SENATE BILL 5’S IMPACT ON OHIO LOCAL GOVERNMENTS

Highlights Of The Ohio Law

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HISTORY

• Introduced on February 1\textsuperscript{st} in the Senate
• Sponsored by State Senator Shannon Jones, Republican, 7\textsuperscript{th} District
• Signed by Governor Kasich on March 31\textsuperscript{st}

REFERENDUM

• Opponents submitted 1,298,301 signatures to put the legislation on the November 8 ballot for an up or down vote.
• They were required to collect 231,147 valid signatures from at least 44 of the 88 counties.
• If valid, the law will not go into effect if the voters approve the repeal of the law in November.
IMPACTED UNION POPULATION

• 42,000 in state government
• 19,500 in institutions of higher education
• 102,000 in local governments
• 196,000 in school districts

Source: State Employee Relations Board

SEPARATE IMPACTS

• Some of the bill’s provisions impact all public employees, some impact only public employees in a bargaining unit, some only impact teachers, and some only impact police and firefighters.

MEASURES IMPACTING ALL PUBLIC EMPLOYEES

• Regardless of non-bargaining or bargaining unit member status:
  – Performance based pay
  – Pension payment limitations
  – Health insurance limitations
MEASURES IMPACTING ALL PUBLIC EMPLOYEES (CONT’D)

- Step and grade pay system abolished. No more annual step increases.
- Performance based pay ranges.
  - Merit pay exception for teachers
- Rules will be adopted by the Department of Administrative Services to provide guidance.
  - No date for completion of rules provided

ORC 124.152

MEASURES IMPACTING ALL PUBLIC EMPLOYEES (CONT’D)

- Local governments must revise compensation plans to tie job performance to pay within established ranges.
  - Standard for police cannot include number of citations issued.
- Home rule issues
- Public employers who can opt-out of Chapter 124.
- Less rigid and objective than current system.
- Potential for discrimination claims.

ORC 124.152

MEASURES IMPACTING ALL PUBLIC EMPLOYEES (CONT’D)

- A public employer may no longer pay the employee's contribution to any of the five state retirement systems.
- A public employer may reduce the employee's salary by the same amount for tax purposes (state and federal deferred income provisions).
- Higher take home pay for employee by deferring state and federal tax on amount until retirement.

ORC 145.47
PENSIONS COVERED

PERS – Public Employees Retirement System
STRS – State Teachers Retirement System
SERS – School Employees Retirement System
OP&F – Ohio Police and Fire Pension Fund
HPRS – Highway Patrol Retirement System

MEASURES IMPACTING ALL PUBLIC EMPLOYEES (CONT’D)

• Public employers may pay no more than 85% of health insurance premiums.
• Benefits for management must be the same as those for others.
• Removes health benefits from appropriate subjects of collective bargaining.
• State Employment Relations Board (SERB) has data showing that at least 557 Ohio school districts and local governments currently pay > 85%.

SICK LEAVE AND VACATION

• Reduces sick leave earned per 80 hours from 4.6 hours to 3.1 hours.
  – Impacts college, university, county, municipal, and township employees other than superintendents and managers of county boards of developmental disabilities.
  ORC 124.38
• All public employees are limited to payouts of fifty percent of their sick leave at retirement or death.
  No payment in excess of 1,000 hours.
  ORC 4117.11B
• Vacation leave accrual is capped at 7.7 hours for employees with 19 or more years of service (replacing former 24 or more years at 9.2).
  ORC 124.134
Layoffs and Seniority

- Seniority cannot be the only factor used to determine layoffs for public employees, including:
  - Firefighter layoffs resulting from annexation of a township.
  - Non-teaching position layoffs in certain education situations.
  ORC 4117.09, 709.012

- Potential for discrimination accusations.
  - Metrics, record keeping, avoid disparate treatment.

Widespread Collective Bargaining

- Changes in ORC 4117

- Amends or repeals most current law on collective bargaining.

