartnett, J. McGregor, Setzer, Reidelbach, Barrett, Book, Brown, Carano, Chandler, Coley, Combs, Domenick, C. Evans, D. Evans, Flowers, Luckie, Otterman, T. Patton, Perry, Schaffer, Schneider, Seaver, Williams, Wolpert

Sens. Cates, Armbruster, Gardner, Niehaus, Padgett, Roberts, Spada, Harris

Effective date: *

ACT SUMMARY

- Changes the term of office of a school district or educational service center (ESC) treasurer to a term of not more than five years, instead of two years for the first "probationary" contract and four years for each subsequent contract.
- Changes the beginning and ending dates of a school district or ESC treasurer's contract and the deadlines for appointing, re-appointing, or nonrenewing a treasurer.
- Clarifies that a school district or ESC treasurer reports to the district or ESC board.
- Specifies that a school district or ESC treasurer directs and assigns employees engaged in day-to-day fiscal operations.
- Requires each school district and ESC board to adopt procedures for the evaluation of its treasurer and to consider that evaluation in deciding whether to renew the treasurer's contract.

* *The Legislative Service Commission had not received formal notification of the effective date at the time this analysis was prepared. Additionally, the analysis may not reflect action taken by the Governor.*

- Permits an individual who does not hold a valid treasurer's license to serve as a school district or ESC treasurer as long as the individual meets the qualifications for licensure and has applied for a license but has not yet received the State Board of Education's decision.
- Applies to school district and ESC treasurers the termination procedures that apply to teachers and other administrators, requiring a due process hearing, instead of removal at any time by 2/3 vote of the board.

CONTENT AND OPERATION

Appointment of school district and ESC treasurers

(R.C. 3313.22; Section 3)

Background

Under continuing law, each city, exempted village, local, and joint vocational school district board of education, and each educational service center (ESC) governing board, must employ a treasurer to be its chief fiscal officer.¹ Prior law required the board, at its organizational meeting (which is held by January 15 each year), to "elect" a treasurer, who was not a member of the board.² The treasurer's term of office was two years for the first contract (known as a "probationary" contract) and four years for all subsequent contracts. The board was required to give its treasurer written notification of its intention not to reemploy the treasurer by the board's first regular meeting in October, or the treasurer would be considered re-employed for a term of four years beginning on the date of the board's next January organizational meeting.

The act

The act changes the dates of appointment and the term of office of school district and ESC treasurers. Once all existing treasurers' contracts have been replaced through the act's transition provisions (see Section 3), a board *at any regular or special meeting on or before May 1* may "appoint" its treasurer for *any*

¹ *Two or more school districts or ESCs may employ a common treasurer (R.C. 3313.222, not in the act).*

² *The date for the board's organization meeting is specified in R.C. 3313.14, not in the act.*

*term up to five years beginning August 1.*³ If the board intends not to renew the contract of its treasurer, the board now must give the treasurer written notice by March 1 of the year the contract expires. If the board fails to provide that notice, the treasurer is considered re-employed for a succeeding one-year term. At any regular or special meeting during the 14-month period between January 1 of the year before the contract expires and March 1 of the year it actually expires, the board may re-employ its treasurer for up to five years beyond the current contract.

Transition. As noted above, the act also provides temporary provisions for the transition from contracts entered into under prior law, but expiring after the act takes effect, to the new contracts. Under those provisions, a treasurer whose contract expires on or before January 31, 2008, may be re-employed any time prior to October 31, 2007, or if the board intends not to renew the treasurer's contract, it must give written notice by that latter date. A treasurer whose contract expires after January 31, 2008, may be re-employed just as provided under permanent law amended by the act, except that the new contract starts the day after the treasurer's current contract expires, instead of August 1. If the board intends not to renew a contract expiring after January 31, 2008, it must give written notice by March 1 of the year the contract expires.

If a board does not re-employ a treasurer who was employed under prior law, the successor may be appointed at any regular or special meeting before the expiration of the current treasurer's contract. The successor's term begins the day after the current treasurer's term expires and ends July 31, 2008, 2009, 2010, 2011, 2012, or 2013, but may not exceed five years. Thereafter, the appointment and terms of office of all treasurers must be in accordance with the act's permanent provisions.

