



John Rau

## *Bill Analysis*

*Legislative Service Commission*

### **Am. H.B. 671\***

126th General Assembly  
(As Reported by H. Education)

**Reps. Webster, Oelslager, Gilb, Peterson, Hughes, Seitz, R. McGregor, Hartnett, J. McGregor, Setzer**

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#### **BILL 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 as under current law.
- 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.
- Requires a school district or 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.
- 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 currently apply to teachers and other administrators, requiring a due process hearing, instead of removal at any time by 2/3 vote of the board as under current law.

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\* *This analysis was prepared before the report of the House Education Committee appeared in the House Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- 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.

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## CONTENT AND OPERATION

### *Appointment of school district and educational service center treasurers*

(R.C. 3313.22; Section 3)

#### *Background--current 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.<sup>1</sup> Under current law, the board at its organizational meeting (which is held by January 15 of each year) must "elect" a treasurer, who may not be a member of the board.<sup>2</sup> The treasurer's term of office is two years, for the treasurer's first contract with the board (known as a "probationary" contract) or four years for all subsequent contracts. The board must give its treasurer written notification of its intention not to reemploy the treasurer, if it so intends, by the board's first regular meeting in October. If the board does not give the treasurer that notice, the treasurer is considered re-employed for a term of four years beginning on the date of the board's next January organizational meeting.

#### *The bill*

The bill 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 bill'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 term up to five years*.<sup>3</sup> If the board intends not to renew the contract of its

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<sup>1</sup> *Two or more school districts or ESCs may employ a common treasurer (R.C. 3313.222, not in the bill).*

<sup>2</sup> *The date for the board's organization meeting is specified in R.C. 3313.14, not in the bill.*

<sup>3</sup> *The bill replaces the verb "elect" with the more modern verb "appoint." The current use of "elect" is held over from prior law several decades ago when the treasurer was one of the members of the board. The bill continues to prohibit a member of the board*

treasurer, under the bill, the board must give the treasurer written notice of that intent not later than 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 bill also provides temporary provisions for the transition from contracts entered into under current law but expiring after the bill takes effect. 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 bill, 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 current law, the successor may be appointed at any regular or special meeting prior to 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 bill's permanent provisions.

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

	Current law	New permanent law under the bill	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
<b>Appointment date</b>	Board's organizational meeting (by January 15)	By May 1			Any date prior to expiration of current treasurer's contract

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*from serving as treasurer, except in the case of the appointment of one of the members as treasurer "pro tempore" as permitted under current law not changed by the bill (see R.C. 3313.23, not in the bill).*



	Current law	New permanent law under the bill	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
<b>Start date</b>	Upon appointment	August 1			Day after current treasurer's term expires
<b>Nonrenewal notice due date</b>	First regularly scheduled board meeting in October <sup>4</sup>	March 1 of the year the contract expires <sup>5</sup>	October 31, 2007 <sup>6</sup>	90th day prior to expiration of current contract <sup>7</sup>	Contract of successor subject to notice of nonrenewal by March 1 of the year the contract expires <sup>8</sup>
<b>Period when board may re-employ treasurer</b>	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 bill'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 the year successor's contract expires
<b>Term of office</b>	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 bill's permanent provisions in R.C. 3313.22(A) to (C), as described in the third column.

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

<sup>5</sup> *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.*

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

<sup>7</sup> *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.*

<sup>8</sup> *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.*



## **Evaluations**

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

Currently, there is no requirement that a school district or ESC board provide a formal performance evaluation for its treasurer. The bill requires that each board adopt evaluation procedures for its treasurer and conduct evaluations in accordance with those procedures. In addition, the bill 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 bill's evaluation requirement applies to all district and ESC treasurers on the bill'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 bill's effective date.

## **Qualification for office by licensure**

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

Current law provides that an individual may not be employed as a school district or ESC treasurer unless the individual holds a valid treasurer's license issued by the State Board of Education. The bill 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 bill, 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 bill refers to such an individual as an "otherwise qualified treasurer."

Any other individual who does not hold a valid license is automatically disqualified from serving as a treasurer. (A member of the district or ESC board may not be appointed to the treasurer's office, except as a treasurer pro tempore, as provided under current law.)

### **Termination procedures**

(R.C. 3313.22(E))

Under current law, a school district or ESC treasurer may be removed "for cause" at any time by a 2/3 majority vote of the entire district or ESC board. The bill specifies instead that termination of a treasurer must be conducted in a manner similar to that provided under current 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." The 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.<sup>9</sup>

Currently, some duties in a termination proceeding against a teacher or an administrator are assigned by statute to the treasurer. The bill 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 bill (see above).

### **Compensation and vacation leave**

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

Under current law and the bill, the school district or ESC board is responsible for setting the compensation of its treasurer. The bill 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 current law apply to superintendents, other administrators, internal auditors, teachers, and nonteaching employees. Also similar to current provisions applying to superintendents and other administrators, the bill permits a board to establish

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<sup>9</sup> R.C. 3319.16, not in the bill.

vacation leave for its treasurer and to pay up to three years of accrued, unused vacation leave to the treasurer upon separation from employment.

### **Treasurer's duties**

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

#### **Relationship to the appointing board**

Current law, not changed by the bill, specifies that the treasurer is "subject to the direction" of the district or ESC board. The bill adds that the treasurer also must "report to" the board. Presumably, this is to remove any uncertainty that may currently exist as to whether the treasurer is to report to other district or ESC officers.

#### **Supervision of fiscal employees**

Under current law, the superintendent of a school district or ESC is charged with directing and assigning teachers and other employees. However, 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.<sup>10</sup> The bill 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 bill, 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**

Current law, not changed by the bill, specifies that a school district or ESC treasurer is the chief fiscal officer of the district or ESC and is responsible for its financial affairs. Numerous provisions of continuing law assign other specific duties to the 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.<sup>11</sup>

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<sup>10</sup> *By statute, the business manager has custody of all district or ESC property except for money, which is in the custody of the treasurer.*

<sup>11</sup> *R.C. 3313.26, 3313.261, 3313.27, 3313.28, 3313.29, 3313.291, 3313.51, and 5705.412 (none in the bill).*

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## HISTORY

ACTION

DATE

Introduced  
Reported, H. Education

10-17-06  
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