

AN ACT

To amend sections 124.34 and 4117.10 of the Revised Code to make conviction of certain felonies a separate basis for disciplining a classified employee, to prohibit appeals to the State Personnel Board of Review or a local civil service commission if the subject of the appeal is a classified employee's discipline for conviction of certain felonies, to deprive a person convicted of certain felonies of the status of a classified employee, and to specify the date when a disciplinary order is served upon a classified employee.

Be it enacted by the General Assembly of the State of Ohio:

SECTION 1. That sections 124.34 and 4117.10 of the Revised Code be amended to read as follows:

Sec. 124.34. (A) The tenure of every officer or employee in the classified service of the state and the counties, civil service townships, cities, city health districts, general health districts, and city school districts thereof, holding a position under this chapter ~~of the Revised Code~~, shall be during good behavior and efficient service, ~~and no~~. No such officer or employee shall be reduced in pay or position, fined in excess of five days' pay, suspended, or removed, except as provided in section 124.32 of the Revised Code, and for incompetency, inefficiency, dishonesty, drunkenness, immoral conduct, insubordination, discourteous treatment of the public, neglect of duty, violation of such sections or the rules of the director of administrative services or the commission, ~~or~~ any other failure of good behavior, ~~or~~ any other acts of misfeasance, malfeasance, or nonfeasance in office, or conviction of a felony. A finding by the appropriate ethics commission, based upon a preponderance of the evidence, that the facts alleged in a complaint under section 102.06 of the Revised Code constitute a violation of Chapter 102., section 2921.42, or section 2921.43 of the Revised Code may constitute grounds for dismissal. Failure to file a

statement or falsely filing a statement required by section 102.02 of the Revised Code may also constitute grounds for dismissal. The tenure of an employee in the career professional service of the department of transportation is subject to section 5501.20 of the Revised Code.

Conviction of a felony is a separate basis for reducing in pay or position, suspending, or removing an officer or employee, even if the officer or employee has already been reduced in pay or position, suspended, or removed for the same conduct that is the basis of the felony. An officer or employee may not appeal to the state personnel board of review or the commission any disciplinary action taken by an appointing authority as a result of the officer's or employee's conviction of a felony. If an officer or employee removed under this section is reinstated as a result of an appeal of the removal, any conviction of a felony that occurs during the pendency of the appeal is a basis for further disciplinary action under this section upon the officer's or employee's reinstatement.

A person convicted of a felony immediately forfeits the person's status as a classified employee in any public employment on and after the date of conviction for the felony. If an officer or employee is removed under this section as a result of being convicted of a felony or is subsequently convicted of a felony that involves the same conduct that was the basis for the removal, the officer or employee is barred from receiving any compensation after the removal notwithstanding any modification or disaffirmance of the removal, unless the conviction for the felony is subsequently reversed or annulled.

Any person removed for conviction of a felony is entitled to a cash payment for any accrued but unused sick, personal, and vacation leave as authorized by law. If subsequently reemployed in the public sector, such person shall qualify for and accrue these forms of leave in the manner specified by law for a newly appointed employee and shall not be credited with prior public service for the purpose of receiving these forms of leave.

As used in this division, "felony" means any of the following:

(1) A felony that is an offense of violence as defined in section 2901.01 Of the Revised Code;

(2) A felony that is a felony drug abuse offense as defined in section 2925.01 Of the Revised Code;

(3) A felony under the laws of this or any other state or the United States that is a crime of moral turpitude;

(4) A felony involving dishonesty, fraud, or theft;

(5) A felony that is a violation of section 2921.05, 2921.32, or 2921.42 of the Revised Code.

(B) In any case of a fine, reduction, suspension of more than three working days, or removal, the appointing authority shall ~~furnish~~ serve such employee with a copy of the order of reduction, suspension, or removal, which order shall state the reasons therefor. Such order shall be filed with the director of administrative services and state personnel board of review, or the commission, as may be appropriate.