³ *The act replaces the verb "elect" with the more modern verb "appoint." The prior use of "elect" was held over from several decades ago, when the treasurer was one of the members of the board. The act continues to prohibit a member of the board from serving as treasurer, except in the case of the appointment of one of the members as treasurer "pro tempore" as permitted under law not changed by the act (see R.C. 3313.23, not in the act).*

Summary of Appointment Dates and the Terms of Office of a Treasurer

	Prior law	New permanent law under the act	Transition for existing contracts that expire on or before January 31, 2008	Transition for existing contracts that expire after January 31, 2008	Transition for replacing current treasurer
Appointment date	Board's organizational meeting (by January 15)	By May 1			Any date prior to expiration of current treasurer's contract
Start date	Upon appointment	August 1			Day after current treasurer's term expires
Nonrenewal notice due date	First regularly scheduled board meeting in October ⁴	March 1 of year the contract expires ⁵	October 31, 2007 ⁶	90th day prior to expiration of current contract ⁷	Contract of successor subject to notice of nonrenewal by March 1 of year the contract expires ⁸
Period when board may re-employ treasurer	Contract renewable at board's organizational meeting	Between January 1 of year before the contract expires and March 1 of year the contract expires	Between act's effective date and October 31, 2007	Between January 1 of year before the contract expires and March 1 of year the contract expires	Successor may be re-employed between January 1 of year before the contract expires and March 1 of year successor's contract expires

⁴ *If the board failed to give the required written notice of nonrenewal, the treasurer was considered to be re-employed for another four-year term beginning on the date of the board's January organizational meeting.*

⁵ *If the board fails to give the required written notice of nonrenewal, the treasurer is considered to be re-employed for a succeeding one-year term.*

⁶ *If the board fails to give the required written notice of nonrenewal, the treasurer is considered to be re-employed through July 31, 2009.*

⁷ *If the board fails to give the required written notice of nonrenewal, the treasurer is considered to be re-employed through one year after the succeeding July 31.*

⁸ *If the board fails to give the required written notice of nonrenewal, the treasurer is considered to be re-employed for a succeeding one-year term.*

	Prior law	New permanent law under the act	Transition for existing contracts that expire on or before January 31, 2008	Transition for existing contracts that expire after January 31, 2008	Transition for replacing current treasurer
Term of office	First (probationary) contract is for 2 years and subsequent contracts are for 4 years	Any term ending July 31, not exceeding 5 years	From day after current term expires to July 31, 2008, 2009, 2010, 2011, or 2012*	From day after current term expires to July 31, 2010, 2011, 2012, 2013, 2014, or 2015, but not exceeding 5 years*	From day after current term expires to July 31, 2009, 2010, 2011, 2012, or 2013, but not exceeding 5 years*

* Thereafter, succeeding terms of office must be in accordance with the act's permanent provisions in R.C. 3313.22(A) to (C), as described in the third column.

Treasurer's duties

(R.C. 3313.31, 3319.01, and 3319.04)

Relationship to the appointing board

Continuing law specifies that the treasurer is "subject to the direction" of the district or ESC board. The act adds that the treasurer also must "report to" the board.

Supervision of fiscal employees

Under continuing law modified by the act, the superintendent of a school district or ESC is charged with directing and assigning teachers and other employees. Under those same provisions, the business manager, if the district or ESC has one, is charged with appointing all nonteaching employees, and also may discharge them with confirmation by the board.⁹ The act carves out of the superintendent's and business manager's duties the supervision of fiscal employees and grants that duty to the treasurer. Under the act, the treasurer must direct and assign employees who are engaged in the day-to-day fiscal operations of the district or ESC, as those employees are designated by the board.