Strikes

- Public employee strikes are no longer legal under any circumstance.
- Public employers may seek an injunction.
- Employees may be disciplined, up to termination, for participating.
- Includes slowdowns and intermittent stoppages.
  ORC 4117.21, 4117.31, 4117.15
STRIKES (CONT'D)

- Employees absent from work without permission on day of strike presumed to be striking.
- Employees who strike lose twice their daily rate of pay for every day that they strike.
  - Employees may appeal.
  - ORC 4117.15
- Removes major bargaining chip from unions.
- According to SERB, there have been 43 public sector strikes since 2000.

RESTRICTS SUBJECTS OF BARGAINING

- Establishes that wages, hours, and terms and conditions of employment are the only mandatory subjects of collective bargaining, regardless of whether current CBA includes other subjects.
- Exception for public safety equipment that is directly related to personal safety.
  - ORC 4117.08

PROHIBITS CERTAIN SUBJECTS

- Employers cannot agree to CBA provisions that:
  - Restrict privatization and contracting out work.
  - Establish the number of employees required to be on duty or employed.
  - Require the employer to pay any portion of a public employee’s state pension contributions.
  - Includes an overtime rate that exceeds that required by the FLSA.
  - ORC 4117.08, 4117.105, 4117.106
PROHIBITS CERTAIN SUBJECTS (CONT'D)

• Employers cannot agree to contract terms that:
  – Provide for greater than six weeks of paid vacation leave prior to 20 years of continuous service.
  – Provide for greater than twelve paid holidays annually.
  – Provide for greater than three paid personal days.

ORC 4117.108

BARGAINING AND FINANCES

• Requires that both parties consider only the financial status of the public employer at the time of negotiations when determining ability of employer to pay.
• Cannot consider future potential revenue increases from levies and bonds.

ORC 4117.08

UNION FINANCES

• Eliminates fair share fees and religious exemptions.
• Bargaining unit members cannot be forced to contribute to the union.
• Public employers cannot agree to payroll deductions for political action committees unless they follow campaign finance law.

ORC 4117.09
DUES FORFEITURE

- Unions that commit the following ULPs will have their dues payments suspended for the greater of thirty days or twice the length of the illegal activity:
  - Boycott or picket any public employer on account of a jurisdictional work dispute.
  - Induce or encourage a strike or boycott.
  - Engage in a strike or refusal to work.
  - Induce or encourage any individual in connection with a labor relations dispute to picket the residence or place of private employment of a public official.

ORC 4117.12

FINAL DISPUTE RESOLUTION

- Eliminates binding arbitration.
- Major change to current system used to establish an agreement when the parties reach impasse.
- Unions concerned that they have no negotiating power without threat of strike or binding arbitration.

SERB FACTFINDING

- After the appointment of a mediator, either party may request the appointment of a fact finder.
  - Previously fact finding panel.
- Requires SERB to appoint a fact finder if no agreement exists 45 days before the expiration of the CBA.
  - Both parties must post their most recent offers on the employer’s website at this time.

ORC 4117.14
FACT FINDER’S REPORT

• The appropriate legislative body and/or the union membership may reject the fact finder’s report within the earlier of 15 days after the report is sent or the CBA expires.
• The employer’s legislative body or the union may reject the fact finder’s report by a simple majority.
  – Previously required 3/5th’s majority.
  [ORC 4117.14]

BINDING ARBITRATION

• Binding arbitration eliminated as a means to settle a contract dispute after fact finder’s report has been rejected.
• Final offers of both parties sent to the appropriate legislative body.
• Legislative body holds a hearing on the matter and votes to accept the last best offer of one of the parties.
  – Offer chosen is effective for three years.
• If legislature does not vote or vote ends in a tie, then the public employer’s last best offer becomes the agreement.
  [ORC 4117.14]

BALLOT POTENTIAL

• Political subdivisions with defined geographic areas must have their CFO determine whether the last best offer selected by the legislative body costs more than the rejected offer.
  – Not the state or state universities.
• If it does, either party or a constituent from the employer’s geographic area may proceed with steps to put the last best offer of both parties on the ballot.
  [ORC 4117.141]
BALLOT REQUIREMENTS

- The party or the constituent must submit to the board the signatures of either:
  - Five percent of the electors within the area that voted in the most recent gubernatorial election or
  - One hundred electors who reside in the geographic area.

QUESTIONS?

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