Within ten days following the ~~filing of~~ date on which such order is served or, in the case of an employee in the career professional service of the department of transportation, within ten days following the filing of a removal order, the employee, except as otherwise provided in this section, may file an appeal, in writing, with the state personnel board of review or the commission. In the event for purposes of this section, the date on which an order is served is the date of hand delivery of the order or the date of delivery of the order by certified United States mail, whichever occurs first. If such an appeal is filed, the board or commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, such appeal within thirty days from and after its filing with the board or commission, and it may affirm, disaffirm, or modify the judgment of the appointing authority.

In cases of removal or reduction in pay for disciplinary reasons, either the appointing authority or the officer or employee may appeal from the decision of the state personnel board of review or the commission to the court of common pleas of the county in which the employee resides in accordance with the procedure provided by section 119.12 of the Revised Code.

(C) In the case of the suspension for any period of time, or a fine, demotion, or removal of a chief of police or a chief of a fire department or any member of the police or fire department of a city or civil service township, the appointing authority shall furnish such chief or member of a department with a copy of the order of suspension, demotion, or removal, which order shall state the reasons therefor. Such order shall be filed with the municipal or civil service township civil service commission. Within ten days following the filing of such order such chief or member of a department may file an appeal, in writing, with the municipal or civil service township civil service commission. ~~In the event~~ If such an appeal is filed, the commission shall forthwith notify the appointing authority and shall hear, or appoint a trial board to hear, such appeal within thirty days from and after its filing with the commission, and it may affirm, disaffirm, or modify the judgment of the appointing authority. An appeal on questions of law and fact may be had from the decision of the municipal or civil service

township civil service commission to the court of common pleas in the county in which such city or civil service township is situated. Such appeal shall be taken within thirty days from the finding of the commission.

(D) A violation of division (A)(7) of section 2907.03 of the Revised Code is grounds for termination of employment of a nonteaching employee under this section.

Sec. 4117.10. (A) An agreement between a public employer and an exclusive representative entered into pursuant to this chapter governs the wages, hours, and terms and conditions of public employment covered by the agreement. If the agreement provides for a final and binding arbitration of grievances, public employers, employees, and employee organizations are subject solely to that grievance procedure and the state personnel board of review or civil service commissions have no jurisdiction to receive and determine any appeals relating to matters that were the subject of a final and binding grievance procedure. Where no agreement exists or where an agreement makes no specification about a matter, the public employer and public employees are subject to all applicable state or local laws or ordinances pertaining to the wages, hours, and terms and conditions of employment for public employees. Laws pertaining to civil rights, affirmative action, unemployment compensation, workers' compensation, the retirement of public employees, and residency requirements, the minimum educational requirements contained in the Revised Code pertaining to public education including the requirement of a certificate by the fiscal officer of a school district pursuant to section 5705.41 of the Revised Code, the provisions of division (A) of section 124.34 Of the Revised Code governing the disciplining of officers and employees who have been convicted of a felony, and the minimum standards promulgated by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code prevail over conflicting provisions of agreements between employee organizations and public employers. The law pertaining to the leave of absence and compensation provided under section 5923.05 of the Revised Code prevails over any conflicting provisions of such agreements if the terms of the agreement contain benefits which are less than those contained in that section or the agreement contains no such terms and the public authority is the state or any agency, authority, commission, or board of the state or if the public authority is another entity listed in division (B) of section 4117.01 of the Revised Code that elects to provide leave of absence and compensation as provided in section 5923.05 of the Revised Code. Except for sections 306.08, 306.12, 306.35, and 4981.22 of the Revised Code and arrangements entered into thereunder, and section

4981.21 of the Revised Code as necessary to comply with section 13(c) of the "Urban Mass Transportation Act of 1964," 87 Stat. 295, 49 U.S.C.A. 1609(c), as amended, and arrangements entered into thereunder, this chapter prevails over any and all other conflicting laws, resolutions, provisions, present or future, except as otherwise specified in this chapter or as otherwise specified by the general assembly. Nothing in this section prohibits or shall be construed to invalidate the provisions of an agreement establishing supplemental workers' compensation or unemployment compensation benefits or exceeding minimum requirements contained in the Revised Code pertaining to public education or the minimum standards promulgated by the state board of education pursuant to division (D) of section 3301.07 of the Revised Code.