Background

Continuing law specifies that a school district or ESC treasurer, as the chief fiscal officer of the district or ESC, is responsible for its financial affairs. Numerous provisions of continuing law assign other specific duties to the

⁹ *By statute, not changed by the act, the business manager has custody of all district or ESC property except for money, which is in the custody of the treasurer.*

treasurer, including (among others) properly depositing and accounting for the district's or ESC's funds, signing all checks, keeping a public record of the board's meetings, notifying the appropriate county board of elections of any boundary changes, and certifying available resources to pay for specified appropriation measures and contracts.¹⁰

Evaluations

(R.C. 3313.22(D); Section 3)

Under prior law, there was no requirement that a school district or ESC board provide a formal performance evaluation for its treasurer. The act requires that each board adopt evaluation procedures for its treasurer and conduct evaluations in accordance with those procedures. In addition, the act requires that the board "consider an evaluation based upon those procedures in deciding whether to renew the treasurer's contract." However, it also specifies that the establishment of an evaluation procedure does not create an expectancy of continued employment, and that the board is responsible for the final determination whether or not to renew a treasurer's contract.

The act's evaluation requirement applies to all district and ESC treasurers on the act's effective date, regardless of whether they were employed prior to that date. Nevertheless, a board is required to evaluate its current treasurer based only on the treasurer's performance after the act's effective date.

Qualification for office by licensure

(R.C. 3313.22(B) and 3313.24(A))

Under continuing law, an individual employed as a school district or ESC treasurer must hold a valid treasurer's license issued by the State Board of Education. The act generally maintains this requirement, but it permits someone who does not hold a current valid license to be a treasurer while waiting for the State Board to issue or renew that individual's license. Under the act, an individual may be the treasurer if the individual demonstrates to the district or ESC board's satisfaction both (1) that the individual meets all of the qualifications for a treasurer's license (which would include any continuing education requirements specified by the State Board) and (2) that the individual has applied for issuance or renewal of the license but has not yet received the State Board's decision. The act refers to such an individual as an "otherwise qualified treasurer."

¹⁰ R.C. 3313.26, 3313.261, 3313.27, 3313.28, 3313.29, 3313.291, 3313.51, and 5705.412 (none in the act).

Any other individual who does not hold a valid license is automatically disqualified from serving as a treasurer.

Termination procedures

(R.C. 3313.22(E))

Under prior law, a school district or ESC treasurer could be removed "for cause" at any time by a 2/3 majority vote of the entire district or ESC board. The act specifies instead that termination of a treasurer must be conducted in a manner similar to that provided under continuing law for teachers and other administrators. Under that law, a 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." That law also sets forth procedures that must be followed in a contract termination, including ten days' written notice of the board's intention to terminate, the right to a hearing before either an impartial referee or a majority of the board, and the right of appeal to the appropriate court of common pleas.¹¹

Some duties in a termination proceeding against a teacher or an administrator are assigned by statute to the treasurer. The act specifies that in a termination proceeding against a treasurer, duties that otherwise are assigned to the treasurer must be performed by the district or ESC superintendent. Those duties include signing the notice of the board's intention to terminate, receiving a written demand for a hearing, issuing notice of the hearing, and issuing subpoenas to compel witnesses to testify for either party at the hearing.

These termination procedures do not apply to a treasurer who is automatically disqualified because the individual does not hold a valid treasurer's license and is not an "otherwise qualified treasurer" as defined by the act (see above).

Compensation and vacation leave

(R.C. 3313.24(B) and (C))

Under continuing law, the school district or ESC board is responsible for setting the compensation of its treasurer. The act adds a specification that a treasurer's compensation may be increased or decreased during the treasurer's term of office. However, it also states that any decrease must be "a part of a uniform plan affecting salaries of all employees." Similar provisions of continuing law apply to superintendents, other administrators, internal auditors, teachers, and

¹¹ R.C. 3319.16, not in the act.

nonteaching employees. Also similar to those provisions applying to superintendents and other administrators, the act permits a board to establish vacation leave for its treasurer and to pay up to three years of accrued, unused vacation leave to the treasurer upon separation from employment.

HISTORY

ACTION	DATE
Introduced	10-17-06
Reported, H. Education	12-12-06
Passed House (96-0)	12-12-06
Reported, S. Education	12-19-06
Passed Senate (33-0)	12-19-06

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