(B) The public employer shall submit a request for funds necessary to implement an agreement and for approval of any other matter requiring the approval of the appropriate legislative body to the legislative body within fourteen days of the date on which the parties finalize the agreement, unless otherwise specified, but if the appropriate legislative body is not in session at the time, then within fourteen days after it convenes. The legislative body must approve or reject the submission as a whole, and the submission is deemed approved if the legislative body fails to act within thirty days after the public employer submits the agreement. The parties may specify that those provisions of the agreement not requiring action by a legislative body are effective and operative in accordance with the terms of the agreement, provided there has been compliance with division (C) of this section. If the legislative body rejects the submission of the public employer, either party may reopen all or part of the entire agreement.

As used in this section, "legislative body" includes the general assembly, the governing board of a municipal corporation, school district, college or university, village, township, or board of county commissioners or any other body that has authority to approve the budget of their public jurisdiction.

(C) The chief executive officer, or ~~his~~ the chief executive officer's representative, of each municipal corporation, the designated representative of the board of education of each school district, college or university, or any other body that has authority to approve the budget of their public jurisdiction, the designated representative of the board of county commissioners and of each elected officeholder of the county whose employees are covered by the collective negotiations, and the designated representative of the village or the board of township trustees of each township is responsible for negotiations in the collective bargaining process;

except that the legislative body may accept or reject a proposed collective bargaining agreement. When the matters about which there is agreement are reduced to writing and approved by the employee organization and the legislative body, the agreement is binding upon the legislative body, the employer, and the employee organization and employees covered by the agreement.

(D) There is hereby established an office of collective bargaining in the department of administrative services for the purpose of negotiating with and entering into written agreements between state agencies, departments, boards, and commissions and the exclusive representative on matters of wages, hours, terms and other conditions of employment and the continuation, modification, or deletion of an existing provision of a collective bargaining agreement. Nothing in any provision of law to the contrary shall be interpreted as excluding the bureau of workers' compensation and the industrial commission from the preceding sentence. This office shall not negotiate on behalf of other statewide elected officials or boards of trustees of state institutions of higher education who shall be considered as separate public employers for the purposes of this chapter; however, the office may negotiate on behalf of these officials or trustees where authorized by the officials or trustees. The staff of the office of collective bargaining are in the unclassified service. The director of administrative services shall fix the compensation of the staff.

The office of collective bargaining shall:

- (1) Assist the director in formulating management's philosophy for public collective bargaining as well as planning bargaining strategies;
- (2) Conduct negotiations with the exclusive representatives of each employee organization;
- (3) Coordinate the state's resources in all mediation, fact-finding, and arbitration cases as well as in all labor disputes;
- (4) Conduct systematic reviews of collective bargaining agreements for the purpose of contract negotiations;
- (5) Coordinate the systematic compilation of data by all agencies that is required for negotiating purposes;
- (6) Prepare and submit an annual report and other reports as requested to the governor and the general assembly on the implementation of this chapter and its impact upon state government.

SECTION 2. That existing sections 124.34 and 4117.10 of the Revised Code are hereby repealed.

Speaker _____ of the House of Representatives.

President _____ of the Senate.

Passed _____, 20____

Approved _____, 20____

Governor.

The section numbering of law of a general and permanent nature is complete and in conformity with the Revised Code.

Director, Legislative Service Commission.

Filed in the office of the Secretary of State at Columbus, Ohio, on the
____ day of _____, A. D. 20____.

Secretary of State.

File No. _____ Effective Date _____